

By: Paul

H.B. No. 76

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to practices and procedures for an early voting ballot  
3 voted by mail.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 84.007(c), Election Code, is amended to  
6 read as follows:

7 (c) Except as provided by Section 86.0015(b), an  
8 application may be submitted at any time in the year of the election  
9 for which a ballot is requested, but not later than the close of  
10 regular business in the early voting clerk's office or 12 noon,  
11 whichever is later, on the 15th [~~11th~~] day before election day  
12 unless that day is a Saturday, Sunday, or legal state or national  
13 holiday, in which case the last day is the first preceding regular  
14 business day.

15 SECTION 2. Section 86.0015(b-1), Election Code, is amended  
16 to read as follows:

17 (b-1) An application submitted under this section must be  
18 submitted before the close of regular business in the early voting  
19 clerk's office or 12 noon, whichever is later, on the 15th [~~11th~~]  
20 day before election day unless that day is a Saturday, Sunday, or  
21 legal state or national holiday, in which case the last day is the  
22 first preceding regular business day.

23 SECTION 3. Sections 86.007(a), (d), and (e), Election Code,  
24 are amended to read as follows:

1 (a) Except as provided by Section 86.006(a-1) and  
2 Subsection (d), a carrier envelope containing a marked ballot voted  
3 by mail must:

4 (1) arrive at the address on the carrier envelope [~~+~~  
5 [~~(1) before the time the polls are required to close on~~  
6 ~~election day; or~~  
7 [~~(2)~~] not later than 5 p.m. on the day before [~~after~~]  
8 election day;

9 (2) be [~~, if the carrier envelope was~~] placed for  
10 delivery by mail or common or contract carrier or a courier on or  
11 before the fourth day before election day; and

12 (3) bear [~~bears~~] a cancellation mark of a common or  
13 contract carrier or a courier indicating placement for delivery on  
14 or before the fourth day before [~~a time not later than 7 p.m. at the~~  
15 ~~location of the election on~~] election day.

16 (d) A marked ballot voted by mail that arrives after the  
17 time prescribed by Subsection (a) shall be counted if:

18 (1) the ballot was cast from an address outside the  
19 United States;

20 (2) the carrier envelope was placed for delivery  
21 before the time the polls are required to close on election day  
22 [~~time the ballot is required to arrive under Subsection (a)(1)~~];  
23 and

24 (3) the ballot arrives at the address on the carrier  
25 envelope not later than the fifth day after the date of the  
26 election.

27 (e) A delivery under Subsection (a) [~~(a)(2)~~] or (d) is

1 timely, except as otherwise provided by this title, if the carrier  
2 envelope or, if applicable, the envelope containing the carrier  
3 envelope:

4 (1) is properly addressed with postage or handling  
5 charges prepaid; and

6 (2) bears a cancellation mark of a recognized postal  
7 service or a receipt mark of a common or contract carrier or a  
8 courier indicating a time before the deadline.

9 SECTION 4. Section [87.0221](#), Election Code, is amended to  
10 read as follows:

11 Sec. 87.0221. TIME OF DELIVERY: [~~PAPER~~] BALLOTS VOTED BY  
12 PERSONAL APPEARANCE. (a) The balloting [~~In an election in which~~  
13 ~~regular paper ballots are used for early voting by personal~~  
14 ~~appearance or by mail, the~~] materials for ballots voted by personal  
15 appearance may be delivered to the board between the end of the  
16 period for early voting by personal appearance and the closing of  
17 the polls on election day, or as soon after closing as practicable,  
18 at the time or times specified by the presiding judge of the board.

19 (b) The early voting clerk shall post notice of each  
20 delivery of balloting materials under this section that is to be  
21 made before the time for opening the polls on election day. The  
22 notice shall be posted at the main early voting polling place and on  
23 the Internet website of the entity conducting the election  
24 continuously for at least 24 hours immediately preceding the  
25 delivery. The notice must include the dates and times that the  
26 early voting ballot board will convene to review or count ballots,  
27 if that information is known at the time the early voting clerk

1 posts the notice.

2 (c) At least 24 hours before each delivery, the early voting  
3 clerk shall notify the county chair of each political party having a  
4 nominee on the ballot of the time the delivery is to be made. The  
5 clerk must provide notice under this subsection in writing, by  
6 e-mail, or by telephone.

7 SECTION 5. Section [87.0222](#), Election Code, as effective  
8 September 1, 2021, is amended to read as follows:

9 Sec. 87.0222. TIME OF DELIVERY: BALLOTS VOTED BY MAIL. (a)  
10 Except as provided by Subsections (b) and (c), [~~Notwithstanding~~  
11 ~~Section [87.024](#), in an election conducted by an authority of a county~~  
12 ~~with a population of 100,000 or more, or conducted jointly with such~~  
13 ~~a county or conducted with such a county through a contract for~~  
14 ~~election services,~~] the jacket envelopes containing [~~the~~] early  
15 voting ballots voted by mail may be delivered to the board between  
16 the end of the 20th [~~ninth~~] day before the last day of the period for  
17 early voting by personal appearance and the closing of the polls on  
18 election day, or as soon after closing as practicable, at the time  
19 or times specified by the presiding judge of the board.

20 (b) The jacket envelopes of early voting ballots voted by  
21 mail that are hand delivered in accordance with Section [86.006](#)(a-1)  
22 and received by the early voting clerk at or before 3 p.m. on  
23 election day shall be delivered to the presiding judge of the early  
24 voting ballot board as soon as practicable on election day.

25 (c) The jacket envelopes of early voting ballots voted by  
26 mail that are hand delivered in accordance with Section [86.006](#)(a-1)  
27 and received by the early voting clerk after 3 p.m. on election day

1 shall be delivered to the presiding judge of the early voting ballot  
2 board at the time ballots received under Section 86.007(d) are  
3 delivered to the presiding judge.

4 (d) The early voting clerk shall post notice of each  
5 delivery of balloting materials under Subsection (a) [~~this section~~]  
6 that is to be made before the time for opening the polls on election  
7 day. The notice shall be posted at the main early voting polling  
8 place and on the Internet website of the entity conducting the  
9 election continuously for at least 24 hours immediately preceding  
10 the delivery. The notice must include the dates and times that the  
11 early voting ballot board will convene to review or count ballots,  
12 if that information is known at the time the early voting clerk  
13 posts the notice.

14 (e) [~~(e)~~] At least 24 hours before each delivery under  
15 Subsection (a), the early voting clerk shall notify the county  
16 chair of each political party having a nominee on the ballot of the  
17 time the delivery is to be made. The clerk must provide notice  
18 under this subsection in writing, by e-mail, or by telephone.

19 SECTION 6. Section 87.125, Election Code, is amended by  
20 adding Subsection (a-2) to read as follows:

21 (a-2) The early voting ballot board shall count ballots that  
22 are hand delivered as provided by Section 87.0222(c) at the time  
23 that the ballot board convenes to count ballots under Section  
24 86.007(d).

25 SECTION 7. Subchapter G, Chapter 87, Election Code, is  
26 amended by adding Section 87.128 to read as follows:

27 Sec. 87.128. VOTING RESULTS ACCUMULATION. (a) An early

1 voting ballot board or officer of a central counting station may not  
2 accumulate the results of early voting ballots until:

3 (1) 12 p.m. on election day, if the entity conducting  
4 the election will count the ballots by hand;

5 (2) 3 p.m. on election day, if the entity conducting  
6 the election:

7 (A) will not count the ballots by hand; and

8 (B) has a population of 150,000 or more; or

9 (3) 6 p.m. on election day, if the entity conducting  
10 the election:

11 (A) will not count the ballots by hand; and

12 (B) has a population of less than 150,000.

13 (b) An early voting ballot board or officer of a central  
14 counting station may not produce a printout or other tangible  
15 record of the early voting ballot count or accumulation of results  
16 until the closing of polls on election day.

17 (c) This section does not prevent an early voting ballot  
18 board or officer of a central counting station from performing  
19 preliminary procedures other than accumulating the results of early  
20 voting ballots or generating a report of the early voting ballot  
21 count or accumulation before the applicable times provided in this  
22 section.

23 SECTION 8. Subchapter A, Chapter 127, Election Code, is  
24 amended by adding Section 127.009 to read as follows:

25 Sec. 127.009. OPERATION OF CENTRAL COUNTING STATION. (a)  
26 The central counting station may operate at any time ballots may be  
27 processed or counted.

1       (b) Not later than 72 hours before the date that the central  
2 counting station manager plans to begin processing or counting  
3 early voting ballots, the central counting station manager shall  
4 notify the presiding judge of the early voting ballot board of the  
5 time and place that the judge may deliver early voting ballots.

6       (c) Not later than 72 hours before the initial date and time  
7 that the central counting station begins operations in an  
8 election, the central counting station manager shall post notice  
9 of the dates and times that the central counting station will  
10 operate in the election in the place used for posting notice of  
11 meetings of the governing body of and on the Internet website of the  
12 entity conducting the election. For each date and time listed in  
13 the notice, the notice must identify whether the central counting  
14 station will be counting early voting ballots voted by mail or early  
15 voting ballots voted by personal appearance.

16       (d) In a general election for state and county officers, the  
17 notice under Subsection (c) must be provided to each county chair of  
18 a political party that has a nominee on the ballot.

19       (e) The secretary of state shall prescribe rules as  
20 necessary to implement this section.

21       SECTION 9. The following sections of the Election Code are  
22 repealed:

- 23           (1) Section [87.022](#);
- 24           (2) Section [87.023](#); and
- 25           (3) Section [87.024](#).

26       SECTION 10. This Act takes effect on the 91st day after the  
27 last day of the legislative session.