

By: Eckhardt, et al.

S.B. No. 53

A BILL TO BE ENTITLED

AN ACT

relating to early voting by mail by any qualified voter.

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

SECTION 1. Section 13.002(e), Election Code, is amended to read as follows:

(e) Notwithstanding Section 82.005, a [A] person who is certified for participation in the address confidentiality program administered by the attorney general under Subchapter B, Chapter 58, Code of Criminal Procedure, is not eligible for early voting by mail [~~under Section 82.007~~] unless the person submits an application under this section by personal delivery. The secretary of state may adopt rules to implement this subsection.

SECTION 2. Section 82.005, Election Code, is amended to read as follows:

Sec. 82.005. ELIGIBILITY FOR EARLY VOTING [~~BY PERSONAL APPEARANCE~~]. Any qualified voter is eligible for early voting by mail or personal appearance.

SECTION 3. Section 82.007, Election Code, is amended to read as follows:

Sec. 82.007. PARTICIPATION IN ADDRESS CONFIDENTIALITY PROGRAM. Notwithstanding Section 82.005, a [A] qualified voter who, [~~is eligible for early voting by mail if:~~

~~(1) the voter submitted a registration application by personal delivery as required by Section 13.002(e), and~~

1           ~~[(2)]~~ at the time the voter's early voting ballot  
2 application is submitted, ~~[the voter]~~ is certified for  
3 participation in the address confidentiality program administered  
4 by the attorney general under Subchapter B, Chapter 58, Code of  
5 Criminal Procedure, is eligible for early voting by mail only if the  
6 voter submitted a registration application by personal delivery as  
7 required by Section 13.002(e).

8           SECTION 4. Section 84.001(a), Election Code, is amended to  
9 read as follows:

10           (a) To be entitled to vote an early voting ballot by mail, a  
11 person ~~[who is eligible for early voting]~~ must make an application  
12 for an early voting ballot to be voted by mail as provided by this  
13 title.

14           SECTION 5. Section 84.002(a), Election Code, as effective  
15 September 1, 2021, is amended to read as follows:

16           (a) An early voting ballot application must include:

17                   (1) the applicant's name and the address at which the  
18 applicant is registered to vote;

19                   (2) for an application for a ballot to be voted by mail  
20 by an applicant who will be absent from the applicant's ~~[on the~~  
21 ~~ground of absence from the]~~ county of residence on election day, the  
22 address outside the applicant's county of residence to which the  
23 ballot is to be mailed;

24                   (3) for an application for a ballot to be voted by mail  
25 by an applicant who is 65 years of age or older on election day or  
26 has a sickness or physical condition that requires the applicant to  
27 reside in a hospital or nursing home or other long-term care

1 facility, or with a person related to the applicant within the  
2 second degree of affinity or the third degree of consanguinity, as  
3 determined under Chapter 573, Government Code [~~on the ground of age~~  
4 ~~or disability~~], the address of the retirement center, hospital,  
5 nursing home or other long-term care facility, [~~or retirement~~  
6 ~~center,~~] or relative [~~of a person related to the applicant within~~  
7 ~~the second degree by affinity or the third degree by consanguinity,~~  
8 ~~as determined under Chapter 573, Government Code~~], if the applicant  
9 is living at that address and that address is different from the  
10 address at which the applicant is registered to vote;

11 (4) for an application for a ballot to be voted by mail  
12 by an applicant who is confined [~~on the ground of confinement~~] in  
13 jail as described by Section 84.009(a), the address of the jail or  
14 of a person related to the applicant within the degree described by  
15 Subdivision (3);

16 (5) [~~for an application for a ballot to be voted by~~  
17 ~~mail on any ground,~~] an indication of each election for which the  
18 applicant is applying for a ballot; and

19 (6) [~~an indication of the ground of eligibility for~~  
20 ~~early voting, and~~

21 [~~(7)~~] for an application for a ballot to be voted by  
22 mail by an applicant who is civilly committed as a sexually violent  
23 predator under Chapter 841, Health and Safety Code, and is ordered  
24 as a condition of civil commitment to reside in a facility operated  
25 by or under contract with the Texas Civil Commitment Office [~~on the~~  
26 ~~ground of involuntary civil commitment~~], the address of the  
27 facility operated by or under contract with the Texas Civil

1 Commitment Office or of a person related to the applicant within the  
2 degree of consanguinity described by Subdivision (3).

3 SECTION 6. Section 84.009, Election Code, is amended by  
4 amending Subsection (a) and adding Subsection (b) to read as  
5 follows:

6 (a) This section applies only to an applicant who, at the  
7 time the application for a ballot to be voted by mail is submitted,  
8 is confined in jail:

9 (1) serving a misdemeanor sentence for a term that  
10 ends on or after election day;

11 (2) pending trial after denial of bail;

12 (3) without bail pending an appeal of a felony  
13 conviction; or

14 (4) pending trial or appeal on a bailable offense for  
15 which release on bail before election day is unlikely.

16 (b) On request of the applicant, an application for a ballot  
17 to be voted by mail [~~on the ground of confinement in jail~~] may be  
18 submitted to the early voting clerk, at the discretion of the  
19 authority in charge of the jail, by personal delivery by the jail  
20 authority or by a designated subordinate of the authority.

21 SECTION 7. Section 84.011(a), Election Code, as effective  
22 September 1, 2021, is amended to read as follows:

23 (a) The officially prescribed application form for an early  
24 voting ballot must include:

25 (1) immediately preceding the signature space the  
26 statement: "I certify that the information given in this  
27 application is true, and I understand that giving false information

1 in this application is a crime.";

2 (2) a statement informing the applicant of the  
3 offenses prescribed by Sections 84.003 and 84.004;

4 (3) spaces for entering an applicant's voter  
5 registration number and county election precinct of registration,  
6 with a statement informing the applicant that failure to furnish  
7 that information does not invalidate the application; and

8 (4) on an application for a ballot to be voted by mail:

9 (A) a space for an applicant [~~applying on the~~  
10 ~~ground of absence from the county of residence~~] to indicate whether  
11 the applicant will be absent from the applicant's county of  
12 residence on election day and, if applicable, the date on or after  
13 which the applicant can receive mail at the address outside the  
14 county;

15 (B) a space for indicating the fact that an  
16 applicant whose application is signed by a witness cannot make the  
17 applicant's mark and a space for indicating the relationship or  
18 lack of relationship of the witness to the applicant;

19 (C) a space for entering an applicant's telephone  
20 number, with a statement informing the applicant that failure to  
21 furnish that information does not invalidate the application;

22 (D) a space or box for an applicant who is 65  
23 years of age or older on election day or has a sickness or physical  
24 condition that requires the applicant to reside in a hospital or  
25 nursing home or other long-term care facility, or with a relative,  
26 [~~applying on the ground of age or disability~~]  
27 address to which the ballot is to be mailed is the address of a

1 facility or relative described by Section 84.002(a)(3), if  
2 applicable;

3 (E) a space or box for an applicant who is  
4 confined [~~applying on the ground of confinement~~] in jail as  
5 described by Section 84.009(a) or who is civilly committed as a  
6 sexually violent predator under Chapter 841, Health and Safety  
7 Code, and ordered as a condition of civil commitment to reside in a  
8 facility operated by or under contract with the Texas Civil  
9 Commitment Office, [~~involuntary civil commitment~~] to indicate that  
10 the address to which the ballot is to be mailed is the address of a  
11 relative described by Section 84.002(a)(4) or (6) [~~(7)~~], if  
12 applicable;

13 (F) a space for an applicant [~~applying on the~~  
14 ~~ground of age or disability~~] to indicate if the application is an  
15 application under Section 86.0015;

16 (G) spaces for entering the signature, printed  
17 name, and residence address of any person assisting the applicant;

18 (H) a statement informing the applicant of the  
19 condition prescribed by Section 81.005; and

20 (I) a statement informing the applicant of the  
21 requirement prescribed by Section 86.003(c).

22 SECTION 8. Sections 86.001(b) and (c), Election Code, are  
23 amended to read as follows:

24 (b) If the application complies with the applicable  
25 requirements prescribed by this title [~~applicant is entitled to~~  
26 ~~vote an early voting ballot by mail~~], the clerk shall provide an  
27 official ballot to the applicant as provided by this chapter.

1 (c) Except as provided by Section 86.008, if the applicant  
2 is not entitled to vote in the election ~~[by mail]~~, the clerk shall  
3 reject the application, enter on the application "rejected" and the  
4 reason for and date of rejection, and deliver written notice of the  
5 reason for the rejection to the applicant at both the residence  
6 address and mailing address on the application. A ballot may not be  
7 provided to an applicant whose application is rejected.

8 SECTION 9. The heading to Section 86.0015, Election Code,  
9 is amended to read as follows:

10 Sec. 86.0015. RECURRING ~~[ANNUAL]~~ BALLOTS BY MAIL.

11 SECTION 10. Sections 86.0015(a) and (b), Election Code, are  
12 amended to read as follows:

13 (a) This section applies only to an application for a ballot  
14 to be voted by mail that ~~[+~~

15 ~~[(1) indicates the ground of eligibility is age or~~  
16 ~~disability; and~~

17 ~~[(2)]~~ does not specify the election for which a ballot  
18 is requested or has been marked by the applicant as an application  
19 for more than one election.

20 (b) An application described by Subsection (a) is  
21 considered to be an application for a ballot for each election,  
22 including any ensuing runoff:

23 (1) in which the applicant is eligible to vote; and

24 (2) that occurs before the earlier of:

25 (A) ~~[except as provided by Subsection (b-2), the~~  
26 ~~end of the calendar year in which the application was submitted,~~

27 ~~[(B)]~~ the date the county clerk receives notice

1 from the voter registrar under Subsection (f) that the voter has  
2 changed residence to another county; or

3 (B) [~~(C)~~] the date the voter's registration is  
4 canceled.

5 SECTION 11. Section 86.003(c), Election Code, as effective  
6 September 1, 2021, is amended to read as follows:

7 (c) The address to which the balloting materials must be  
8 addressed is the address at which the voter is registered to vote,  
9 or the registered mailing address if different, unless the  
10 application to vote early by mail indicates that the voter [~~ground~~  
11 ~~for voting by mail is~~]:

12 (1) will be absent from the voter's [~~absence from the~~  
13 county of residence on election day, in which case the address must  
14 be an address outside the voter's county of residence;

15 (2) is confined [~~confinement~~] in jail as described by  
16 Section 84.009(a), in which case the address must be the address of  
17 the jail or of a relative described by Section 84.002(a)(4);

18 (3) is 65 years of age or older on election day or has a  
19 sickness or physical condition that requires the applicant to  
20 reside in a hospital or nursing home or other long-term care  
21 facility, or with a relative, [~~age or disability~~] and [~~the voter~~] is  
22 living at a retirement center, hospital, nursing home or other  
23 long-term care facility, [~~or retirement center,~~] or with a relative  
24 described by Section 84.002(a)(3), in which case the address must  
25 be the address of that facility or relative; or

26 (4) is civilly committed as a sexually violent  
27 predator under Chapter 841, Health and Safety Code, and ordered as a



1 condition of civil commitment to reside in a facility operated by or  
2 under contract with the Texas Civil Commitment Office [~~involuntary~~  
3 ~~civil commitment~~], in which case the address must be the address of  
4 the facility or of a relative described by Section 84.002(a)(6)  
5 [~~84.002(a)(7)~~].

6 SECTION 12. Section 86.004(b), Election Code, is amended to  
7 read as follows:

8 (b) For an election to which Section 101.104 applies, the  
9 balloting materials for a voter who indicates on the application  
10 for a ballot to be voted by mail or the federal postcard application  
11 that the voter seeks [~~is eligible~~] to vote early by mail as a  
12 consequence of the voter's being outside the United States shall be  
13 mailed on or before the later of the 45th day before election day or  
14 the seventh calendar day after the date the clerk receives the  
15 application. However, if it is not possible to mail the ballots by  
16 the deadline of the 45th day before election day, the clerk shall  
17 notify the secretary of state within 24 hours of knowing that the  
18 deadline will not be met. The secretary of state shall monitor the  
19 situation and advise the clerk, who shall mail the ballots as soon  
20 as possible in accordance with the secretary of state's guidelines.

21 SECTION 13. Section 87.041(b), Election Code, is amended to  
22 read as follows:

23 (b) A ballot may be accepted only if:

24 (1) the carrier envelope certificate is properly  
25 executed;

26 (2) neither the voter's signature on the ballot  
27 application nor the signature on the carrier envelope certificate

1 is determined to have been executed by a person other than the  
2 voter, unless signed by a witness;

3 (3) ~~[the voter's ballot application states a legal~~  
4 ~~ground for early voting by mail;~~

5 ~~[(4)]~~ the voter is registered to vote, if registration  
6 is required by law;

7 (4) ~~[(5) the address to which the ballot was mailed~~  
8 ~~to the voter, as indicated by the application, was outside the~~  
9 ~~voter's county of residence, if the ground for early voting is~~  
10 ~~absence from the county of residence;~~

11 ~~[(6)]~~ for a voter to whom a statement of residence form  
12 was required to be sent under Section 86.002(a), the statement of  
13 residence is returned in the carrier envelope and indicates that  
14 the voter satisfies the residence requirements prescribed by  
15 Section 63.0011; and

16 (5) ~~[(7)]~~ the address to which the ballot was mailed  
17 to the voter is an address ~~[that is otherwise]~~ required by Sections  
18 84.002 and 86.003.

19 SECTION 14. Section 102.001(a), Election Code, is amended  
20 to read as follows:

21 (a) A qualified voter is eligible to vote a late ballot as  
22 provided by this chapter if the voter has a sickness or physical  
23 condition ~~[described by Section 82.002]~~ that prevents the voter  
24 from appearing at the polling place on election day without a  
25 likelihood of needing personal assistance or of injuring the  
26 voter's health and originates on or after the day before the last  
27 day for submitting an application for a ballot to be voted by mail.

1           SECTION 15. The following provisions of the Election Code  
2 are repealed:

- 3           (1) Section 82.001;
- 4           (2) Section 82.002;
- 5           (3) Section 82.003;
- 6           (4) Section 82.004;
- 7           (5) Section 82.008, as effective September 1, 2021;
- 8           (6) Section 84.002(b);
- 9           (7) Section 84.002(c), as effective September 1, 2021;
- 10          (8) Section 86.0015(b-2); and
- 11          (9) Section 112.002(b).

12           SECTION 16. The changes in law made by this Act apply only  
13 to an election ordered on or after the effective date of this Act.

14           SECTION 17. This Act takes effect on the 91st day after the  
15 last day of the legislative session.