87R3619 MLH-F

By:  Bucy H.B. No. 857

A BILL TO BE ENTITLED

AN ACT

relating to the procedures for voting after changing residence to another county.

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

SECTION 1.  Subchapter A, Chapter 12, Election Code, is amended by adding Section 12.007 to read as follows:

Sec. 12.007.  CERTAIN ELECTION OFFICERS ARE VOTER REGISTRARS. An election officer serving a polling place is a deputy voter registrar and has the same authority as a regular deputy registrar.

SECTION 2.  Section 15.002(a), Election Code, is amended to read as follows:

(a)  A voter registration certificate may contain an explanation of the voter's rights or duties under this code, including:

(1)  the procedure by which the voter will receive a renewal certificate;

(2)  the necessity of notifying the registrar if the voter changes residence;

(3)  the necessity of applying for a new registration if the voter changes residence to another county;

(4)  the procedure for voting [~~period during which the voter may vote a limited ballot~~] after changing residence to another county;

(5)  the procedure for voting without a certificate; and

(6)  the procedure for obtaining a replacement for a lost or destroyed certificate.

SECTION 3.  Section 16.031(a), Election Code, is amended to read as follows:

(a)  The registrar shall cancel a voter's registration immediately on receipt of:

(1)  notice under Section 13.072(b) or 15.021 or a response under Section 15.053 that the voter's residence is outside the county;

(2)  an abstract of the voter's death certificate under Section 16.001(a) or an abstract of an application indicating that the voter is deceased under Section 16.001(b);

(3)  an abstract of a final judgment of the voter's total mental incapacity, partial mental incapacity without the right to vote, conviction of a felony, or disqualification under Section 16.002, 16.003, or 16.004;

(4)  notice under Section 63.007 [~~112.012~~] that the voter has voted [~~applied for~~] a provisional [~~limited~~] ballot in another county;

(5)  notice from a voter registration official in another state that the voter has registered to vote outside this state;

(6)  notice from the early voting clerk under Section 101.053 that a federal postcard application submitted by an applicant states a voting residence address located outside the registrar's county; or

(7)  notice from the secretary of state that the voter has registered to vote in another county, as determined by the voter's driver's license number or personal identification card number issued by the Department of Public Safety or social security number.

SECTION 4.  Chapter 63, Election Code, is amended by adding Section 63.007 to read as follows:

Sec. 63.007.  PROVISIONAL VOTING FOR VOTER WHO CHANGED COUNTY OF RESIDENCE. (a) After changing residence to another county, a person shall be accepted for provisional voting under this section if:

(1)  the person would have been eligible to vote in the county of former residence on election day if still residing in that county;

(2)  the person is registered to vote in the county of former residence at the time the person:

(A)  offers to vote in the county of new residence; or

(B)  submitted a voter registration application in the county of new residence;

(3)  a voter registration for the person in the county of new residence is not effective on or before election day; and

(4)  the person offers to vote in the person's new county of residence:

(A)  at any polling place during the early voting period;

(B)  at any polling place on election day if the county participates in the program under Section 43.007; or

(C)  at the polling place of the precinct in which the person resides on election day if the county does not participate in the program under Section 43.007.

(b)  Not later than the 30th day after the election, the voter registrar shall notify the voter registrar for the voter's former county of residence that the voter was accepted for voting under this section.

SECTION 5.  Section 63.011, Election Code, is amended by adding Subsection (a-2) and amending Subsections (b), (b-1), and (c) to read as follows:

(a-2)  A person to whom Section 63.007 applies may cast a provisional ballot if the person would be eligible to vote in the election, but for the requirement to be a registered voter, and executes an affidavit stating:

"I am currently registered to vote in \_\_\_\_\_\_\_\_\_ (insert name of county) County and have not cast a ballot in that county in this election. I understand that doing so is a felony of the second degree under Section 64.012, Election Code."

(b)  A form for an affidavit required by this section must be printed on an envelope in which the provisional ballot voted by the person may be placed and must include:

(1)  a space for entering the identification number of the provisional ballot voted by the person; [~~and~~]

(2)  a space for an election officer to indicate whether the person presented a form of identification described by Section 63.0101; and

(3)  for a provisional ballot voted by the person under Section 63.007, a space for entering:

(A)  the precinct number of the precinct in which the voter voted; and

(B)  the name of the county in which the voter is registered to vote.

(b-1)  The affidavit form shall [~~may~~] include space for disclosure of any necessary information to enable the person to register to vote under Chapter 13.  The secretary of state shall prescribe the form of the affidavit under this section.

(c)  After executing the affidavit, the person shall be given a provisional ballot for the election. An election officer shall record the number of the ballot and, if applicable, the precinct number on the space provided on the affidavit.

SECTION 6.  Section 65.054, Election Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b)  Except as provided by Subsection (b-1), a [~~A~~] provisional ballot shall be accepted if the board determines that:

(1)  from the information in the affidavit or contained in public records, the person is eligible to vote in the election and has not previously voted in that election;

(2)  the person:

(A)  meets the identification requirements of Section 63.001(b) at the time the ballot was cast or in the period prescribed under Section 65.0541;

(B)  notwithstanding Chapter 110, Civil Practice and Remedies Code, executes an affidavit under penalty of perjury that states the voter has a religious objection to being photographed and the voter has consistently refused to be photographed for any governmental purpose from the time the voter has held this belief; or

(C)  executes an affidavit under penalty of perjury that states the voter does not have any identification meeting the requirements of Section 63.001(b) as a result of a natural disaster that was declared by the president of the United States or the governor, occurred not earlier than 45 days before the date the ballot was cast, and caused the destruction of or inability to access the voter's identification; and

(3)  the voter has not been challenged and voted a provisional ballot solely because the voter did not meet the requirements for identification prescribed by Section 63.001(b).

(b-1)  A provisional ballot cast under Section 63.007 shall be accepted if the board determines from the information in the affidavit or contained in public records that the person:

(1)  is registered to vote in the county of the person's former residence;

(2)  has not previously voted in the election; and

(3)  is eligible to vote in the election, but for the requirement to be a registered voter.

SECTION 7.  Section 65.055, Election Code, is amended by adding Subsection (a-1) to read as follows:

(a-1)  If the affidavit on the envelope of a provisional ballot accepted under Section 65.054(b-1) contains the information necessary to enable the person to register to vote under Chapter 13, the voter registrar shall make a copy of the affidavit under procedures prescribed by the secretary of state. The voter registrar shall treat the copy as an application for registration under Chapter 13.

SECTION 8.  Section 111.001, Election Code, is amended to read as follows:

Sec. 111.001.  RESTRICTED BALLOT. In this subtitle, "restricted ballot" means a ballot that is restricted to the offices and propositions stating measures on which a person is entitled to vote under Chapter [~~112,~~] 113[~~,~~] or 114.

SECTION 9.  Section 111.009, Election Code, is amended to read as follows:

Sec. 111.009.  EXCLUDING VOTER FROM PRECINCT EARLY VOTING LIST. The name of a person [~~voting a limited ballot by personal appearance under Chapter 112 or~~] to whom a [~~limited or~~] federal ballot to be voted by mail is provided under Chapter [~~112 or~~] 114 is not required to be included on the precinct early voting list.

SECTION 10.  Section 162.002, Election Code, is amended to read as follows:

Sec. 162.002.  ELIGIBILITY TO AFFILIATE. To be eligible to affiliate with a political party, a person must be:

(1)  a registered voter; or

(2)  eligible to vote a provisional [~~limited~~] ballot under Section 63.007 at the time of affiliating.

SECTION 11.  Section 162.005, Election Code, is amended to read as follows:

Sec. 162.005.  AFFILIATION PROCEDURE: EARLY VOTING BY MAIL. Subject to Section 162.004(a-1), the early voting clerk in a general primary election shall provide an affiliation certificate with each early voting [~~or limited~~] ballot to be voted by mail. The certificate is not required to be provided to an applicant for a runoff primary ballot unless the applicant requests it.

SECTION 12.  Section 174.003, Election Code, is amended to read as follows:

Sec. 174.003.  DELEGATE TO BE QUALIFIED VOTER. In addition to the requirement of party affiliation, to be eligible to serve as a delegate to a county, senatorial district, or state convention held under this chapter, a person must be a qualified voter of the territory that the person is selected to represent or a resident of that territory who is eligible to vote a provisional [~~limited~~] ballot under Section 63.007.

SECTION 13.  Section 174.024, Election Code, is amended to read as follows:

Sec. 174.024.  PARTICIPANT TO BE REGISTERED VOTER. In addition to the requirement of party affiliation, to be eligible to participate in a precinct convention held under this subchapter, a person must be a registered voter of the precinct or a precinct resident who is eligible to vote a provisional [~~limited~~] ballot under Section 63.007.

SECTION 14.  Section 181.065, Election Code, is amended to read as follows:

Sec. 181.065.  PARTICIPANT TO BE REGISTERED VOTER. To be eligible to participate in a precinct convention held under this chapter, a person must be a registered voter of the precinct or a precinct resident who is eligible to vote a provisional [~~limited~~] ballot under Section 63.007.

SECTION 15.  Chapter 112, Election Code, is repealed.

SECTION 16.  Not later than December 1, 2021, the secretary of state shall adopt all necessary rules to implement this Act.

SECTION 17.  (a)  Except as provided by Subsection (b) of this section, this Act takes effect January 1, 2022.

(b)  Section 16 of this Act takes effect September 1, 2021.