

By: Eckhardt

S.B. No. 303

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, is amended to
15 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 by affinity or the third degree by 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); and

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~~].

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

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

27 (1) servng a misdemeanor sentence for a term that

1 ends on or after election day;

2 (2) pending trial after denial of bail;

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

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

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

12 SECTION 7. Section 84.011(a), Election Code, is amended to
13 read as follows:

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

16 (1) immediately preceding the signature space the
17 statement: "I certify that the information given in this
18 application is true, and I understand that giving false information
19 in this application is a crime.";

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

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

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

27 (A) a space for an applicant [~~applying on the~~

1 ~~ground of absence from the county of residence]~~ to indicate whether
2 the applicant will be absent from the applicant's county of
3 residence on election day and, if applicable, the date on or after
4 which the applicant can receive mail at the address outside the
5 county;

6 (B) a space for indicating the fact that an
7 applicant whose application is signed by a witness cannot make the
8 applicant's mark and a space for indicating the relationship or
9 lack of relationship of the witness to the applicant;

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

13 (D) a space or box for an applicant who is 65
14 years of age or older on election day or has a sickness or physical
15 condition that requires the applicant to reside in a hospital or
16 nursing home or other long-term care facility, or with a relative,
17 ~~[applying on the ground of age or disability]~~ to indicate that the
18 address to which the ballot is to be mailed is the address of a
19 facility or relative described by Section 84.002(a)(3), if
20 applicable;

21 (E) a space or box for an applicant confined
22 ~~[applying on the ground of confinement]~~ in jail as described by
23 Section 84.009(a) to indicate that the address to which the ballot
24 is to be mailed is the address of a relative described by Section
25 84.002(a)(4), if applicable;

26 (F) a space for an applicant ~~[applying on the~~
27 ~~ground of age or disability]~~ to indicate if the application is an

1 application under Section 86.0015;

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

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

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

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

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

14 (c) Except as provided by Section 86.008, if the applicant
15 is not entitled to vote in the election [~~by mail~~], the clerk shall
16 reject the application, enter on the application "rejected" and the
17 reason for and date of rejection, and deliver written notice of the
18 reason for the rejection to the applicant at both the residence
19 address and mailing address on the application. A ballot may not be
20 provided to an applicant whose application is rejected.

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

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

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

26 (a) This section applies only to an application for a ballot
27 to be voted by mail that[+]

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

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

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

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

10 (2) that occurs before the earlier of:

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

13 ~~[(B)]~~ the date the county clerk receives notice
14 from the voter registrar under Subsection (f) that the voter has
15 changed residence to another county; or

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

18 SECTION 11. Section 86.003(c), Election Code, is amended to
19 read as follows:

20 (c) The address to which the balloting materials must be
21 addressed is the address at which the voter is registered to vote,
22 or the registered mailing address if different, unless the
23 application to vote early by mail indicates that the voter ~~[ground~~
24 ~~for voting by mail is]~~:

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

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

4 (3) is 65 years of age or older on election day or has a
5 sickness or physical condition that requires the applicant to
6 reside in a hospital or nursing home or other long-term care
7 facility, or with a relative, [age or disability] and [the voter] is
8 living at a retirement center, hospital, nursing home or other
9 long-term care facility, [~~or retirement center,~~] or with a relative
10 described by Section 84.002(a)(3), in which case the address must
11 be the address of that facility or relative.

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

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

27 SECTION 13. Section 87.041(b), Election Code, is amended to

1 read as follows:

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

3 (1) the carrier envelope certificate is properly
4 executed;

5 (2) neither the voter's signature on the ballot
6 application nor the signature on the carrier envelope certificate
7 is determined to have been executed by a person other than the
8 voter, unless signed by a witness;

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

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

13 (4) ~~[(5) the address to which the ballot was mailed
14 to the voter, as indicated by the application, was outside the
15 voter's county of residence, if the ground for early voting is
16 absence from the county of residence];~~

17 ~~[(6)]~~ for a voter to whom a statement of residence form
18 was required to be sent under Section 86.002(a), the statement of
19 residence is returned in the carrier envelope and indicates that
20 the voter satisfies the residence requirements prescribed by
21 Section 63.0011; and

22 (5) ~~[(7)]~~ the address to which the ballot was mailed
23 to the voter is an address ~~[that is otherwise]~~ required by Sections
24 84.002 and 86.003.

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

27 (a) A qualified voter is eligible to vote a late ballot as

1 provided by this chapter if the voter has a sickness or physical
2 condition [~~described by Section 82.002~~] that prevents the voter
3 from appearing at the polling place on election day without a
4 likelihood of needing personal assistance or of injuring the
5 voter's health and originates on or after the day before the last
6 day for submitting an application for a ballot to be voted by mail.

7 SECTION 15. The following provisions of the Election Code
8 are repealed:

9 (1) Sections 82.001, 82.002, 82.003, and 82.004; and

10 (2) Sections 84.002(b), 86.0015(b-2), and 112.002(b).

11 SECTION 16. The changes in law made by this Act apply only
12 to an election ordered on or after September 1, 2021.

13 SECTION 17. This Act takes effect September 1, 2021.