

BILL ANALYSIS

Senate Research Center
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H.B. 3159
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, voters with disabilities who require assistance voting are the only group of eligible absentee voters who must go to a polling location if they wish to vote with a private, independent, and secure ballot. Voters with disabilities should have an accessible alternative to the current absentee voting system in which they are able to vote more securely and efficiently, without the assistance of another person. H.B. 3159 seeks to address this issue by creating an accessible absentee ballot system.

H.B. 3159 amends current law relating to the use of an accessible absentee mail system by certain voters.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the secretary of state in SECTION 1 (Sections 81.006 and 81.007, Election Code) and SECTION 4 (Section 86.009, Election Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 81, Election Code, by adding Sections 81.006 and 81.007, as follows:

Sec. 81.006. ACCESSIBLE ABSENTEE BALLOT SYSTEM. (a) Authorizes a person eligible for early voting by mail under Section 82.002 (Disability or Confinement for Childbirth) to receive and cast a ballot using an accessible absentee mail system approved by the secretary of state (SOS) under Section 81.007.

(b) Requires an accessible absentee mail system to be an electronic system, including software, used for the sole purpose of enabling a voter who has a disability and needs assistive technology for marking or reading the ballot, to mark the voter's ballot and print and submit the ballot in the manner required by Chapter 86 (Conduct of Voting by Mail) for a ballot marked by the voter.

(c) Requires SOS to adopt rules and prescribe procedures for the implementation of this section.

Sec. 81.007. ACCESSIBLE ABSENTEE BALLOT SYSTEM STANDARDS. (a) Prohibits an accessible absentee ballot system described by Section 81.006 from being used in an election unless the system is approved by SOS in accordance with this section.

(b) Requires SOS to adopt standards for the approval of an accessible absentee ballot system. Requires that the standards adopted, at a minimum, require an accessible absentee ballot system to:

- (1) preserve the secrecy of the ballot;
- (2) authenticate the voter prior to delivery of a ballot using:

(A) all information required under Sections 84.002(a)(1) (relating to requiring an early voting ballot application to include the applicant's name and the address at which the applicant is registered to vote) and (1-a) (relating to requiring an early voting ballot application to include certain information); and

(B) any other information SOS determines to be necessary for the positive identification of the person accessing the ballot as the voter;

(3) operate safely, efficiently, and accurately;

(4) be equipped with security measures necessary to prevent fraudulent or unauthorized manipulation;

(5) secure the screen and audio output of the device on which the ballot is displayed during voting so that, other than the voter's own notes, political advertising or a campaign communication, as those terms are defined by Section 251.001 (Definitions), is not displayed or audibly available to the voter while the ballot is being marked;

(6) securely print the voter's marked ballot with a unique serial number and transmit the ballot to the early voting clerk without information identifying the voter;

(7) use a method of verification that a ballot was issued to an eligible voter;

(8) require the voter, prior to accessing the ballot, to swear or affirm that the voter is the person to whom the ballot is issued, and affirmatively indicate a certain statement, as prescribed by Section 82.002(a) (relating to providing that a qualified voter is eligible for early voting by mail in certain circumstances), is true and correct. Sets forth the language required to be included in the statement;

(9) require the voter, after printing the voted ballot, to:

(A) place the voted ballot in the official ballot envelope and seal the ballot envelope;

(B) place the ballot envelope in the official carrier envelope and seal the carrier envelope; and

(C) sign the certificate on the sealed carrier envelope;

(10) prevent any image or record of a voter's ballot choices, other than the original ballot printed, from being saved, printed, transmitted, or stored on the voter's device;

(11) be incapable of transmitting voted ballot images or records via the Internet; and

(12) be capable of providing records, including Internet protocol addresses of the devices displaying a voter's ballot, from which the operation of the accessible absentee ballot system may be audited.

(c) Provides that a voter's failure to use the official ballot envelope, for the purposes of Subsection (b)(9)(A), does not affect the validity of the ballot and requires the voter to complete the official carrier envelope as provided by Section 86.006.

(d) Authorizes SOS by rule to prescribe additional standards for accessible absentee ballot systems consistent with Title 7 (Early Voting). Authorizes the standards adopted under this subsection to apply to:

- (1) particular kinds of accessible absentee ballot systems;
- (2) particular elements comprising an accessible absentee ballot system, including operation procedures; or
- (3) accessible absentee ballot systems generally.

(e) Requires SOS by rule to prescribe and implement, to the extent applicable:

- (1) a certification process for approval of an accessible absentee ballot system using the process prescribed by Subchapter B (Approval of Voting System and Equipment), Chapter 122;
- (2) a process for approval of modification in design of approved systems prescribed by Subchapter C (Modification in Design of Approval System or Equipment), Chapter 122; and
- (3) a process for reexamination of approved systems prescribed by Subchapter D (Reexamination of Voting System or Equipment), Chapter 122.

SECTION 2. Amends Section 86.002, Election Code, by adding Subsection (a-1), as follows:

(a-1) Requires the early voting clerk to provide to a voter using an accessible absentee ballot system under Section 81.006:

- (1) the balloting materials required under this section; and
- (2) instructions prescribed by SOS for accessing the accessible absentee ballot system.

SECTION 3. Amends Section 86.003(a), Education Code, to create an exception under Section 81.006.

SECTION 4. Amends Section 86.009, Election Code, by adding Subsection (g), to require SOS by rule to modify the procedures required under Section 86.009 (Providing Corrected ballot to Voter) if an accessible absentee ballot system is used to deliver a ballot to a voter.

SECTION 5. Effective date: September 1, 2023.