

BILL ANALYSIS

Senate Research Center
88R20956 TSS-D

C.S.S.B. 1599
By: Hughes
State Affairs
4/6/2023
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1599 makes several changes related to absentee voting. The bill requires that returned, unvoted mail ballots returned to the polling place must be stored separately and accounted for upon return to the polling place.

The bill also allows a voter to cure his or her application for a ballot by mail, rather than just to cure the ballot itself. If there is not time to fix it, the clerk may call or email the voter to notify him of the defect, and the voter may cure the application through the online portal. It changes the date by which a person must correct a defect to the second day after election day rather than the sixth day after election day.

Finally, the bill also clarifies that, even when the numbers match on the application and the ballot, thereby creating a presumption that the application and ballot are valid, the early voting ballot board still must compare the signatures for verification.

(Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 1599 amends current law relating to ballots voted by mail.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 66.026, Election Code, as follows:

Sec. 66.026. CONTENTS OF BALLOT BOX NO. 4. Requires that ballot box no. 4 contain certain items, including any ballot to be voted by mail returned at the polling place. Makes nonsubstantive changes.

SECTION 2. Amends Section 84.032, Election Code, by adding Subsection (d-1), as follows:

(d-1) Requires an election officer to maintain a register of ballots to be voted by mail returned at a polling place under Subsection (d) (relating to authorizing an applicant to also submit a request for cancellation by appearing in person and returning the ballot to be voted by mail or presenting a notice to certain entities). Requires an election officer to enter on the register the name of each voter who returns a ballot to be voted by mail and the ballot's number. Requires the secretary of state (SOS) to adopt a form to be used for this purpose.

SECTION 3. Amends Section 84.036, Election Code, as follows:

Sec. 84.036. DISPOSITION OF RETURNED BALLOT. (a) Creates this subsection from existing text.

(b) Requires an election officer, after making the appropriate entry on a register maintained under Section 84.032(d-1), to deposit a ballot to be voted by mail returned at a polling place under Section 84.032(d) in ballot box no. 4.

SECTION 4. Amends Section 86.008, Election Code, as follows:

Sec. 86.008. New heading: OPPORTUNITY TO CORRECT DEFECT: APPLICATION.

(a) Provides that this section applies to an application for a ballot to be voted by mail for which the applicant failed to comply with a requirement provided by Section 84.002 (Contents of Application), 84.0021 (Contents of Application for Participant in Address Confidentiality Program; Confidential Information), or 84.003(a) (relating to requiring that an early voting ballot application signed for the applicant by a witness other than the early voting clerk or a deputy indicate the witness's relationship to the applicant or, if unrelated, indicate that fact) in a manner that would lead, if not corrected, to the rejection of the applicant's application.

(a-1) Requires the early voting clerk, not later than the second business day after the early voting clerk discovers a defect described by Subsection (a), to:

(1) determine if it would be possible for the applicant to correct the defect and return an application form by mail before the deadline provided by Section 84.007(c) (relating to authorizing an application to be submitted at certain times) or 86.0015(b-1) (relating to requiring that an application for a ballot to be voted by mail be submitted before certain times), as applicable; and

(2) notwithstanding any other law, if the clerk determines it would be possible to correct the defect and return an application form before the deadline provided by Section 84.007(c) or 86.0015(b-1), either return the application to the applicant or deliver an official application form to the applicant.

Deletes existing text requiring the early voting clerk, if on reviewing an application for a ballot to be voted by mail that was received on or before the 18th day before election day the early voting clerk determines that the application does not fully comply with the applicable requirements prescribed by Title 7 (Early Voting), to mail or otherwise deliver an official application form to the applicant.

(b) Makes conforming changes to this subsection.

(c) Authorizes the early voting clerk, if the clerk determines that it would not be possible for the applicant to correct the defect and return an application form by mail before the deadline provided by Section 84.007(c) or 86.0015(b-1), as applicable, to notify the applicant by telephone or e-mail of the defect, including the information required under Subsection (b), and to inform the applicant that the applicant is authorized to come to the early voting clerk's office before the deadline provided by Section 84.007(c) or 86.0015(b-1), as applicable, and to correct the defect in person. Deletes existing text requiring the early voting clerk, if an application that does not fully comply with the applicable requirements prescribed by this title is received after the 12th day before election day and before the end of the period for early voting by personal appearance, to mail or to otherwise deliver a notice to the voter containing the information prescribed by certain subdivisions, including a statement that the application was late, if applicable.

(c-1) Requires the clerk to:

(1) in addition to returning an application or providing an application form under Subsection (a-1)(2) or notifying an applicant under Subsection (c), notify the applicant of a defect discovered under this section and provide

the information required to be included under Subsection (b) using the online tool described by Section 86.015 (Electronic Tracking of Application for Ballot Voted by Mail or Ballot Voted by Mail); and

(2) if possible, permit the applicant to correct a defect using the online tool described by Section 86.015.

(d) Makes no changes to this subsection.

SECTION 5. Amends Sections 86.015(a) and (b), Election Code, as follows:

(a) Requires SOS to develop or otherwise provide an online tool to each early voting clerk on SOS's Internet website and on the county's Internet website if the early voting clerk is the county clerk of a county that maintains an Internet website that enables a person who submits an application for a ballot to be voted by mail to track the location and status of the person's application and ballot and to receive notice of and, when possible, correct a defect in the person's application and ballot under Sections 86.008(c-1), 87.0271(e-1), and 87.0411(e-1). Makes nonsubstantive changes.

(b) Requires that the online tool developed or provided under Subsection (a) require the voter to provide, before permitting the voter to access information described by that subsection, certain information, including the voter's date of birth, rather than the voter's registration address.

SECTION 6. Amends Section 87.0271, Election Code, by amending Subsections (b) and (c) and adding Subsection (b-1), (c-1), and (e-1), as follows:

(b) Requires a signature verification committee (committee), not later than the second day after the committee discovers a certain defect and before the committee decides whether to accept or reject a timely delivered ballot under Section 87.027 (Signature Verification Committee), to send the voter a notice of the defect and a corrective action form developed by SOS under Subsection (c-1) by mail or by common or contract carrier.

Deletes existing text requiring the committee, not later than the second business day after the committee discovers a certain defect and before the committee decides whether to accept or reject a timely delivered ballot under Section 87.027, to determine if it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day and to return the carrier envelope to the voter by mail, if the committee determines that it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day.

(b-1) Requires the committee to include with the notice delivered to the voter under Subsection (b):

(1) a brief explanation of each defect in the noncomplying ballot; and

(2) a notice that the voter is authorized to:

(A) cancel the voter's application to vote by mail in the manner described by Section 84.032 (Request for Cancellation); or

(B) correct the defect in the voter's ballot by:

(i) submitting a corrective action form developed and made available by SOS under Subsection (c-1) by mail or by common or contract carrier; or

(ii) coming to the early voting clerk's office not later than the second day after election day.

(c) Authorizes the committee, if the committee determines that it would not be possible for the voter to receive the notice of defect within a reasonable time to correct the defect, rather than if the committee determines under Subsection (b)(1) that it would not be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day, to notify the voter of the defect by telephone or e-mail and inform the voter that the voter is authorized to request to have the voter's application to vote by mail canceled in the manner described by Section 84.032, submit a corrective action form developed by SOS under Subsection (c-1) by mail or by common or contract carrier, or come to the early voting clerk's office in person not later than the second, rather than the sixth, day after election day to correct the defect.

(c-1) Requires SOS to develop a corrective action form that is authorized to be completed and submitted to a committee under Section 87.0271 (Opportunity to Correct Defect: Signature Verification Committee) to correct a defect.

(e-1) Requires the committee to:

(1) in addition to sending to the voter a notice of the defect under Subsection (b) or notifying the voter of the defect by telephone or e-mail under Subsection (c), notify the voter of a defect discovered under this section using the online tool described by Section 86.015; and

(2) if possible, permit the voter to correct a defect using the online tool described by Section 86.015.

SECTION 7. Amends Section 87.041(d-1), Election Code, as follows:

(d-1) Requires the early voting ballot board (board) to compare signatures in making a determination under Subsection (b)(2) (relating to authorizing an early voting ballot voted by mail to be accepted only if neither the voter's signature on the ballot application nor the signature on the carrier envelope certificate is determined to have been executed by a person other than the voter, unless signed by a witness) regardless of whether the presumption provided by this subsection exists.

SECTION 8. Amends Section 87.0411, Election Code, by amending Subsections (b) and (c) and adding Subsections (b-1), (c-1), and (e-1), as follows:

(b) Requires a board, not later than the business second day after a board discovers a certain defect and before the board decides whether to accept or reject a timely delivered ballot under Section 87.041, to send the voter a notice of the defect and a corrective action form developed by SOS under Subsection (c-1) by mail or by common or contract carrier, rather than to determine if it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day and to return the carrier envelope to the voter by mail, if the board determines that it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day.

(b-1) Requires the board to include with the notice delivered to the voter under Subsection (b):

(1) a brief explanation of each defect in the noncomplying ballot; and

(2) a notice that the voter is authorized to:

(A) cancel the voter's application to vote by mail in the manner described by Section 84.032; or

(B) correct the defect in the voter's ballot by:

(i) submitting a corrective action form developed and made available by SOS under Subsection (c-1) by mail or by common or contract carrier; or

(ii) coming to the early voting clerk's office not later than the second day after election day.

(c) Authorizes the board, if the board determines that it would not be possible for the voter to receive the notice of defect within a reasonable time to correct the defect, rather than if the board determines under Subsection (b)(1) that it would not be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day, to notify the voter of the defect by telephone or e-mail and inform the voter that the voter is authorized to request to have the voter's application to vote by mail canceled in the manner described by Section 84.032, submit a corrective action form developed by SOS under Subsection (c-1) by mail or by common or contract carrier, or come to the early voting clerk's office in person not later than the second, rather than the sixth, day after election day to correct the defect.

(c-1) Requires SOS to develop a corrective action form that is authorized to be completed and submitted to a board under Section 87.0411 (Opportunity to Correct Defect: Early Voting Ballot Board) to correct a defect.

(e-1) Requires the board to:

(1) in addition to sending the voter notice of the defect under Subsection (b) or notifying the voter of the defect by telephone or e-mail under Subsection (c), notify the voter of a defect discovered under this section using the online tool described by Section 86.015; and

(2) if possible, permit the voter to correct a defect using the online tool described by Section 86.015.

SECTION 9. Makes application of this Act prospective.

SECTION 10. Makes application of this Act prospective.

SECTION 11. Effective date: September 1, 2023.