

By: Hughes, Parker

S.B. No. 1599

A BILL TO BE ENTITLED

AN ACT

relating to ballots voted by mail.

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

SECTION 1. Section 66.026, Election Code, is amended to read as follows:

Sec. 66.026. CONTENTS OF BALLOT BOX NO. 4. Ballot box no. 4 must contain:

(1) the original of the ballot register;

(2) the register of spoiled ballots;

(3) any spoiled ballots;

(4) any ballot to be voted by mail returned at the polling place;

(5) [~~4~~] any defectively printed ballots;

(6) [~~5~~] any envelope containing cancellation requests and canceled ballots; and

(7) [~~6~~] any other unused ballots.

SECTION 2. Section 84.032, Election Code, is amended by adding Subsection (d-1) to read as follows:

(d-1) An election officer shall maintain a register of ballots to be voted by mail returned at a polling place under Subsection (d). An election officer shall enter on the register the name of each voter who returns a ballot to be voted by mail and the ballot's number. The secretary of state shall adopt a form to be used for this purpose.

1 SECTION 3. Section 84.036, Election Code, is amended to  
2 read as follows:

3 Sec. 84.036. DISPOSITION OF RETURNED BALLOT. (a) If an  
4 early voting ballot sent to an applicant whose application is  
5 canceled is returned to the early voting clerk as a marked ballot,  
6 the ballot shall be treated as a marked ballot not timely returned.

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

11 SECTION 4. Section 86.008, Election Code, is amended to  
12 read as follows:

13 Sec. 86.008. OPPORTUNITY TO CORRECT DEFECT: [DEFECTIVE]  
14 APPLICATION. (a) This section applies to an application for a  
15 ballot to be voted by mail for which the applicant failed to comply  
16 with a requirement provided by Section 84.002, 84.0021, or  
17 84.003(a) in a manner that would lead, if not corrected, to the  
18 rejection of the applicant's application.

19 (a-1) Not later than the sixth business day after the early  
20 voting clerk discovers a defect described by Subsection (a), the  
21 early voting clerk shall:

22 (1) determine if it would be possible for the  
23 applicant to correct the defect and return an application form by  
24 mail before the deadline provided by Section 84.007(c) or  
25 86.0015(b-1), as applicable; and

26 (2) notwithstanding any other law, if the clerk  
27 determines it would be possible to correct the defect and return an

1 application form before the deadline provided by Section 84.007(c)  
2 or 86.0015(b-1), either return the application to the applicant or  
3 ~~[If on reviewing an application for a ballot to be voted by mail~~  
4 ~~that was received on or before the 18th day before election day the~~  
5 ~~early voting clerk determines that the application does not fully~~  
6 ~~comply with the applicable requirements prescribed by this title,~~  
7 ~~the clerk shall mail or otherwise]~~ deliver an official application  
8 form to the applicant.

9 (b) The clerk shall include with the returned application or  
10 an application form [mailed or] delivered to the applicant under  
11 Subsection (a-1)(2) a written notice containing:

12 (1) a brief explanation of each defect in the  
13 noncomplying application;

14 (2) a statement informing the voter that the voter is  
15 not entitled to vote an early voting ballot unless the application  
16 complies with all legal requirements; and

17 (3) instructions for submitting the corrected or  
18 second application.

19 (c) If the early voting clerk determines that it would not  
20 be possible for the applicant to correct the defect and return an  
21 application form by mail before the deadline provided by Section  
22 84.007(c) or 86.0015(b-1), as applicable, [an application that does  
23 ~~not fully comply with the applicable requirements prescribed by~~  
24 ~~this title is received after the 12th day before election day and~~  
25 ~~before the end of the period for early voting by personal~~  
26 ~~appearance,]~~ the clerk may notify the applicant by telephone or  
27 e-mail of the defect, including the information required under

1 Subsection (b), and inform the applicant that the applicant may  
2 come to the early voting clerk's office before the deadline  
3 provided by Section 84.007(c) or 86.0015(b-1), as applicable, and  
4 correct the defect in person [~~shall mail or otherwise deliver a~~  
5 ~~notice to the voter containing the information prescribed by~~  
6 ~~Subdivisions (1) and (2) of Subsection (b), including a statement~~  
7 ~~that the application was late, if applicable)].~~

8 (c-1) The clerk shall:

9 (1) in addition to returning an application or  
10 providing an application form under Subsection (a-1)(2) or  
11 notifying an applicant under Subsection (c), notify the applicant  
12 of a defect discovered under this section and provide the  
13 information required to be included under Subsection (b) using the  
14 online tool described by Section 86.015; and

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

17 (d) Notwithstanding any other provisions of this code, the  
18 clerk may deliver in person to the voter a second application if the  
19 defective original application is timely and may receive, before  
20 the deadline, the corrected application in person from the voter.  
21 If a procedure authorized by this subsection is used, it must be  
22 applied uniformly to all applications covered by this subsection.  
23 The clerk shall enter a notation on the application indicating any  
24 information added by the clerk under this subsection. A poll  
25 watcher is entitled to accompany the clerk and observe the  
26 procedures under this subsection. The secretary of state may  
27 prescribe any other procedures necessary to implement this

1 subsection including requirements for posting notice of any  
2 deliveries.

3 SECTION 5. Sections 86.015(a) and (b), Election Code, are  
4 amended to read as follows:

5 (a) The secretary of state shall develop or otherwise  
6 provide an online tool to each early voting clerk [~~that enables a~~  
7 ~~person who submits an application for a ballot to be voted by mail~~  
8 ~~to track the location and status of the person's application and~~  
9 ~~ballot~~] on the secretary's Internet website and on the county's  
10 Internet website if the early voting clerk is the county clerk of a  
11 county that maintains an Internet website that enables a person who  
12 submits an application for a ballot to be voted by mail to:

13 (1) track the location and status of the person's  
14 application and ballot; and

15 (2) receive notice of and, when possible, correct a  
16 defect in the person's application and ballot under Sections  
17 86.008(c-1), 87.0271(e-1), and 87.0411(e-1).

18 (b) The online tool developed or provided under Subsection  
19 (a) must require the voter to provide, before permitting the voter  
20 to access information described by that subsection:

21 (1) the voter's name and date of birth [~~registration~~  
22 ~~address~~] and the last four digits of the voter's social security  
23 number; and

24 (2) the voter's:

25 (A) driver's license number; or

26 (B) personal identification card number issued  
27 by the Department of Public Safety.

1 SECTION 6. Section 87.0222, Election Code, is amended to  
2 read as follows:

3 Sec. 87.0222. TIME OF DELIVERY: BALLOTS VOTED BY MAIL. (a)  
4 Except as provided by Subsection (a-1), not later than the ninth day  
5 before election day [~~Notwithstanding Section 87.024, in an election~~  
6 ~~conducted by an authority of a county with a population of 100,000~~  
7 ~~or more, or conducted jointly with such a county or conducted with~~  
8 ~~such a county through a contract for election services], the jacket~~

9 envelopes containing [~~the~~] early voting ballots voted by mail shall  
10 [~~may~~] be delivered to the board [~~between the end of the ninth day~~  
11 ~~before the last day of the period for early voting by personal~~  
12 ~~appearance and the closing of the polls on election day, or as soon~~  
13 ~~after closing as practicable, at the time or times specified by the~~  
14 ~~presiding judge of the board~~].

15 (a-1) Any jacket envelopes of early voting ballots voted by  
16 mail returned after delivery of the ballots under Subsection (a)  
17 may be delivered to the presiding judge of the early voting ballot  
18 board between the end of the ninth day before election day and the  
19 closing of the polls on election day, or as soon after closing as  
20 practicable, at the time or times specified by the presiding judge.

21 (b) The early voting clerk shall post notice of each  
22 delivery of balloting materials under this section that is to be  
23 made before the time for opening the polls on election day. The  
24 notice shall be posted at the main early voting polling place  
25 continuously for at least 24 hours immediately preceding the  
26 delivery.

27 (c) At least 24 hours before each delivery made before the

1 time for opening the polls on election day, the early voting clerk  
2 shall notify the county chair of each political party having a  
3 nominee on the ballot of the time the delivery is to be made.

4 SECTION 7. Sections 87.0241(a) and (c), Election Code, are  
5 amended to read as follows:

6 (a) The early voting ballot board shall make its  
7 determination [~~may determine~~] whether to accept early voting  
8 ballots voted by mail in accordance with Section 87.041 [~~at any~~  
9 ~~time~~] after the ballots are delivered to the board.

10 (c) The secretary of state shall prescribe any procedures  
11 necessary for implementing this section [~~in regard to elections~~  
12 ~~described by Subsection (b)(2)~~].

13 SECTION 8. Section 87.0271, Election Code, is amended by  
14 amending Subsections (b) and (c) and adding Subsections (b-1),  
15 (c-1), and (e-1) to read as follows:

16 (b) Not later than the second [~~business~~]  
17 signature verification committee discovers a defect described by  
18 Subsection (a) and before the committee decides whether to accept  
19 or reject a timely delivered ballot under Section 87.027, the  
20 committee shall send the voter a notice of the defect and a  
21 corrective action form developed by the secretary of state under  
22 Subsection (c-1) by mail or by common or contract carrier[+

23 [~~(1) determine if it would be possible for the voter to~~  
24 ~~correct the defect and return the carrier envelope before the time~~  
25 ~~the polls are required to close on election day, and~~

26 [~~(2) return the carrier envelope to the voter by mail,~~  
27 ~~if the committee determines that it would be possible for the voter~~

1 ~~to correct the defect and return the carrier envelope before the~~  
2 ~~time the polls are required to close on election day].~~

3 (b-1) The signature verification committee shall include  
4 with the notice delivered to the voter under Subsection (b):

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

7 (2) a notice that the voter may:

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

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

11 (i) submitting a corrective action form  
12 developed and made available by the secretary of state under  
13 Subsection (c-1) by mail or by common or contract carrier; or

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

16 (c) If the signature verification committee determines  
17 ~~[under Subsection (b)(1)]~~ that it would not be possible for the  
18 voter to receive the notice of defect within a reasonable time to  
19 correct the defect ~~[and return the carrier envelope before the time~~  
20 ~~the polls are required to close on election day]~~, the committee may  
21 notify the voter of the defect by telephone or e-mail and inform the  
22 voter that the voter may request to have the voter's application to  
23 vote by mail canceled in the manner described by Section 84.032,  
24 submit a corrective action form developed by the secretary of state  
25 under Subsection (c-1) by mail or by common or contract carrier, or  
26 come to the early voting clerk's office in person not later than the  
27 second ~~[sixth]~~ day after election day to correct the defect.

1       (c-1) The secretary of state shall develop a corrective  
2 action form that may be completed and submitted to a signature  
3 verification committee under this section to correct a defect.

4       (e-1) The committee shall:

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

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

12       SECTION 9. Section 87.041(d-1), Election Code, is amended  
13 to read as follows:

14       (d-1) If a voter provides the information required under  
15 Section 86.002(g) and it identifies the same voter identified on  
16 the voter's application for voter registration under Section  
17 13.002(c)(8), the signature on the ballot application and on the  
18 carrier envelope certificate shall be rebuttably presumed to be the  
19 signatures of the voter. The board shall compare signatures in  
20 making a determination under Subsection (b)(2) regardless of  
21 whether the presumption provided by this subsection exists.

22       SECTION 10. Section 87.0411, Election Code, is amended by  
23 amending Subsections (b) and (c) and adding Subsections (b-1),  
24 (c-1), and (e-1) to read as follows:

25       (b) Not later than the second business day after an early  
26 voting ballot board discovers a defect described by Subsection (a)  
27 and before the board decides whether to accept or reject a timely

1 delivered ballot under Section 87.041, the board shall send the  
2 voter a notice of the defect and a corrective action form developed  
3 by the secretary of state under Subsection (c-1) by mail or by  
4 common or contract carrier<sup>+</sup>

5 ~~[(1) determine if it would be possible for the voter to~~  
6 ~~correct the defect and return the carrier envelope before the time~~  
7 ~~the polls are required to close on election day; and~~

8 ~~[(2) return the carrier envelope to the voter by mail,~~  
9 ~~if the board determines that it would be possible for the voter to~~  
10 ~~correct the defect and return the carrier envelope before the time~~  
11 ~~the polls are required to close on election day].~~

12 (b-1) The early voting ballot board shall include with the  
13 notice delivered to the voter under Subsection (b):

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

16 (2) a notice that the voter may:

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

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

20 (i) submitting a corrective action form  
21 developed and made available by the secretary of state under  
22 Subsection (c-1) by mail or by common or contract carrier; or

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

25 (c) If the early voting ballot board determines [~~under~~  
26 ~~Subsection (b)(1)] that it would not be possible for the voter to  
27 receive the notice of defect within a reasonable time to correct the~~

1 defect [~~and return the carrier envelope before the time the polls~~  
2 ~~are required to close on election day~~], the board may notify the  
3 voter of the defect by telephone or e-mail and inform the voter that  
4 the voter may request to have the voter's application to vote by  
5 mail canceled in the manner described by Section [84.032](#), submit a  
6 corrective action form developed by the secretary of state under  
7 Subsection (c-1) by mail or by common or contract carrier, or come  
8 to the early voting clerk's office in person not later than the  
9 second [~~sixth~~] day after election day to correct the defect.

10 (c-1) The secretary of state shall develop a corrective  
11 action form that may be completed and submitted to an early voting  
12 ballot board under this section to correct a defect.

13 (e-1) The early voting ballot board shall:

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

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

21 SECTION 11. The change in law made by this Act applies only  
22 to an application for a ballot to be voted by mail submitted on or  
23 after the effective date of this Act. An application for a ballot  
24 to be voted by mail submitted before the effective date of this Act  
25 is governed by the law in effect when the application was submitted,  
26 and the former law is continued in effect for that purpose.

27 SECTION 12. The changes in law made by this Act apply only

1 to an election held on or after the effective date of this Act. An  
2 election held before the effective date of this Act is governed by  
3 the law in effect when the election was held, and that law is  
4 continued in effect for that purpose.

5 SECTION 13. This Act takes effect September 1, 2023.