

## **BILL ANALYSIS**

S.B. 760  
By: Kolkhorst  
Elections  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The bill sponsor has informed the committee that legal guardians of individuals residing in long-term care facilities are currently not alerted when their family member requests a mail-in ballot application, making election fraud more likely to occur. S.B. 760 seeks to prevent election fraud by requiring the legal guardians to be notified of any mail-in ballot applications submitted by these voters and requiring the Health and Human Services Commission to audit such facilities for compliance.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the secretary of state in SECTION 1 of this bill and to the Health and Human Services Commission in SECTIONS 2, 5, and 6 of this bill.

### **ANALYSIS**

S.B. 760 amends the Election Code to require an early voting clerk who receives an application for a ballot to be voted by mail that includes the address of a long-term care facility to notify the Health and Human Services Commission (HHSC) of the application. The bill defines "long-term care facility" as a facility licensed under the Assisted Living Facility Licensing Act or provisions relating to intermediate care facilities for individuals with an intellectual disability or convalescent and nursing facilities and related institutions. The bill authorizes the secretary of state, in coordination with HHSC, to adopt rules and prescribe procedures for the notification.

S.B. 760 amends the Health and Safety Code to require HHSC, following such a notification by an early voting clerk, to notify in writing a nursing facility, assisted living facility, or intermediate care facility, as applicable, of a request for a ballot by mail submitted for a facility resident. Upon receipt of the notification, the bill requires the applicable facility to determine if the resident that requested the ballot by mail has a legal guardian or has appointed an agent by a statutory durable power of attorney or medical power of attorney. If a legal guardian or agent has been appointed, the bill requires the facility, not later than the fifth business day after receiving the notification, to notify the guardian or agent of the resident that a ballot by mail was requested on behalf of the resident. The bill requires HHSC to conduct an audit to determine compliance with the notification requirements not later than the 45th day after the date of each primary or general election for state and county officers and requires the audit to include at least 2.5 percent of all licensed facilities for each type of facility as of the date of each primary and general election for state and county officers. The bill prohibits these provisions from being

construed to require a facility to contact a legal guardian or agent who is not listed as a point of contact for a resident in the facility's records.

S.B. 760 authorizes HHSC to do the following:

- adopt rules as necessary to administer the bill's provisions; and
- after providing notice and opportunity for a hearing to the applicant or license holder, to deny, suspend, or revoke a license for a nursing facility, assisted living facility, or intermediate care facility, as applicable, if HHSC finds that any of the following applicable entities have failed to comply with the bill's provisions:
  - the applicant or license holder;
  - a controlling person with respect to the institution for which a license or license renewal is requested;
  - a partner, officer, director, or managing employee of the applicant or license holder; or
  - a person who owns or who controls the owner of the physical plant of a facility in which the institution operates or is to operate.

The bill's provisions apply to an application for a ballot to be voted by mail submitted on or after the bill's effective date. An application for a ballot to be voted by mail submitted before the bill's effective date is governed by the law in effect on the date the application was submitted.

#### **EFFECTIVE DATE**

September 1, 2025.