BILL ANALYSIS

Senate Research Center

S.B. 2753
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State Affairs
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Election Code has been compiled over time, pieced together to accommodate changing ballot styles, methods of voting, times for voting, and convenience. What began as a single day event involving paper and pencil has evolved into an extended event involving early voting, voting by mail, and in person voting with each method having its own set of processes and procedures. Our quest for convenience in the process has caused us to lose trust in the system.

S.B. 2753 would begin to unwind that complicated system in the following ways:

1. The bill would provide for only two methods of voting – by mail or in-person. (pg. 3)

In-Person (pg. 6-53).

The gap between early voting and Election Day would be removed to establish a single voting period that runs from the second Monday before Election Day through Election Day.

All procedures which apply on Election Day would apply throughout the voting period.

By Mail (pg. 54-120):

- The bill retains the procedures for voting by mail.
- To qualify for voting by mail, a voter must be:
- Absent from county of residence;
- Disabled or confined for childbirth;
- Confined in jail;
- Participating in address confidentiality program; or
- Civilly committed as a sexually violent predator.
- Note: The provision for able-bodied individuals 65 or older to vote by mail has been removed and will be replaced with a committee amendment.

2. The bill would repeal the countywide polling program (pg. 248) and allow counties to create Voting Centers (pg. 4) to reduce the number of locations and workers needed.

- The county could assign one or more precincts to a Voting Center.
- Each Voting Center may serve up to 5,000 voters.
- Each voter would be assigned to a specific Voting Center.
- The Voting Center would be open for voting throughout the in-person voting period
- The repeal of countywide polling would remove the need to move or re-deploy machines between early voting and Election Day.

3. Miscellaneous changes to conform or adapt procedures:

- Hours of operation for large counties and smaller counties (pg. 4);
- Title 7 of the Election Code (Early Voting) has been deleted because in-person voting removes the need for it. However, voting by mail remains an option, so language, except

for conforming changes, is moved rather than changed and appears as underlined in the bill.

- The Early Voting Board is changed to the Mail Ballot Board and performs signature verification.

4. Article 2 of the bill is strictly conforming amendments. (pgs. 197-247)

5. Article 3 of the bill is statutes repealed. (pg. 248)

Though the bill looks intimidating, the changes are relatively minor. In order to make the changes, Title 7 of the Election Code concerning Early Voting was deleted in its entirety and references to "early voting" were changed to "vote by mail" or "in person voting." Chapters 65, 66, 67, and 68 were repealed and re-incorporated in a new section in the bill to accommodate the changes in procedures.

Instead of having two sets of processes for early voting and Election Day, the process used at the polls are the same from the time the voting period begins until the polls close on Election Day.

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

S.B. 2753 amends current law relating to the integration of early voting by personal appearance and election day voting, including the manner in which election returns are processed and other related changes.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the secretary of state in SECTION 32 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 12.004(d), Election Code, as follows:

(d) Deletes existing text requiring the registrar's office, if early voting by personal appearance is required to be conducted for weekend hours under Section 85.006(e) (relating to requiring the early voting clerk to order voting by personal appearance to be conducted on the last Saturday of the early voting period) to remain open for providing voter registration information during the weekend hours that the main early voting place is open for voting.

SECTION 2. Amends Section 19.004(a), Election Code, as follows:

(a) Provides that, except as provided by Subsection (d) (relating to requiring the secretary of state (SOS) to certify to the Comptroller of Public Accounts of the State of Texas the amount of state funds required to qualify), state funds disbursed under Chapter 19 (Financing Voter registration) are authorized to be used only for certain purposes, including if the registrar's county has a population of less than 55,000, to defray the cost to the registrar's county of keeping the polling places in the county open during the early voting period as required under Section 85.005(c) (relating to requiring that voting in a primary election or the general election for state and county officers be conducted at the main early voting polling place for a certain amount of time), rather than Sections 85.005(c), 85.006(e), and 85.064(d) (relating to authorizing the authority to also order early voting to be conducted on a Saturday or Sunday at any one or more temporary branch polling places).

SECTION 3. Amends Section 42.0051, Election Code, as follows:

Sec. 42.0051. COMBINING CERTAIN PRECINCTS. (a) Authorizes a commissioners court for a general or special election, or the county executive committee of a political party for a primary election, if changes in county election precinct boundaries to give effect to a redistricting plan result in county election precincts with fewer than 5,000

registered voters, to combine county election precincts notwithstanding Section 42.005 (Relationship to Districts and Justice and Commissioners Precincts) to avoid unreasonable expenditures for election equipment, supplies, and personnel. Deletes existing text providing that this section applies only to a county with a population of less than 1.2 million that does not participate in the countywide polling place program described by Section 43.007 (Countywide Polling Place Program).

(b) Provides that a combined precinct under Subsection (a) is subject to the maximum population prescribed for a precinct under Section 42.006 (Population Requirements).

(c) Redesignates existing Subsection (a-1) as Subsection (c). Authorizes the commissioners court, on the recommendation of the county election board, or the county executive committee of a political party conducting the election, for a primary election for which use of county election precincts in required, in a county that does not participate in the countywide polling place program described by Section 43.007, for a general or special election for which use of county election precincts is required, to combine county election precincts notwithstanding Section 42.005 (Combining Certain Precincts) in certain circumstances.

(d) Redesignates existing Subsection (c) as Subsection (d). Prohibits a combined precinct under Subsection (c), rather than this section, from containing more than 10,000 registered voters.

(e) Redesignates existing Subsection (d) as Subsection (e) and makes no further changes.

(f) Requires that the combined precinct, for the purposes of appointing a presiding judge and an alternate presiding judge to a county election precinct combined under this section, be considered a single precinct and requires the judges to be appointed in accordance with the procedures provided under Chapter 32.

SECTION 4. Amends Subchapter A, Chapter 43, Election Code, by adding Section 43.0015, as follows:

Sec. 43.0015. DESIGNATION OF LOCATION: USE OF EARLY VOTING POLLING PLACE ON ELECTION DAY. Requires the authority responsible for designating polling places under Subchapter A (County Election Precincts), at a minimum, to designate as locations for polling places on election day the location designated as the main early voting polling place under Section 85.002 (Main Early Voting Polling Place), each location designated as a permanent branch polling place under Section 85.061 (Permanent Branch Polling Place), and each location designated as a temporary branch polling place under Section 85.062 (Temporary Branch Polling Place).

SECTION 5. Amends Section 61.002(a), Election Code, as follows:

(a) Requires the presiding election judge or alternate election judge, immediately before opening the polls for voting on the first day of voting at a polling place during early voting or on election day, to confirm that each voting machine has any public counter reset to zero and print the tape that shows the counter was set to zero for each candidate or measure on the ballot. Makes a nonsubstantive change.

SECTION 6. Amends Section 62.005, Election Code, as follows:

Sec. 62.005. EXAMINING BALLOT BOXES. Requires an election officer, on the first day of voting at a polling place during early voting or on election day, to open and examine the ballot boxes and remove any contents from the boxes. Makes a nonsubstantive change.

SECTION 7. Amends Section 65.002(a), Election Code, to authorize the presiding judge, subject to Subsection (b) (relating to prohibiting the ballot box from being opened for the purpose of counting unless there are at least 10 ballots in the box), to direct the counting of ballots to occur on election day at any time after the polls have been open for one hour.

SECTION 8. Amends Section 65.014(b), Election Code, to require that the returns of the election for the precinct state certain information, including the total number of voters who voted at the polling place during early voting by personal appearance and on election day as indicated by the poll list.

SECTION 9. Amends Sections 65.016(a) and (b), Election Code, as follows:

(a) Requires a county that holds or provides election services for an election and maintains an Internet website to post on its public Internet website for an election of public officials or of a governmental entity authorized by law to impose a tax administered by the county:

(1)-(3) makes no changes to these subdivisions;

(4) the total number of votes cast for each candidate or for or against each measure at each polling location;

(5) the total number of votes cast by personal appearance, rather than personal appearance on election day;

(6) the total number of votes cast by personal appearance or mail, rather than by personal appearance or mail during the early voting period; and

(7) redesignates existing Subdivision (6) as Subdivision (7) and makes no further changes.

Makes nonsubstantive changes to this subsection.

(b) Requires a city or independent school district that holds an election and maintains an Internet website to post certain information, as applicable, on its public Internet website for a city or independent school district, including the total number of votes cast for each candidate or for or against each measure at each polling location, and the total number of votes cast by mail, rather than the total number of votes cast by personal appearance or mail during the early voting period. Makes conforming and nonsubstantive changes.

SECTION 10. Amends the heading to Section 66.0021, Election Code, to read as follows:

Sec. 66.0021. VOTE TOTAL FOR CERTAIN ELECTIONS

SECTION 11. Amends Section 66.0021(b), Election Code, to require the general custodian of election records for a primary election or the general election for state and county officers to maintain a list that states the total number of votes cast in each precinct by personal appearance, rather than by personal appearance on election day, that is available for public inspection not later than the day after election day.

SECTION 12. Amends Sections 67.004(b) and (b-1), Election Code, as follows:

(b) Requires the canvassing authority to prepare a tabulation stating for each candidate and for and against each measure certain information, including the total number of votes received in each polling location. Makes nonsubstantive changes.

(b-1) Requires that the tabulation in Subsection (b) also include for each precinct and for each polling location the total number of voters who cast a ballot for a candidate or for or against a measure in the election.

SECTION 13. Amends Section 67.017(a), Election Code, as follows:

(a) Requires the county clerk, after each election for a statewide office or the office of United States representative, state senator, or state representative, a district office, a county office, or a precinct office, to prepare a report of the number of votes, including votes cast by mail and by personal appearance, rather than early voting votes cast by mail and early voting votes cast by personal appearance, received in each county precinct and in each polling location for each candidate for each of those offices. Requires that the report, in a presidential election year, include the number of votes received in each precinct and in each polling location for each set of candidates for president and vice-president of the United States.

SECTION 14. Amends Section 84.032(c), Election Code, to authorize an applicant for voting by mail to submit a request, rather than submit a request after the close of early voting by personal appearance, by appearing in person and taking certain actions.

SECTION 15. Amends Sections 85.001(a) and (e), Election Code, as follows:

(a) Provides that the period for early voting by personal appearance begins on the 12th, rather than 17th, day before election day, continues through the day before election day, rather than the fourth day before election day, and includes Saturdays, Sundays, and holidays, except as otherwise provided by Section 85.001 (Early Voting Period). Makes a nonsubstantive change.

(e) Provides that, for an election held on the uniform election date in May and any resulting runoff election, the period for early voting by personal appearance begins on the ninth day, rather than 12th day, before election day, continues through the day before election day, rather than the fourth day before election day, and includes Saturdays, Sundays, and holidays. Makes a nonsubstantive change.

SECTION 16. Amends Sections 85.005(a), (b), and (c), Election Code, as follows:

(a) Requires that early voting by personal appearance at the main early voting polling place, except as provided by Subsection (c), in an election in which a county clerk is the early voting clerk under Section 83.002 (Clerk for Less-than-countywide Elections Held at County Expense), be conducted on each day of the early voting period, rather than each weekday of the early voting period that is not a legal state holiday, and for a period of at least nine hours, except that voting is prohibited from being conducted earlier than 6 a.m. or later than 10 p.m.

(b) Requires that early voting by personal appearance at the main early voting polling place be conducted at least nine hours each day of the early voting period, rather than nine hours each weekday of the early voting period that is not a legal state holiday, unless the territory covered by the election has fewer than 1,000 registered voters.

(c) Requires that voting in a primary election, the general election for state and county officers, or a special election ordered by the governor be conducted at the main early voting polling place for at least 12 consecutive hours on each of the last four days of the early voting period except that voting is required to be conducted for at least nine consecutive hours on a Sunday.

Deletes existing text requiring that voting in a primary election or the general election for state and county officers be conducted at the main early voting polling place for at least 12 consecutive hours on each weekday of the last week of the early voting period, and the voting in a special election ordered by the governor is required to be conducted at the main early voting polling place for at least 12 consecutive hours on each of the last two days of the early voting period. Makes a nonsubstantive change.

SECTION 17. Amends Sections 85.007(a) and (b), Election Code, as follows:

(a) Requires that the election order and the election notice state certain information, including the regular dates and hours that voting will be conducted under Section 85.005(b), including voting on Saturday and Sunday, rather than the dates and hours that voting on Saturday and Sunday is ordered to be conducted under Section 85.006(a) (relating to authorizing the authority ordering an election to order early voting to be conducted on one or more Saturdays or Sundays during the early voting period). Makes nonsubstantive changes.

(b) Requires the early voting clerk to post notice for each election stating the dates and hours that voting on a Saturday or Sunday will be conducted, rather than is ordered to be conducted under Section 85.006(b) (relating to providing that only the early voting clerk is authorized to order voting on a Saturday or Sunday).

SECTION 18. Amends Section 85.032, Election Code, by amending Subsection (d) and adding Subsection (g), as follows:

(d) Requires each custodian of the election to retain possession of the key entrusted to the custodian until it is delivered to, as applicable, the presiding judge of the central counting station, the early voting ballot board, or an election day polling place. Makes nonsubstantive changes.

(g) Requires that voted early voting ballots to be counted manually be kept in a separate ballot box from voted early voting ballots to be counted using automatic tabulating equipment.

SECTION 19. Amends Section 85.033, Election Code, as follows:

Sec. 85.033. SECURITY OF VOTING MACHINE. Requires the early voting clerk to unsecure the machine before the beginning of voting, rather than early voting, on the day following each day of early voting.

SECTION 20. Amends Section 85.071, Election Code, as follows:

Sec. 85.071. DELIVERY OF BALLOTS TO MAIN POLLING PLACE. (a) Requires that the ballots voted at a branch polling place, during the period for early voting by personal appearance, rather than the ballots voted at a branch polling place, other than those cast on a voting machine, be retained securely at the branch polling place in a locked room accessible only to election officers or delivered by an election officer or designated law enforcement officer to the main early voting polling place at the close of voting each day.

(b) Requires that the unvoted ballots at the branch polling place, rather than the unvoted ballots other than voting machine ballots, be retained or delivered with the voted ballots of the same ballot style but in a separate locked container.

(c) Provides that, at the close of early voting at a branch polling place:

(1) unvoted ballots are required to be retained or delivered in the manner described by Subsection (b);

(2) voted ballots to be counted using automatic tabulating equipment are required to be retained or delivered in the manner described by Subsection (a); and

(3) voted ballots to be counted manually are required to be delivered by an election officer or designated law enforcement officer to the main early voting polling place and set aside for subsequent delivery to the early voting ballot board under Section 87.021.

Deletes existing text requiring that all voted and unvoted ballots be delivered by an election officer or designated law enforcement officer to the main polling place at the close of voting on the last day of voting at the branch polling place.

(d) Requires that voted early voting ballots to be counted using automatic tabulating equipment, at the close of the polls on election day, be delivered with the ballots voted on election day at the same polling place to the central counting station according to Section 87.129 and the procedures under Subchapter C (Sealed Ballot Boxes), Chapter 127 (Processing Electronic Voting System Results).

SECTION 21. Amends Section 87.021, Election Code, as follows:

Sec. 87.021. BALLOTS AND OTHER MATERIALS DELIVERED TO BOARD. Requires the early voting clerk to deliver certain items to the early voting ballot board, including, in an election in which regular paper ballots are used for early voting by personal appearance, each ballot box, in accordance with Section 85.032(b) (relating to requiring that the early voting ballot boxes meet certain requirements), containing the early voting ballots voted by personal appearance to be counted manually and the clerk's key to each box.

SECTION 22. Amends Section 87.022, Election Code, as follows:

Sec. 87.022. TIME OF DELIVERY: GENERAL RULE. Deletes existing text creating exceptions under Sections 87.023 (Time of Delivery: Automatically Counted Ballots) and 87.024 (Time of Delivery: Voting Machine Election).

SECTION 23. Amends Section 87.0241(b), Election Code, as follows:

(b) Prohibits the early voting board from counting early voting ballots until the polls open on election day or, in an election conducted by an authority of a county with a population of 100,000 or more, or conducted jointly with such a county or conducted with such a county through a contract for election services, the fourth day before election day, rather than the end of the period for early voting by personal appearance.

SECTION 24. Amends Section 87.103, Election Code, as follows:

Sec. 87.103. COUNTING BALLOTS AND PREPARING RETURNS. (a) Requires that the ballots cast by personal appearance and the ballots voted by mail be tabulated separately and be separately reported on the returns. Deletes existing text requiring that the early voting electronic system ballots counted at a central counting station, the ballots cast at precinct polling places, and the ballots voted by mail be tabulated separately and be separately reported on the returns.

(b) Requires that the returns, rather than early voting returns, prepared at the central counting station include any results, rather than early voting results, obtained by the early voting ballot board under Subchapter D (Processing Manually Counted Ballots).

SECTION 25. Amends Section 87.104, Election Code, as follows:

Sec. 87.104. DISPOSITION OF EARLY VOTING BALLOT BOARD RETURNS AND OTHER RECORDS. Requires that returns, rather than early voting returns, or other early voting election records to be delivered to the central counting station under Section 87.063(b) (relating to requiring that ballot records counted by automatic tabulating equipment be delivered to the presiding judge of the central counting station), rather than Section 87.063(b) or 87.084(b) (relating to requiring that ballot records counted by automatic tabulating equipment be delivered to the presiding judge of the central counting station), be delivered to the appropriate authorities with counting station records.

SECTION 26. Amends Section 87.1231, Election Code, as follows:

Sec. 87.1231. New heading: EARLY VOTING BY MAIL VOTES REPORTED BY PRECINCT. Requires the early voting clerk, not later than the time of the local canvass, to deliver to the local canvassing authority a report of the total number of early voting votes by mail for each candidate or measure by election precinct. Deletes existing text authorizing the report to reflect the total for votes by mail and the total for votes by personal appearance.

SECTION 27. Amends Subchapter G, Chapter 87, Election Code, by adding Section 87.129, as follows:

Sec. 87.129. DISPOSITION OF CERTAIN BALLOTS VOTED BY PERSONAL APPEARANCE. Requires that voted early voting ballots retained or delivered to the main early voting polling place under Section 85.071(c)(2) be treated as ballots voted on election day at the same polling place for purposes of processing and tabulation under Chapter 65 (Counting Votes and Preparing Returns).

SECTION 28. Amends Section 102.003(b), Election Code, to require that an application be submitted before 5 p.m., rather than to authorize an application to be submitted after the last day of the period for early voting by personal appearance and before 5 p.m., on election day.

SECTION 29. Amends Section 127.131(a), Election Code, as follows:

(a) Requires the presiding judge of the central counting station, after the automatic counting of ballots, rather than the automatic counting of ballots for each precinct, is completed, to prepare the election returns for each precinct and each polling location and sign the returns to certify their accuracy. Makes a nonsubstantive change.

SECTION 30. Amends Section 172.124(a), Election Code, to delete existing text requiring the county clerk to prepare a report of the number of votes, including early voting votes, for each primary election.

SECTION 31. Repealer: Chapter 103 (Late Voting Because of Death in Immediate Family), Election Code.

Repealers: Sections 43.007(i) (relating to providing that SOS is authorized only to select to participate in the program counties that meet certain requirements) and 85.064(d) (relating to authorizing the authority to also order early voting to be conducted on a Saturday or Sunday at any one or more temporary branch polling places), Election Code.

Repealers: Sections 85.006 (Voting on Saturday or Sunday) and 85.008 (Days and Hours for Voting: Election in Certain Cities), Election Code.

Repealers: Sections 85.068 (Public Notice of Additional Voting Time Offered by Clerk) and 87.023 (Time of Delivery: Automatically Counted Ballots), Election Code.

Repealers: Sections 87.024 (Time of Delivery: Voting Machine Election) and 129.057 (Use of Machine in Early Voting), Election Code.

Repealer: Section 113.004(c) (relating to providing that the dates and hours for voting presidential ballots by personal appearance are the dates and hours that the county clerk's main business office is regularly open for business), Election Code.

SECTION 32. Requires SOS, as soon as practicable after the effective date of this Act, but not later than August 1, 2027, to:

(1) adopt rules and prescribe procedures required for the implementation of this Act; and

(2) publish a report in the Texas Register stating that SOS has consulted with county election officials in this state and is confident that the counties in this state are prepared to implement the provisions of this Act.

SECTION 33. Makes application of this Act prospective to the date SOS publishes the report required by Section 32 of this Act.

SECTION 34. Effective date: September 1, 2025.