

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.

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

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

(b) After making the appropriate entry on a register maintained under Section 84.032(d-1), an election officer shall 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. Section 86.008, Election Code, is amended to read as follows:

Sec. 86.008. OPPORTUNITY TO CORRECT DEFECT: [DEFECTIVE] APPLICATION. (a) 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, 84.0021, or 84.003(a) in a manner that would lead, if not corrected, to the rejection of the applicant's application.

(a-1) Not later than the second day after the early voting clerk discovers a defect described by Subsection (a), the early voting clerk shall:

- (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) or 86.0015(b-1), 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 [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 this title, the clerk shall mail or otherwise] deliver an official application

form to the applicant.

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

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

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

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

(c) If the early voting 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, [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,] the clerk may notify the applicant by telephone or e-mail of the defect, including the information required under Subsection (b), and inform the applicant that the applicant may 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 correct the defect in person [shall mail or otherwise deliver a notice to the voter containing the information prescribed by Subdivisions (1) and (2) of Subsection (b), including a statement that the application was late, if applicable].

(c-1) The clerk shall:

(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; and

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

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

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

(a) The secretary of state shall develop or otherwise provide an online tool to each early voting clerk ~~[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]~~ on the secretary'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:

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

(2) receive notice of and, if 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).

(b) The online tool developed or provided under Subsection

(a) must require the voter to provide, before permitting the voter to access information described by that subsection:

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

(2) the voter's:

(A) driver's license number; or

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

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

Sec. 87.0222. TIME OF DELIVERY: BALLOTS VOTED BY MAIL. (a) Except as provided by Subsection (a-1), not later than the ninth day before election day [~~Notwithstanding Section 87.024, 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 jacket envelopes containing [~~the~~] early voting ballots voted by mail shall [~~may~~] be delivered to the board [~~between the end of the ninth day before the last day of the period for early voting by personal appearance and the closing of the polls on election day, or as soon after closing as practicable, at the time or times specified by the presiding judge of the board~~].

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

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

(c) At least 24 hours before each delivery made before the time for opening the polls on election day, the early voting clerk shall notify the county chair of each political party having a nominee on the ballot of the time the delivery is to be made.

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

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

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

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

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

~~-(1) 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~~

~~-(2) 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) The signature verification committee shall 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 may:

(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 the secretary of state 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 sixth day after election day.

(c) If the signature verification committee determines [~~under Subsection (b)(1)] that it would not be possible for the voter to receive the notice of defect within a reasonable time to correct the defect [and return the carrier envelope before the time the polls are required to close on election day], the committee may notify the voter of the defect by telephone or e-mail and inform the voter that the voter may 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 the secretary of state 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 sixth day after election day to correct the defect.~~

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

(e-1) The committee shall:

(1) in addition to sending 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 9. Section 87.041(d-1), Election Code, is amended to read as follows:

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

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

(b) Not later than the second [~~business~~] day after an early voting ballot board discovers a defect described by Subsection (a) and before the board decides whether to accept or reject a timely delivered ballot under Section 87.041, the board shall send the voter a notice of the defect and a corrective action form developed by the secretary of state under Subsection (c-1) by mail or by common or contract carrier[+]

~~[(1) 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~~

~~[(2) 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) The early voting ballot board shall 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 may:

(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 the secretary of state 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 sixth day after election day.

(c) If the early voting ballot board determines [~~under Subsection (b) (1)~~] that it would not be possible for the voter to receive the notice of defect within a reasonable time to correct the defect [~~and return the carrier envelope before the time the polls are required to close on election day~~], the board may notify the voter of the defect by telephone or e-mail and inform the voter that the voter may 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 the secretary of state 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 sixth day after election day to correct the defect.

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

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

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

SECTION 12. The changes in law made by this Act apply only to an election held on or after the effective date of this Act. An election held before the effective date of this Act is governed by the law in effect when the election was held, and that law is continued in effect for that purpose.

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

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1599 passed the Senate on April 17, 2023, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 21, 2023, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1599 passed the House, with amendment, on May 18, 2023, by the following vote: Yeas 144,

Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor