

BILL ANALYSIS

H.B. 3464
By: Schofield
Elections
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Concerns have been raised with regard to voting practices at residential care facilities and interested parties assert that these facilities represent a unique venue for the exercise of such an important civic duty and as such should be specifically regulated. H.B. 3464 seeks to provide for this regulation.

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 4 of this bill.

ANALYSIS

H.B. 3464 amends the Election Code to require a voter residing in a licensed residential care facility who has applied to vote early by mail on the grounds of age or disability and who requested that the ballot be sent to the facility's address to vote as provided by the bill's provisions if a significant number, as determined by the early voting clerk, of applications for ballots to be voted by mail were made by residents of the same facility who requested that the ballots be sent to the facility. The bill makes statutory provisions governing the conduct of early voting by personal appearance applicable to early voting at such a facility to the extent applicable and not in conflict with the bill's provisions.

H.B. 3464 requires election judges to be selected to serve at a residential care facility in the same manner as election judges are selected to serve at a polling place for early voting by personal appearance. The bill authorizes an election judge serving at a facility to be a volunteer or an employee of the authority conducting the election or compensated by the authority conducting the election in the same manner as an election judge for a polling place for early voting by personal appearance. The bill prohibits a person from serving as an election judge for a facility if at any time during the two years preceding the election the person has been employed or retained at a facility in the county where the person seeks to serve as an election judge or if the person is related to a person within the second degree by affinity or within the third degree by consanguinity who resides in a facility and is a registered voter. The bill requires each individual appointed to serve as an election judge at a facility to sign and date a specified oath before beginning the duties of an election judge.

H.B. 3464 requires the administrator of a residential care facility to make available an area located in a common area of the facility for the purposes of voting and requires such area to allow a voter to cast a secret ballot. The bill requires the facility administrator to allow posting of

required notices during the period that voting is conducted and authorizes an election judge to enter the private room of a voter who requests that balloting materials be brought to the voter. The bill requires the early voting clerk to give notice that early voting will occur at a facility if early voting at the facility is required and to appoint election judges for the purpose of conducting voting. The bill sets out the manner in which the election judges are required to designate one or more times for voting to be conducted and to post notice of the time or times for conducting the election at the facility. The bill sets out provisions requiring the early voting clerk to maintain and make available a public list of all facilities in the clerk's jurisdiction at which early voting is conducted.

H.B. 3464 requires the early voting clerk in an election conducted under the bill's provisions to deliver to the election judges for a residential care facility the balloting materials for any qualified voters who have requested a mail ballot for an election that would have been otherwise mailed to such voters at the facility and to require the election judges for a facility to deliver the balloting materials to the voter at the facility. The bill requires the voter to mark and seal the ballot in the same manner as a voter voting by mail, sets out the manner in which the election judges are required to handle the ballots, and requires the ballots to be processed for counting in the manner provided for a ballot voted by mail.

H.B. 3464 requires the early voting clerk to produce a list of all additional qualified voters who reside at a residential care facility where voting is conducted and to supply the election judges for the facility with a reasonable number of additional ballots and voting materials to allow additional qualified voters who reside at the facility to vote. The bill authorizes any registered voter who resides at the facility to complete during the voting period an application to request a mail ballot as if they were voting by mail, requires an election judge for the facility to serve as a witness for any person who is unable to sign their name, and authorizes such a judge to witness multiple applications. The bill requires an election judge for the facility to accept such a properly completed application for a ballot, to provide a ballot to the voter, and to make a notation on such an application that it was made in this manner. The bill requires a voter who so applies for a ballot to vote in the manner provided by the bill's provisions governing the conduct of an election at a facility, but requires such a voter's ballot to be stored with the voter's application and prohibits the voter's ballot from being counted if the voter was not a qualified voter for the election as demonstrated from the information contained in the voter's application. The bill sets out the manner in which the election judges for the facility are required to retain voting records and the manner by which a voter voting at a facility may establish proof of identification through the submission of a sworn statement.

H.B. 3464 authorizes the early voting clerk on written request by a relative of a registered voter in a residential care facility to notify the relative of the time or times at which election judges will conduct voting at the facility and authorizes the relative to be present at the facility while voting is conducted. The bill authorizes an election judge or a person related to the voter within the second degree by affinity or third degree by consanguinity who is present for voting conducted at the facility to assist a voter on the voter's request in marking the voter's ballot and requires an election judge to seal a ballot if the voter receives assistance from a person who is not an election judge. The bill provides for the security of ballots and election materials on completion of the voting each day at a facility and for the delivery of such ballots to the early voting clerk. The bill requires the election judges for a facility to inform the early voting clerk if a qualified voter residing at the facility and seeking to vote early at the facility is not able to cast a ballot during any time when voting is conducted at the facility and requires the clerk to mail the ballot to such a voter not later than the fourth day before election day. The bill sets out provisions relating to the observation of such an election at a facility by election watchers appointed by political parties. The bill establishes that the early voting clerk is not required to send election judges to conduct an election at a facility unless there are at least five registered voters who are residents of the facility and that the bill's provisions do not prevent a registered voter from voting early by personal appearance or from voting on election day. The bill requires the secretary of state to adopt rules and prescribe procedures for voting at a residential care

facility in accordance with the bill's provisions.

H.B. 3464 requires an application to vote early by mail on the grounds of age or disability requesting that the ballot be sent to the address of a residential care facility to be held until the earlier of the date on which a significant number, as determined by the early voting clerk, of applications for ballots to be voted by mail made by residents of the same facility who request that the ballots be sent to that facility have been received, in which case the bill prohibits the mailing of ballots to the voters and requires voting to be conducted at the facility under the bill's provisions, or the last day on which an application for a ballot to be voted by mail may be received, after which the bill requires the ballot to promptly be mailed to the voter.

H.B. 3464 amends the Health and Safety Code to require a licensed hospital, an institution licensed under statutory provisions regulating convalescent or nursing facilities and related institutions, certain continuing care facilities, a licensed assisted living facility, and a licensed special care facility to comply with the bill's provisions relating to early voting at a residential care facility.

H.B. 3464 amends the Human Resources Code to require residential facilities for persons with disabilities or who are elderly to comply with the bill's provisions relating to early voting at a residential care facility.

EFFECTIVE DATE

September 1, 2017.