

SUBJECT: Revising certain election processes and procedures

COMMITTEE: Elections — committee substitute recommended

VOTE: 6 ayes — Denny, Howard, Bohac, Coleman, Harper-Brown, Uresti

0 nays

1 absent — Deshotel

WITNESSES: For — *(Registered, but did not testify:)* Jeane Brunson, County and District Clerks Association of Texas; Raymond McNeel, Texas Democratic County Chairs Association

Against — Ray Huebner; June Rentmeester

On — *(On committee substitute:)* Ann McGeehan, Secretary of State;
(Registered, but did not testify:) Jesse Lewis, Republican Party of Texas

DIGEST: CSHB 1695 would amend various provisions in the Election Code relating to election processes, including:

- appointment of signature verification committees;
- procedures for delivering ballots for counting;
- calculation of deadlines;
- runoff election requirements;
- proof of citizenship;
- convening and reconvening of early-voting ballot board;
- time frame for incomplete registration application;
- early voting and mail-in ballot procedures;
- election cancellation authority; and
- limited ballot procedure.

Election cancellation. CSHB 1695 would expand the election cancellation process to other types of territorial units, including single-member districts. An election could be canceled within the territorial unit if the ballot contained no at-large propositions and no opposed at-large races.

Runoff election. The time range for holding a runoff would be expanded to not earlier than the 20th day or later than the 45th (rather than the 30th) day after the date of final canvass of the main election is completed. A home-rule city could provide the later runoff, but not an earlier one.

Incomplete voter registration application. The bill would specify that a voter has 10 days to provide supplemental information for an incomplete voter registration application, whether the rejection notice was delivered by mail or the incomplete application was returned to the voter in his or her presence.

Proof of citizenship. The bill would specify that a voter may prove U.S. citizenship by using a certified copy of a voter's birth certificate, U.S. passport, or certificate of naturalization, in addition to any form prescribed by the secretary of state.

Signature verification committee. Each county chair of a political party with a nominee or aligned candidate on the ballot would have to submit a list of people eligible to serve on a signature verification committee. At least two people from each list would serve as members, and the same number of members would have to be appointed from each list. The bill also would specify procedures for appointing the committee chair and would outline procedures for voters to request a signature verification committee.

Early-voting ballot board. A notice of the date and time of an early-voting ballot board meeting would have to be posted at the main early-voting polling place at least five days before the meeting. The bill would stipulate additional requirements for who would do the posting and who could attend.

Counting early-voting ballots. The early-voting ballot board would have to deliver the containers with the ballots to be counted by the central counting station without opening them, instead of removing them before delivering the container to the central counting station.

Early voting by mail. An applicant for an early voting by mail ballot could submit a request to cancel the application after the ballot had been returned to the early-voting clerk but before it was delivered to the early-voting ballot board. An early-voting ballot to be voted by mail could be mailed to the

voter's registered mailing address if different from the voter's home address. The bill would list additional places to which an early-voting ballot could be mailed. The bill would amend provisions relating to the processing of early-voting ballots in an election or joint election in a county with a population of 100,000 or more.

Deadlines. If a deadline for performing an act changed because of a holiday or weekend, the new date would be used to determine any other dates and deadlines.

The bill would take effect September 1, 2003.

**SUPPORTERS
SAY:**

CSHB 1695 would clean up the Election Code as suggested by the secretary of state (SOS). Most of these changes would codify administrative rules or interpretations by the SOS.

Some provisions in the current code have caused unintended difficulties for voters and election officials. For example, the bill would clarify language regarding the effect of a weekend or holiday on calculating a deadline to perform an act. If the last day for performing an act was extended because of a weekend or holiday, the "new" date would be used to as the basis for calculating other dates and deadlines.

Currently, a voter registrar has no way to know when a voter receives the notice that the voter's registration application is incomplete, unless the notice is sent by certified mail delivery. CSHB 1695 would clarify that the voter has 10 days to return the supplemental information.

Amending the cancellation procedure for an application for ballot by mail would allow the voter to go in person to the main early-voting place, swear that the voter did not mark the ballot by mail and cancel the ballot, then vote a ballot at the polling place. Currently, a voter must cancel by swearing that the voter never received or never saw the ballot.

Current law relating to processing ballots before the polls open is not clear. It has been construed to mean that any entity — for example, a city of 500 in a county with a population of 100,000 or more — can count early-voting ballots by mail beginning at the end of early voting by personal appearance, which is

four days before election day. The bill would clarify that early counting applies only to county-administered elections (including joint elections with such a county) in counties of populations with 100,000 or more. The intent is to give large urban counties more time to count mail-in ballots.

Voters sometimes provide a registered mailing address on their registration application. The bill would codify that a voter could use a registered mailing address, even if it was different from the residence address.

Current law requires a notice of the convening of the early-voting ballot board only in narrow circumstances and not for reconvening. CSHB 1695 would specify a notice for all meetings and all reconvening of the ballot board.

Also, current law requires that all early-voting ballots be delivered to the early-voting ballot board. However, the board does not count the ballots if a central counting system is used. Therefore, there is no reason for the board to open the containers.

In response to concerns about the provision relating to the five-day posting requirement for a meeting of an early-voting ballot board, the author intends to offer a floor amendment to remove this provision from the bill.

**OPPONENTS
SAY:**

The requirement for each county chair of a political party with a nominee or aligned candidate on the ballot to submit a list of eligible people to serve on the signature verification committee would be troublesome. Small or minor parties could find it difficult to come up with a list of eligible people who desired to serve. The bill should require that each county chair be *requested* to submit such a list; then, the authority would appoint at least two people from each list provided, and the same number of members would be appointed from each list provided. That way, if a minor or small party did not or could not provide a list of eligible people to serve, the signature verification committee still could be appointed to carry out its duties.

Prohibiting the early-voting ballot board in an election in a populous county from counting early-voted ballots until the end of in-person early voting would not address the time needed to process questionable mail-in ballots. The bill would allow four days to process ballots sent from the signature verification committee to the early-voting ballot board. Early-voting ballot

boards need more time, perhaps 10 days before an election, to begin processing ballots.

The provision relating to the required notice of an early-voting ballot board meeting would be too stringent. The board would have to post a notice five days before the date of the meeting. If the board needs to convene for some reason — for example, because of a problem with voting machines — the board must be able to meet quickly. Requiring a five-day posting notice would hamper the board from addressing unexpected problems. A 24-hour notice would be more practical.

NOTES:

The committee substitute would modify the original bill by removing provisions related to abstracts prepared by the Department of Public Safety and filed with the SOS regarding final judgments on felony convictions. The substitute would specify that certain provisions relating to the deadline for the local canvass and counting of mail-in ballots apply to an election of a political subdivision that is held jointly with a general election for state and county officers, in addition to the general election. The substitute also removed provisions relating to the amount of a recount deposit for elections that use direct electronic voting machines.

The author intends to offer a floor amendment to remove the provision relating to the five-day posting requirement for a meeting of an early-voting ballot board.