

SUBJECT: Changing time for providing early voting by mail ballots to a voter

COMMITTEE: Elections — committee substitute recommended

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

0 nays

1 absent — Deshotel

WITNESSES: *(On original version:)*

For — Jesse Lewis, Republican Party of Texas; Alan Sager, Travis County Republican Party and Texas County Chairman's Association

Against — Cliff Borofsky; Dana DeBeauvoir, County and District Clerks Association; Mary Lynne Stratta, Texas Municipal League and City of Bryan; *(Registered, but did not testify:)* Ricardo Armendariz, City of El Paso; Jeane Brunson, County and District Clerks Association

On — Mary Ann Collins; *(Registered, but did not testify:)* Ann McGeehan, Secretary of State

BACKGROUND: Election Code, ch. 86 governs the conduct of voting by mail. Current law stipulates that once balloting materials for voting by mail have been requested and the voter's eligibility determined, the early voting clerk must mail the balloting materials to voters as soon as practicable after the ballots are available, but not earlier than 45 days before the election.

DIGEST: CSHB 2914 would amend Election Code, sec. 86.004 to require balloting materials for voting by mail to be mailed to a voter who was eligible to vote by mail no later than seven days after:

- the clerk accepted the voter's application for the balloting materials; or
- whenever the ballots became available for mailing.

If the balloting materials were available to be mailed before the 45th day before the election, they would have to be mailed no later than 38 days before an election.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

**SUPPORTERS
SAY:**

Current law leaves the date for mailing early ballots by mail to the discretion of the early voting clerk. There have been instances when early voting clerks have mailed the ballots so late that voters could not return the ballots in time. In some cases, this has occurred when early voting clerks held the applications until they got enough to process the applications in batches, rather than processing each as it came in. CSHB 2914 would help avoid these problems by setting specific deadlines for mailing early ballots.

Voters need to receive their mail-in ballots as soon as possible, and the seven days specified by this bill should be enough time to process them. This statutory timeframe would ensure that voters received their balloting materials in a timely fashion.

**OPPONENTS
SAY:**

As more people become aware of early voting by mail and applications for mail-in ballots increase, voting clerks increasingly find it difficult to process the applications in time, and budgetary constraints prevent counties from hiring additional staff to handle the workload. This problem is particularly acute in a county that has a military base with large numbers overseas military personnel who vote early by mail. In addition, “get out the vote” campaigns targeting people age 65 and older — a group that is eligible to vote early by mail — generate a large volume of applications at certain times of the year.

Early voting clerks should have 10 days, or seven *business* days at a minimum, to send balloting materials. These additional days would allow enough time to ensure that applications were processed correctly and in compliance with the law.

NOTES:

The committee substitute differs from the bill as introduced by requiring that balloting materials be mailed no later than the seventh day, rather than the second day, after the clerk got the voter’s application, or as soon as the ballots

were available. The substitute also would require that, if the ballots were ready for mailing earlier than 45 days before an election, they would have to be mailed no later than the 38th day, rather than the 45th day, before the election.

Other bills that relate to early voting are HB 54 by Wolens, which would require, among other things, certain procedures for voters to return early voting by mail ballots. HB 1975 by Deshotel relates to providing a physical address for a ballot to be returned to the early voting clerk, and HB 2064 by Bohac relates to the procedure for returning an application for an early voting ballot. All the bills have passed the House and were referred to the Senate State Affairs Committee on April 15.