

- SUBJECT:** E-mail voting pilot program for overseas military personnel
- COMMITTEE:** Defense Affairs and State-Federal Relations — committee substitute recommended
- VOTE:** 8 ayes — Corte, Escobar, Garcia, Herrero, Hodge, Merritt, Moreno, Raymond
0 nays
1 absent — Noriega
- WITNESSES:** (*On committee substitute:*)
For —Dana DeBeauvoir, County Clerks Legislative Committee; Morgan Little, Department of Texas Reserve Officers Association of the United States; (*Registered, but did not testify:* Ken Bailey, Texas Democratic Party)

Against —None

On —Robert Gibson; Ann McGeehan, Texas Secretary of State-Elections Division
- BACKGROUND:** Election Code, ch. 101, identifies persons serving in the armed forces or merchant marines as eligible for early voting by mail. To vote under this section, military personnel must submit a single federal postcard application for a ballot. An early voting clerk will process the request and mail the balloting materials.
- DIGEST:** CSHB 17 would amend the Election Code by adding sec. 101.0071 to create a pilot program for the 2008 general election to provide a ballot through e-mail to those overseas military personnel eligible for early voting by standard mail. Counties could participate in the pilot program by making a request to the secretary of state, who would have to approve the request.

A county clerk would provide balloting materials to an e-mail address in a form and manner prescribed by the secretary of state if a person:

- was a Federal Postcard Applicant registrant and was eligible for early voting by mail;
- provided a current address located outside the United States and was voting from outside the United States;
- provided an e-mail address that contained the voter's name and the suffix ".mil"; and
- requested that ballot materials be sent by e-mail because the voter did not receive the balloting materials by standard mail.

Ballot materials sent via e-mail would contain a signature sheet that would be returned with the ballot to the county clerk by standard mail. If a voter returned both a ballot provided by standard mail and a ballot provided by e-mail, only the e-mailed ballot would be counted. All other code provisions relating to processing early voting results would remain the same, including the early voting deadline.

At the conclusion of the pilot program, the secretary of state would file an evaluation of the program to the Legislature no later than February 15, 2009. Election Code, sec. 101.0071 would expire the following day.

The bill would take effect September 1, 2007.

**SUPPORTERS
SAY:**

CSHB 17 would allow the state to address disenfranchisement of military voters. The process for early voting provides challenges to overseas military personnel because military assignments may create delays for standard mail delivery. For more than 50 years, reports have indicated a high rate of disenfranchisement among military and overseas voters. Should this pilot program succeed, ballots would be expedited to military personnel and increase the likelihood that votes from overseas met the filing deadline and were counted. The pilot program would not require participation of all counties, and those counties wishing to participate would do so through the Secretary of State's Office.

The program would make ballot delivery more efficient and would not compromise the voting system because ".mil" e-mails are government issued and rigorously monitored. Ballots would be secure through this system. If both an e-mail ballot and a mail ballot were returned, the bill clearly provides that only the e-mail ballot would be counted. The bill is permissive, and after the pilot program was completed, the Secretary of State's Office would determine whether to recommend to the Legislature that the program be made permanent and if any additional statutory

protections were needed to eliminate any possibility of interception or tampering with electronic ballots or counting duplicate ballots.

OPPONENTS
SAY:

E-mail voting by overseas military personnel could create the potential for voting materials to be misappropriated or for a person to vote twice. While ".mil" e-mails on their face may seem secure, any type of e-mail still can be intercepted by an uninvited third party. People intending to create fraudulent votes or counterfeit voting materials, for example, could use this process to manipulate the voting system. Also, a military voter returning two ballots by both mail and e-mail potentially could have their ballot counted twice should both ballots be processed, either as a result of human error or by deliberate intent to defraud. In a close election, this could affect the outcome.

NOTES:

The committee substitute specified that completed ballots would be returned to the early voting clerk by standard mail or courier unless the voter qualified under the Election Code to return the ballot by fax or similar means and that a ballot returned under the bill should be processed in the same manner as any other ballot.

The companion bill, SB 90 by Van de Putte, passed the Senate by 30-0 on March 12 and was reported favorably, without amendment, by the Defense Affairs and State-Federal Relations Committee on March 22, making it eligible to be considered in lieu of HB 17.