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**SUBJECT:** Provisional voting by a person who applied for an early ballot by mail

**COMMITTEE:** Elections — committee substitute recommended

**VOTE:** 7 ayes — Berman, Bohac, England, Anchia, Burnam, Farias, C. Howard  
0 nays

**WITNESSES:** For — Ed Johnson, Harris County Tax Office; David Beirne, Harris County Clerk; (*Registered, but did not testify:* Joy Authur, People for the American Way; Kathryn Dean, ACLU; Dana DeBeauvoir, County and District Clerks Legislative Committee; Mary Finch, League of Women Voters of Texas; Jodi Park, Coalition of Texans with Disabilities; Sonia Santana, ACLU-Texas; Teri Sperry, True Courage Action Network; Laurie Vanhoose, Advocacy, Inc.)  
  
Against — None  
  
On — Ann McGeehan, Texas Secretary of State

**BACKGROUND:** Under current law, a voter who has requested an early mail ballot may not cast a vote at the person’s precinct without first going to the county clerk’s office or the office of the early voting clerk to file an affidavit cancelling the early ballot. After filing the affidavit, the voter may then cast a vote at the person’s precinct.  
  
If the voter chooses not to return to the county clerk's or early voting clerk's office, the person may vote a provisional ballot at the precinct. The election judge, however, must inform the voter that the provisional ballot will not be counted because the voter did not follow the proper procedure of first cancelling the early mail ballot.

**DIGEST:** CSHB 2823 would amend Election Code, 63.011 to allow a person that secured an early mail ballot and who did not vote the early mail ballot to cast a provisional ballot on election day if the person executed an affidavit stating that the person:

- was a registered voter in the precinct in which the person sought to vote; and
- did not vote early by mail.

CSHB 2823 would direct the required affidavit to be on a form printed on the envelope in which the provisional ballot could be placed. Also, the bill would authorize the early voting ballot board to accept a ballot if the person was eligible to vote and had not previously voted in the election.

The bill would take effect September 1, 2007, and would apply to an election ordered on or after that date.

**SUPPORTERS  
SAY:**

CSHB 2823 would create an alternative for filing the affidavit cancelling the early mail ballot. The bill would allow the person to file the affidavit with the election judge at the voter's precinct, then cast a provisional ballot that could be accepted, provided the person was otherwise eligible and the early ballot board determined that the voter never returned the mail ballot.

The bill would accommodate returning military personnel and their spouses, who may automatically receive mail ballots through the Uniform and Overseas Citizens Absentee Voting Act, and elderly or disabled voters who request an early mail ballot and never receive it or misplace it.

**OPPONENTS  
SAY:**

No apparent opposition.

**NOTES:**

The committee substitute differs from the introduced version by deleting provisions relating to the acceptance or cancellation of the early mail ballot by the early voting ballot board.