

- SUBJECT:** E-mail voting program for overseas military personnel
- COMMITTEE:** Defense and Veterans' Affairs — committee substitute recommended
- VOTE:** 8 ayes — Corte, Vaught, Edwards, Farias, Maldonado, Ortiz, Pickett, C. Turner
- 0 nays
- 1 absent — Chavez
- WITNESSES:** For — Robert Carey, National Defense Committee; Dana DeBeauvoir, County and District Clerks Association of Texas; Carlos Higgins; Morgan Little, Reserve Officer's Association, Department of Texas; John Miterko, Texas Coalition of Veterans Organizations; Jerry Patterson, General Land Office, Texas Veterans Land Board; (*Registered, but did not testify:* Robert Gibson, United Services Automobile Association; Katherine Mason, American Civil Liberties Union; Cindy Segovia, Bexar County Commissioners Court)
- Against — None
- On — Elizabeth Winn, Secretary of State's Office
- BACKGROUND:** SB 90 by Van de Putte, enacted by the 80th Legislature in 2007, authorized a pilot program to evaluate the use of voting by electronic ballot for overseas military personnel. The program was open to any county whose request to participate was approved by the secretary of state.
- Those who wished to vote by electronic ballot were required to have:
- been eligible to vote in Texas;
 - been a member of the armed forces;
 - been a Federal Postcard Applicant registrant and provided a current voting address that was outside the United States;
 - provided an e-mail address that contained the voter's name and a ".mil" suffix, and;
 - requested an electronic ballot because the voter did not receive a paper ballot by standard mail.

If a voter who met the above qualifications requested an electronic ballot, the county early voting clerk was required to send an electronic ballot. Balloting materials sent electronically were required to contain a signature sheet, to be returned by mail, carrier, or courier, unless the voter was in a federally declared combat zone or imminent danger or hostile fire pay area. In those cases, the voter could return the ballot by fax or similar electronic transmission, provided the security of the transmission and voter's identity could be ensured. If a voter returned both a standard mail and e-mail ballot, only the e-mailed ballot would be counted.

County early voting clerks were required to update the federal postcard applications for future elections with the participating voters' current addresses. E-mail addresses provided by voters were considered confidential and excluded from public information disclosure laws. All other provisions of the Texas Election Code applied to electronic ballots sent under the pilot program, including the requirement that a mailed ballot be returned to the address on the carrier envelope by the time polls are required to close on election day.

According to a follow-up report by the Secretary of State's Office, 19 counties participated in the program, though one county did not e-mail any ballots. A total of 154 voters received electronic balloting materials, and 68 ballots were returned. The pilot program was designed solely for the 2008 general election for state and county officers and expired February 16, 2009.

DIGEST:

CSHB 71 would amend the Election Code by adding sec. 101.0071, which would make permanent the overseas military electronic ballot program and include spouses and dependents of military service members. It also would make participation in the program mandatory for counties with populations of 100,000 or more. Counties with smaller populations who wished to participate would have to be approved by the secretary of state.

To receive electronic ballots, voters would have to fulfill the same early voting eligibility requirements as the earlier pilot program. If a service member's spouse or dependent wished to vote, they would have to provide an electronic copy of a letter from a commanding officer verifying their status as a spouse or dependent of a service member residing overseas, and their ballot then would be sent to that member's ".mil" e-mail address. Voters would be able to return their ballots by fax or other electronic transmission regardless of whether they resided in a combat zone or other

area where the service member qualified for imminent danger or hostile fire pay. All other provisions of the earlier pilot program would apply to CSHB 71.

Internet service providers, cable operators, and other interactive computer or telecommunications services would not be liable for the electronic mail ballot program.

The bill would take effect September 1, 2009.

**SUPPORTERS
SAY:**

CSHB 71 would build on the successful pilot program for electronic voting to facilitate and promote participation by overseas military personnel and their families in the electoral process. A study by the Pew Center on the States found that for the 2006 federal elections, voter turnout among the military population was only 20.4 percent, well below the general population's 39.8 percent participation rate. Members of the armed forces want to vote, but many are mobilized too late to request or receive a standard absentee ballot. The study found that for Texas military voters, the time needed for ballots to travel by mail takes longer than the 60 days provided by the state process. CSHB 71 would allow overseas military members with a secure ".mil" e-mail address a greater opportunity to exercise their voting rights.

Participating counties would save money and time under this program, because county voting clerks no longer would automatically mail paper ballots to addresses that may not be correct.

Because of security concerns, the program would be limited to e-mail addresses with a ".mil" suffix, which are more secure than generally available e-mail addresses.

**OPPONENTS
SAY:**

While the program established by this bill would be a good first step, all U.S. citizens living overseas eventually should be able to request ballots electronically.

NOTES:

The committee substitute differs from the filed bill by making the electronic ballot program mandatory for counties with populations above 100,000, by making spouses and dependents of military members eligible for the program and allowing them to provide a letter from a commanding officer verifying their status in lieu of an e-mail address with a ".mil" suffix, and by excluding Internet service providers, cable operators, and

interactive computer or telecommunications services from liability. A similar bill, SB 92 by Van de Putte, was reported favorably by the Senate State Affairs Committee on March 26.