

BILL ANALYSIS

C.S.H.B. 1151
By: Schofield
Elections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that accepting marked ballots voted by mail until the day after election day if the ballots were placed for delivery before election day will ensure that more voters are able to cast a vote that is counted. C.S.H.B. 1151 provides for such an alternative deadline.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1151 amends the Election Code to add as an alternative deadline by which a marked ballot voted by mail must arrive at the address on the carrier envelope a deadline of not later than 5 p.m. on the day after election day if the carrier envelope was placed for delivery by mail or common or contract carrier before election day and bears a cancellation mark of a common or contract carrier or a courier indicating a time not later than 7 p.m. on election day. The bill establishes that if the deadline for the arrival of a ballot voted by mail falls on a Saturday, Sunday, or legal state or national holiday the deadline is extended from such non-business day to the next regular business day. The bill revises provisions relating to circumstances establishing timely delivery for purposes of counting a ballot returned by mail.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1151 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 86.007, Election Code, is amended by amending Subsections (a), (d), (e), and (f) and adding Subsection

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 86.007, Election Code, is amended by amending Subsections (a), (d), (e), and (f) and adding Subsection

(d-1) to read as follows:

- (a) Except as provided by Subsection (d), a marked ballot voted by mail must arrive at the address on the carrier envelope:
- (1) before the time the polls are required to close on election day; or
- (2) not later than 5 p.m. on the day after election day, if the carrier envelope was placed for delivery by mail or common or contract carrier before election day.

(d) A marked ballot voted by mail that arrives after the time prescribed by Subsection (a) shall be counted if:

- (1) the ballot was cast from an address outside the United States;
- (2) the carrier envelope was placed for delivery before the time the ballot is required to arrive under Subsection (a)(1) [(e)]; and
- (3) the ballot arrives at the address on the carrier envelope not later than the fifth day after the date of the election.

(d-1) If the deadline for the arrival of a ballot voted by mail[, except that if that date] falls on a Saturday, Sunday, or legal state or national holiday, then the deadline is extended to the next regular business day.

(e) A delivery under Subsection (a)(2) or (d) [(d)(2)] is timely, except as otherwise provided by this title, if the carrier envelope or, if applicable, the envelope containing the carrier envelope:

- (1) is properly addressed with postage or handling charges prepaid; and
- (2) [is sent from an address outside the United States; and]

[(3)] bears a cancellation mark of a recognized postal service or a receipt mark of a common or contract carrier or a courier indicating a time before the deadline.

(f) If the envelope does not bear the cancellation mark or receipt mark as required by Subsection (e)(2) [(e)(3)], a delivery under Subsection (a)(2) or (d) [(d)(1)] is presumed to be timely if the other requirements under this section are met. [Section 1.006 does not apply to Subsection (d)(3).]

No equivalent provision.

(d-1) to read as follows:

- (a) Except as provided by Subsection (d), a marked ballot voted by mail must arrive at the address on the carrier envelope:
- (1) before the time the polls are required to close on election day; or
- (2) not later than 5 p.m. on the day after election day, if the carrier envelope was placed for delivery by mail or common or contract carrier before election day and bears a cancellation mark of a common or contract carrier or a courier indicating a time not later than 7 p.m. on election day.

(d) A marked ballot voted by mail that arrives after the time prescribed by Subsection (a) shall be counted if:

- (1) the ballot was cast from an address outside the United States;
- (2) the carrier envelope was placed for delivery before the time the ballot is required to arrive under Subsection (a)(1) [(e)]; and
- (3) the ballot arrives at the address on the carrier envelope not later than the fifth day after the date of the election.

(d-1) If the deadline for the arrival of a ballot voted by mail[, except that if that date] falls on a Saturday, Sunday, or legal state or national holiday, then the deadline is extended to the next regular business day.

(e) A delivery under Subsection (a)(2) or (d) [(d)(2)] is timely, except as otherwise provided by this title, if the carrier envelope or, if applicable, the envelope containing the carrier envelope:

- (1) is properly addressed with postage or handling charges prepaid; and
- (2) [is sent from an address outside the United States; and]

[(3)] bears a cancellation mark of a recognized postal service or a receipt mark of a common or contract carrier or a courier indicating a time before the deadline.

(f) The [If the] envelope must [does not] bear the cancellation mark or receipt mark as required by Subsection (e)(2) [(e)(3)], a delivery under Subsection (d)(1) is presumed] to be timely [if the other requirements] under this section [are met]. [Section 1.006 does not apply to Subsection (d)(3).]

SECTION 2. Section 87.125(a-1), Election Code, is amended to read as follows:

(a-1) Notwithstanding Subsection (a), for an election held on the date of the general election for state and county officers, the early voting ballot board shall convene to count ballots voted by mail described by Sections [Section] 86.007(d) and (d-1) not later than the 13th day after the date of the election.

SECTION 2. This Act takes effect September 1, 2017.

SECTION 3. Same as introduced version.