

SUBJECT: Deadline for submitting federal postcard application to early voting clerk

COMMITTEE: Elections — favorable, without amendment

VOTE: 5 ayes — Berman, Bohac, England, Farias, C. Howard

1 nay — Burnam

1 absent — Anchia

SENATE VOTE: On final passage, May 1 — 31-0, on Local and Uncontested Calendar

WITNESSES: *(On House companion bill, HB 928 by J. Davis:)*
For — *(Registered, but did not testify: Mary Finch, League of Women Voters of Texas)*

Against — Dana DeBeauvoir, County and District Clerks Legislative Committee

On — Ed Johnson, Harris County Tax Office; Ann McGeehan, Office of the Secretary of State

BACKGROUND: Under Election Code, sec. 101.001, a person is eligible for early voting by mail under the chapter if the person is qualified to vote in this state or, if not registered to vote in the state, would be qualified if registered, and the person is:

- a member of the U.S. armed forces, or the spouse or dependent of a member;
- a member of the U.S. merchant marine, or the spouse or dependent of a member; or
- domiciled in this state but temporarily living outside the U.S.

Sec. 101.004 states that, under the chapter, an applicant complying with requirements may receive a full ballot to be voted by mail if the applicant submits a federal postcard application to the early voting clerk on or before the 30th day before election day and the application contains the information required for registration. An applicant may receive only a

federal ballot to be voted by mail if the applicant submits the federal postcard application after the 30th day before election day and before the sixth day before election day.

Sec. 101.007 establishes that the address to which the balloting materials are sent to a voter must be:

- an address outside the county of the voter's residence; or
- an address in the United States for forwarding or delivery to the voter at a location outside the United States.

DIGEST:

SB 361 would amend sec. 101.004 to allow an applicant who was a member of the U.S. armed forces or a merchant marine, or the spouses or dependents of that person, and who otherwise complied with requirements, to receive a full ballot to vote by mail if the applicant submitted a federal postcard application to the early voting clerk on or before the 20th day before election day. An applicant could receive only a federal ballot to vote by mail if the applicant submitted a federal postcard application to the early voting clerk after the 20th day before election day but not later than six days before election day.

An application mailed from an Army/Air Force Post Office (APO) or Fleet Post Office (FPO) would be considered placed in the U.S. mail, and a cancellation mark, including a U.S. military post office cancellation mark, would be considered the date the application was placed in the mail unless proven otherwise.

An application submitted by a member of the U.S. armed forces or a merchant marine, or a spouse or dependent of that person, that did not contain a cancellation mark would be considered timely if it were received by the early voting clerk no later than 15 days before election day. If the 20th day before the date of an election was a Saturday, Sunday, or legal state or national holiday, an application would be considered timely if it was submitted to the early voting clerk on or before the next regular business day.

The bill would take effect September 1, 2007, and would apply only to an election held on or after January 1, 2008.

**SUPPORTERS
SAY:**

SB 361 would extend the time by 10 days for which U.S. military personnel, merchant marines, their spouses, or dependents could apply for

a full ballot by federal postcard application. The bill would take into account that members of the military or merchant marine often learn of upcoming assignments with relatively short notice. A 10-day extension for qualified applicants would increase the likelihood that these persons could meet the submission deadline and have an opportunity to cast an absentee ballot by mail in Texas county and state elections. The bill would be consistent with federal law requiring that elections be equally open to participation.

While SB 90 by Van de Putte, which passed earlier this session, would create some assurance about overseas military personnel obtaining ballots, the bill would establish only a pilot program for overseas voting by electronic mail for counties that chose to participate.

**OPPONENTS
SAY:**

While the sentiment behind this bill is commendable, SB 361 would affect more than military personnel and their families located overseas and could pose voter registration problems in Texas counties with large military populations. The bill would allow U.S. armed forces and merchant marines and their families in the U.S. or overseas to register to vote and obtain a full mail ballot, not just a federal ballot, 20 days before election day. It could create confusion by delaying the registration deadline for these military personnel and their families. County clerks and election administrators would have difficulty with available resources handling several add-ons to the voter rolls so close to an election, particularly in counties where a sizeable number of military families claim residence.

An applicant submitting a federal postcard application to the early voting clerk already has 30 days longer than other Texas voters applying for a mail ballot. In addition, SB 90 by Van de Putte will establish a pilot program to provide a ballot by electronic mail to all overseas voters. That bill would make ballot delivery overseas faster and more efficient and would reduce concerns about overseas military personnel not receiving ballots timely — without compromising the registration process. The potential for fast delivery of overseas mail ballots by e-mail as a result of SB 90 makes SB 361 less urgent or necessary.

NOTES:

The companion bill, HB 928 by J. Davis, passed the House by 113-0 on May 9 and has been referred to the Senate State Affairs Committee.

A related bill, SB 90 by Van de Putte, which creates an e-mail voting pilot program for all overseas voters, was signed by the governor on April 13 and takes effect September 1, 2007.