

**SUBJECT:** Requiring registration of absentee voting assistants

**COMMITTEE:** Elections — favorable, without amendment

**VOTE:** 7 ayes — T. Smith, Allen, Anchia, Bohac, Bonnen, B. Brown, Heflin  
0 nays  
2 absent — Peña, Harper-Brown

**WITNESSES:** For — None  
  
Against — (*Registered, but did not testify:* Rebecca Forest, Maria Martinez, Immigration Reform Coalition of Texas; Linda Rogers, Texas Republican County Chairmen’s Association)  
  
On — Elizabeth Winn, Secretary of State

**BACKGROUND:** Election Code, ch. 86 regulates the conduct of voting by mail. Sec. 86.010 authorizes assisting a voter. A voter casting a ballot by mail who is eligible under the current law to receive assistance at a polling place— either because of a physical disability that renders the voter unable to write or see or because of an inability to read the language in which the ballot is written — may select a person to assist the voter in preparing the ballot.  
  
On the voter’s request, the voter may be assisted by any person selected by the voter other than the voter’s employer, an agent of the voter’s employer, or an officer or agent of a labor union to which the voter belongs. The person assisting the voter must sign a written oath that is part of the certificate on the official carrier envelope and provide the person’s signature, printed name, and residence address on the official carrier envelope of the voter. A violation for not providing the required information is a Class A misdemeanor.

**DIGEST:** HB 3444 would require a person who assisted more than five voters with preparing their election ballots by mail to register as an early voting assistant. It would be a Class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) if a person knowingly violated the registration provision.

Each person required to register would file the registration with the early voting clerk. The registration would expire on December 31 of each odd-numbered year. The early voting clerk would have to maintain current registrations in a file that was available to the public for inspection.

The registration requirement would not apply to someone assisting a voter if the person assisting were:

- related to the voter within the second degree of affinity or the third degree of consanguinity;
- registered to vote at the same address as the voter;
- employed by the nursing home or long-term care facility or retirement center in which the voter resided;
- employed by the hospital in which the voter was a patient at the time the assistance was provided; or
- an early voting clerk or deputy early voting clerk.

A person would be ineligible for registration under the bill if finally convicted of an offense in connection with conduct directly attributable to an election.

The bill would require the secretary of state to prescribe the early voting assistant registration form and provide requirements for its contents.

The bill would take effect January 1, 2010.

**SUPPORTERS  
SAY:**

HB 3444 would allow elections officials to readily identify individuals who periodically assisted with mail-in balloting in order to pinpoint sources of abuse if it occurred. The bill also would provide elections officials with a tool to educate third-party individuals who were involved in the electoral process.

During the interim of the 80th Legislature, the House Elections Committee was charged with examining the challenges of administering mail-in ballots and with providing recommendations for reducing instances of mail-in ballot fraud. The committee studied political influences on the mail-in ballot process and its ramifications, as well as voter fraud cases in Texas. The committee found that most mail-in voter fraud that occurs is not a product of abuse of homebound voters. The committee found that most election fraud happening in Texas' election process occurs within the mail-in ballot system, through voter registration and through politiqueras,

or vote brokers, predominantly found in South Texas. Testimony by the Office of the Attorney General suggested that most cases of voter fraud involved mail-in ballots. Of 26 cases of voter fraud from August 2002 through September 2008, 18 were instances of illegal mail-in ballot handling or mail-in ballot fraud.

There was concern about the impact that vote harvesters on elections. These are political operatives who are paid by campaigns to go to nursing homes, long-term care facilities, and neighborhoods in order to harvest votes. This bill would be a good step in making these assistants known to elections officials.

The bill specifically would exempt employees of nursing home or long-term care facilities from registration requirements in order not to overburden them with this type of activity.

**OPPONENTS  
SAY:**

Individuals should be preparing their own ballots, and state law should prohibit campaign workers from handling anyone's ballot. The bill would not curb vote harvesting, but would in fact legalize it. Ostensibly, it would legalize the offense of illegally assisting a voter in completing a mail-in ballot. The only thing the bill would do is provide information about who was assisting voters.

**OTHER  
OPPONENTS  
SAY:**

The bill should include nursing home and long-term care facility employees in the registration requirements. If a resident does not have a family member, a legal guardian, or a member of the clergy to assist them with a ballot, then the administrator of the facility could be someone who would assist them. Current law allows anyone at the facility to assist the voter, and these people should have to register so that elections officials would know who they were.