

**SUBJECT:** Amending requirements for temporary polling places in certain counties

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

**VOTE:** 6 ayes — Cain, Bucy, Clardy, Jetton, Schofield, Swanson

0 nays

3 absent — J. González, Beckley, Fierro

**WITNESSES:** For — Glen Maxey, Texas Democratic Party; (*Registered, but did not testify*: Cindy Ji, Children's Defense Fund - Texas; Anthony Gutierrez, Common Cause Texas; Gerald Welty, Convention of States; Heather Hawthorne, County and District Clerks Association of Texas; Daniel Collins, El Paso County; Cinde Weatherby, League of Women Voters of Texas; Chris Davis, Texas Association of Elections Administrators; Richard Bohnert)

Against — Ed Johnson; Bill Sargent; (*Registered, but did not testify*: Susan Gezana; Russell Hayter)

On — Alan Vera, Harris County Republican Party Ballot Security Committee; (*Registered, but did not testify*: Christina Adkins, Texas Secretary of State; Keith Ingram, Texas Secretary of State; Henry Bohnert)

**BACKGROUND:** Election Code sec. 85.064 governs the days and hours for in-person voting at a temporary branch polling place. Early voting at each temporary branch polling place must be conducted on days that voting is conducted at the main early voting polling place, and branch polling places must remain open for at least eight hours each day, except that if the city or county clerk does not serve as the early voting clerk for the territory holding the election and the territory has fewer than 1,000 registered voters, the branch polling place must stay open for three hours each day.

**DIGEST:** HB 2149 would allow in-person early voting to be conducted at a

temporary branch polling place on any one or more days and during any hours of the early voting period in elections in which the territory served by the early voting clerk was located in a county or counties with a population or combined population, respectively, of less than 100,000. The voting schedules for such elections would not have to be uniform among the temporary branch polling places.

The appropriate authority could order early voting to be conducted on a Saturday or Sunday at any or all temporary branch polling places. Notice of dates and hours for weekend voting would have to be posted by the early voting clerk if the clerk was also a county clerk or city secretary.

The bill would limit Election Code sec. 85.064 to apply only to elections in which the territory served by the early voting clerk was situated in a county or counties with a population or combined population, as applicable, of 100,000 or more.

The bill would take effect September 1, 2021

**SUPPORTERS  
SAY:**

HB 2149 would give certain rural counties the flexibility they need to feasibly conduct early voting in a way that maximizes voter opportunity. Current law requires temporary branch polling locations to remain open on the same days as the main early voting location for at least eight hours per day. This requirement is burdensome for many rural counties, since the cost is too great to justify running temporary polling places for the entire early voting period, especially in areas where voter turnout is low. The unintended consequence of fewer early voting locations makes it more difficult for certain groups of citizens, including the elderly and the disabled, to exercise their right to vote. Concerns about the need for temporary polling places to remain in a certain location for a set time could be addressed in a floor amendment by the author.

**CRITICS  
SAY:**

While the need for more flexibility for rural counties is understandable, by removing current requirements on temporary polling places HB 2149 could open the door to targeted 'vote harvesting' intended to produce a

certain election outcome through the frequent moving of polling places to particular locations. The bill would be improved by provisions aimed at preventing such abuse, such as by requiring a temporary polling place to remain at a particular location for a set time before being moved.

**NOTES:**

The author plans to offer a floor amendment to HB 2149 that would require voting at a temporary branch polling place in a territory served by an early voting clerk that was located in a county or counties with a population or combined population, respectively, of less than 100,000 to be conducted on at least two consecutive business days and for at least eight consecutive hours on each of those days.