

SUBJECT: Disclosure of information from a roster of persons sent early mail ballots

COMMITTEE: Elections — favorable, without amendment

VOTE: 6 ayes — Denny, Bohac, Anderson, Hughes, J. Jones, T. Smith

0 nays

1 absent — Anchia

SENATE VOTE: On final passage, April 21 — 31-0, on Local and Uncontested Calendar

WITNESSES: No public hearing

BACKGROUND: Election Code, sec. 87.121 requires early voting clerks to maintain for each election a roster of persons who vote early by personal appearance and a separate roster listing persons to whom an early ballot by mail has been sent. The lists include a person's name, address, and voter registration number, as well as identification of the person's election precinct. During the 2003 regular session, the 78th Legislature amended Election Code, sec. 87.121(f), through HB 54 by Wolens, to prohibit public inspection of the list of voters to whom an early mail ballot has been sent until the first business day after election day, except for a voter seeking to verify his or her own information.

DIGEST: SB 1052 would change the time at which information could be disclosed from a roster of persons to whom an early mail ballot had been sent and provide a penalty for violation of the provision. Information on a roster of persons to whom an early voting mail ballot had been sent could not be disclosed until the first business day after an election, except to a voter seeking to verify that information pertaining to him or her was accurate, or until the first business day after any resulting runoff election, if the person indicated on an application to vote by mail that the application also was for a runoff election.

SB 1052 would establish that a person who violated the disclosure provision would commit a class C misdemeanor (maximum fine of \$500). The bill would take effect September 1, 2005.

**SUPPORTERS
SAY:**

By clearly stating that information from lists of early voters to whom mail ballots had been sent could not be disclosed before an election or, if applicable, a resulting runoff election, and attaching a criminal penalty to such disclosure, SB 1052 would discourage voter fraud. These voter lists can be used for criminal purposes prior to an election or runoff by perpetrators of voter fraud who calculate when and where mail ballots are to arrive, remove them, fraudulently mark them, and mail them back to the early voting clerk without the requesting voter's knowledge or consent. These vote brokers often prey upon the elderly and, in some instances, use ruthless tactics to persuade senior citizens to vote a certain way or to relinquish their mail ballots completely. SB 1052 would provide a deterrent against the improper release of such information by election workers. Because almost all applicants for a mail ballot also request one for any resulting runoff, the bill would extend safeguards for early voters by mail who chose to vote in runoff elections as well.

Current state and federal law provides penalties for removing ballots from mailboxes and marking them without an individual voter's consent, but such crimes frequently are difficult to prosecute. Despite the changes made last session to this provision, reports persist about the use of such lists for the commission of voter fraud, particularly with the current loophole for a resulting runoff. SB 1052 would reduce the incidences of such crimes and the difficulty associated with tracking down offenders after they had marked someone else's ballot. The bill would expand the protection of early mail voters' identities until after both an election and a related runoff.

**OPPONENTS
SAY:**

Current law involving lists of people requesting early ballots by mail is sufficient to deter voter fraud. There is not enough evidence of bad practices to restrict further the public's right-to-know. By making improper disclosure a misdemeanor, SB 1052 more likely would punish election officials than perpetrators of voter fraud.

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NOTES: A related bill, HB 377 by Talton, passed the House on March 17 and has been referred to the Senate State Affairs Committee.