

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

COMMITTEE: Elections — favorable, without amendment

VOTE: 6 ayes — Berman, Bohac, England, Anchia, Burnam, C. Howard

0 nays

1 absent — Farias

WITNESSES: 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: Election Code, ch. 101 relates to voting by a resident federal postcard applicant. Sec. 101.003 defines “federal postcard application” to mean an application for a ballot submitted on the official federal form prescribed under the federal Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. sec. 1973ff, et seq.). Under 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. 101.006 states that the submission of a federal postcard application that complies with the applicable requirements by an unregistered applicant constitutes registration by the applicant only for the purpose of voting in the election for which a ballot is requested and each election that occurs on or before the date of the second general election for state and county officers that occurs after the date the application is submitted.

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

If the address to which the balloting materials are sent is within the county, the federal postcard application must indicate that the balloting materials will be forwarded or delivered to the voter at a location outside the U.S.

In 2005, the 79th Legislature enacted HB 2309 by Denny, which amended sec. 101.004 to hold that for the purposes of determining the end of the period that a federal postcard application for early voting can be submitted for a federal ballot, the application — required for submission within 30 days of election day but not later than six days before election day — is considered submitted at the time the early voting clerk receives it.

DIGEST:

CSHB 928 would amend sec. 101.004 to maintain that an applicant who otherwise complied with requirements would be entitled 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 for a member of the U.S. armed forces or merchant marine, their spouses, or dependents. Such an applicant would be entitled to receive only a federal ballot to vote by mail if the applicant submitted a federal postcard application to the early voting clerk within 20 days of election day but not later than six days before election day. The bill would clarify that 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 would include a U.S. military post office cancellation mark.

An application submitted by a member of the U.S. armed forces or merchant marine or a spouse or dependent that did not contain a cancellation mark would be considered to be timely if it was 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 to be 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:**

CSHB 928 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 takes effect September 1, 2007, would create some assurance about overseas military personnel obtaining ballots, the bill merely would establish a pilot program in counties that could choose to participate or not related to overseas voting by electronic mail.

**OPPONENTS
SAY:**

While the sentiment behind this bill is commendable, CSHB 928 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 handling numerous add-ons to the voter rolls so close to an election with available resources, 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 establishes 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 would make HB 928 less urgent or necessary.

NOTES:

The companion bill, SB 361 by Janek, passed the Senate May 1 on the Local and Uncontested Calendar and has been referred to the Elections 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.