

## **BILL ANALYSIS**

Senate Research Center  
86R2767 JRJ-D

S.B. 1638  
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State Affairs  
3/29/2019  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Mail-in ballot voter fraud often involves persons casting a mail-in ballot using the name of a registered voter other than themselves. Perpetrators target elderly voters living in nursing homes and other long-term care facilities who would be unreliable witnesses if such fraud was discovered and prosecuted. S.B. 1638 would update the Election Code in three commonsense ways to address this problem.

First, S.B. 1638 would require all vote tabulation reports to include separate tallies for mail-in ballots and in-person early voting. Under current law, vote totals for mail-in ballots and in-person early voting are counted together. Because in-person early votes tend to mail-in ballot votes, it is difficult to identify potential irregularities in mail-in ballot results from these numbers. Requiring a breakdown of in-person early voting and mail-in ballot voting results would make instances of fraud stand out.

Second, S.B. 1638 would permit signature verification committees to compare mail-in ballot carrier envelopes received during the same election to check for indications that one person cast multiple votes by mail. Committees currently may compare a voter's signature on these documents to his or her signature on records filed with the county clerk during the preceding six years. This is not an effective means of detecting fraud as the signatures of many persons who are eligible to vote by mail are likely to change over time. Authorizing these committees to compare signatures from envelopes and applications submitted during the same election would reveal potential misconduct, such as similar handwriting with the same pen on multiple ballots.

Last, S.B. 1638 would require mail-in ballot and in-person early voting records to be stored separately. Currently, mail-in and in-person early voting ballots are co-mingled in the same ballot box after an election. In counties where early voting is conducted via paper ballots, it is difficult and time consuming for investigators to find those that were cast via mail. Reviewing these ballots expeditiously is a critical step in the process of investigating potential fraud as often patterns emerge that can help investigators focus their efforts.

As proposed, S.B. 1638 amends current law relating to early voting procedures.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 67.007(b), Election Code, as follows:

(b) Requires the county election returns to state, for each candidate and for and against each measure:

- (1) Creates this subdivision from existing text and makes nonsubstantive changes;
- (2) the total number of early voting votes cast by personal appearance received in the county; and

(3) the total number of early voting votes cast by mail received in the county.

SECTION 2. Amends Section 67.017(a), Election Code, as follows:

(a) Requires the county clerk, after each election for a statewide office or the office of United States representative, state senator, or state representative, to prepare a report of the total number of votes, the total number of early voting votes cast by personal appearance, and the total number of early voting votes cast by mail, rather than the number of votes including early voting votes, received in each county election precinct for each candidate for each of those offices. Requires the report, in a presidential election year, to include the total number of votes, the total number of early voting votes cast by personal appearance, and the total number of early voting votes cast by mail received in each precinct for each set of candidates for president and vice-president of the United States.

SECTION 3. Amends Section 68.004(b), Election Code, to authorize the periodic reports to include certain information, including the total number of early voting votes cast by personal appearance and the total number of early voting votes cast by mail for all contested races being tabulated.

SECTION 4. Amends Section 87.027(i), Election Code, as follows:

(i) Requires the signature verification committee to compare the signature on each carrier envelope certificate, except those signed for a voter by a witness, with the signature on the voter's ballot application to determine whether the signatures are those of the voter. Authorizes the committee to also compare the signatures with any two or more signatures of the voter made within the preceding six years and on file with the county clerk or voter registrar to determine whether the signatures are those of the voter or with the signatures on other carrier envelope certificates received for the same election to determine whether the same voter cast more than one ballot by mail.

SECTION 5. Amends Section 87.042(b), Election Code, as follows:

(b) Requires the early voting ballot board to place the ballot envelope containing an accepted ballot in a separate ballot box from the ballot box containing the early voting ballots voted by personal appearance. Deletes an existing exception as provided by Subsection (c).

SECTION 6. Amends Section 87.103, Election Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Requires the early voting returns prepared at the central counting station to include any early voting results obtained by the early voting ballot board under Subchapter D (Processing Manually Counted Ballots), rather than Subchapters D and E.

(c) Requires the early voting votes cast by personal appearance to be tabulated separately from the early voting votes cast by mail and to be separately reported on the returns.

SECTION 7. Amends Section 87.1231, Election Code, to require, rather than authorize, the report [regarding early voting votes delivered by the early voting clerk to the local canvassing authority] to reflect the total for votes by mail and the total for votes by personal appearance.

SECTION 8. Amends Section 87.124, Election Code, to require the early voting election returns, voted early voting ballots, and other early voting election records to be preserved after the election in the same manner as the corresponding precinct election records except that early voting ballots voted by mail shall be preserved in a separate container from early voting ballots cast by personal appearance.

SECTION 9. Amends Section 172.124(a), Election Code, to require the county clerk, for each primary election, to prepare a report of the number of votes, rather than the number of votes including early voting votes, received in each county election precinct by each candidate for a statewide office or the office of United States representative, state senator, or state representative, in the same manner provided by Section 67.017 (Reporting Precinct Results to Secretary of State) for the report of precinct results for a general election and to make a nonsubstantive change.

SECTION 10. Repealer: Section 87.042(c) (relating to requiring the ballot envelope to be placed in a separate container, in certain circumstances), Election Code.

SECTION 11. Effective date: September 1, 2019.