

1-1 By: Huffman S.B. No. 2149
 1-2 (In the Senate - Filed March 10, 2017; March 29, 2017, read
 1-3 first time and referred to Committee on State Affairs;
 1-4 May 11, 2017, reported favorably by the following vote: Yeas 7,
 1-5 Nays 0; May 11, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Huffman	X			
1-8 Hughes	X			
1-9 Birdwell	X			
1-10 Creighton	X			
1-11 Estes			X	
1-12 Lucio			X	
1-13 Nelson	X			
1-14 Schwertner	X			
1-15 Zaffirini	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to early in-person voting by voters who reside at a
 1-20 residential care facility.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 86.003, Election Code, is amended by
 1-23 amending Subsections (a) and (b) and adding Subsection (e) to read
 1-24 as follows:

1-25 (a) The balloting materials for voting by mail shall be
 1-26 provided to the voter by mail, unless the ballot is delivered to a
 1-27 voter for early voting under Chapter 107. A ballot provided by any
 1-28 other method may not be counted.

1-29 (b) Subject to Subsection (c), the balloting materials
 1-30 shall be addressed to the applicable address specified in the
 1-31 voter's application. The election officer providing the ballot may
 1-32 not knowingly deliver ~~mail~~ the materials to an address other than
 1-33 that prescribed by this section.

1-34 (e) A voter who makes an application to vote early by mail on
 1-35 the grounds of age or disability requesting that the ballot be sent
 1-36 to the address of a residential care facility, as defined by Chapter
 1-37 107, is required to vote as provided by that chapter if five or more
 1-38 applications for ballots to be voted by mail are made by residents
 1-39 of the same facility who request that the ballots be sent to that
 1-40 facility.

1-41 SECTION 2. Section 86.004, Election Code, is amended by
 1-42 amending Subsection (a) and adding Subsection (c) to read as
 1-43 follows:

1-44 (a) Except as provided by Subsection (b) or (c), the
 1-45 balloting materials for voting by mail shall be mailed to a voter
 1-46 entitled to vote by mail not later than the seventh calendar day
 1-47 after the later of the date the clerk accepts the voter's
 1-48 application for a ballot to be voted by mail or the date the ballots
 1-49 become available for mailing, except that if that mailing date is
 1-50 earlier than the 45th day before election day, the balloting
 1-51 materials shall be mailed not later than the 38th day before
 1-52 election day.

1-53 (c) An application to vote early by mail on the grounds of
 1-54 age or disability requesting that the ballot be sent to the address
 1-55 of a residential care facility, as defined by Chapter 107, shall be
 1-56 held until the earlier of:

1-57 (1) the date on which five or more applications for
 1-58 ballots to be voted by mail made by residents of the same facility
 1-59 who request that the ballots be sent to that facility have been
 1-60 received, in which case ballots may not be mailed to the voters and
 1-61 voting shall be conducted under Chapter 107; or

2-1 (2) the last day on which an application for a ballot
2-2 to be voted by mail may be received, after which the ballot shall
2-3 promptly be mailed to the voter.

2-4 SECTION 3. Subtitle B, Title 7, Election Code, is amended by
2-5 adding Chapter 107 to read as follows:

2-6 CHAPTER 107. EARLY VOTING AT A RESIDENTIAL CARE FACILITY

2-7 Sec. 107.001. PURPOSE. This chapter is enacted to
2-8 facilitate voting in a hospital, nursing home, other long-term care
2-9 facility, or retirement center in which a significant number of
2-10 occupants, patients, or residents lack adequate transportation to
2-11 an appropriate polling place, need assistance in voting, are 65
2-12 years of age or older or are disabled, or are indefinitely confined.

2-13 Sec. 107.002. DEFINITION. In this chapter, "residential
2-14 care facility" means a facility licensed and regulated under
2-15 Chapter 241, 242, 246, 247, or 248, Health and Safety Code, or
2-16 Chapter 105, Human Resources Code.

2-17 Sec. 107.003. APPLICABILITY OF EARLY VOTING BY PERSONAL
2-18 APPEARANCE PROVISIONS. To the extent applicable and not in
2-19 conflict with this chapter, Chapter 85 applies to voting at a
2-20 residential care facility under this chapter.

2-21 Sec. 107.004. EARLY VOTING AT RESIDENTIAL CARE FACILITY
2-22 REQUIRED. A voter residing in a residential care facility who has
2-23 applied to vote early by mail on the grounds of age or disability
2-24 and who requested that the ballot be sent to the address of the
2-25 facility, must vote as provided by this chapter if five or more
2-26 applications for ballots to be voted by mail were made by residents
2-27 of the same facility who requested that the ballots be sent to the
2-28 facility.

2-29 Sec. 107.005. ELECTION JUDGES; QUALIFICATIONS; OATH.

2-30 (a) Election judges shall be selected to serve at a residential
2-31 care facility in the same manner as election judges are selected to
2-32 serve at a polling place for early voting by personal appearance.

2-33 (b) An election judge serving at a residential care facility
2-34 may be a volunteer, an employee of the authority conducting the
2-35 election, or compensated by the authority conducting the election
2-36 in the same manner as an election judge for a polling place for
2-37 early voting by personal appearance.

2-38 (c) A person may not serve as an election judge for a
2-39 residential care facility if:

2-40 (1) at any time during the two years preceding the
2-41 election, the person has been employed or retained at a residential
2-42 care facility in the county where the person seeks to serve as an
2-43 election judge; or

2-44 (2) the person is related to a person within the second
2-45 degree by affinity or within the third degree by consanguinity, as
2-46 determined under Chapter 573, Government Code, who resides in a
2-47 residential care facility and is a registered voter.

2-48 (d) Before beginning the duties of an election judge under
2-49 this chapter, each individual appointed to serve as an election
2-50 judge at a residential care facility shall sign and date this oath:

2-51 I swear (or affirm) that I will not in any manner request or
2-52 seek to persuade or induce any voter to vote for or against any
2-53 candidate or measure to be voted on, and that I will faithfully
2-54 perform my duty as an officer of the election and guard the purity
2-55 of the election.

2-56 I have read the statutes and training materials provided and
2-57 will conduct this election accordingly.

2-58 I understand that failing to follow procedures exactly may
2-59 result in invalidation of the voter's ballot.

2-60 I will not unduly influence or pressure a person to
2-61 participate or cast a ballot in the election.

2-62 I will not influence the choice of a voter to choose a
2-63 particular primary ballot, vote in a particular race or election,
2-64 or vote on a particular proposition.

2-65 Signed this ___ day of ____, 20__.

2-66 Date: _____

2-67 Sec. 107.006. VOTING LOCATION. (a) The administrator of
2-68 the residential care facility shall make available an area located
2-69 in a common area of the facility for the purposes of voting under

3-1 this chapter. The area shall allow a voter to cast a secret ballot.
 3-2 (b) The facility administrator shall allow posting of
 3-3 required notices during the period that voting is conducted under
 3-4 this chapter.

3-5 (c) An election judge may enter the private room of a voter
 3-6 who requests that balloting materials be brought to the voter.

3-7 Sec. 107.007. NOTICE OF ELECTION IN RESIDENTIAL CARE
 3-8 FACILITY; DETERMINATION OF TIME FOR VOTING. (a) If early voting
 3-9 at a residential care facility is required under this chapter, the
 3-10 early voting clerk shall give notice that early voting will occur at
 3-11 the facility and appoint election judges for the purpose of
 3-12 conducting voting under this chapter.

3-13 (b) Not later than 5 p.m. on the sixth business day before
 3-14 election day, the election judges shall, with the input of the
 3-15 administrator of the residential care facility, designate one or
 3-16 more times for voting to be conducted. Voting may be conducted not
 3-17 earlier than the fourth Monday before election day and not later
 3-18 than the Monday preceding election day.

3-19 (c) An election judge for a residential care facility shall
 3-20 post notice of the time or times for conducting the election at the
 3-21 facility as soon as practicable after determining the time and not
 3-22 later than the fifth day before the first day on which voting will
 3-23 be conducted at the facility.

3-24 (d) The early voting clerk shall maintain a public list of
 3-25 all residential care facilities in the clerk's jurisdiction at
 3-26 which voting is conducted under this chapter. The list must be
 3-27 available on the website of the authority conducting the election
 3-28 or posted at the location where public notices are posted in the
 3-29 county courthouse or authority public building, as applicable, and
 3-30 for each facility state:

- 3-31 (1) the name of the facility;
 3-32 (2) the address of the facility;
 3-33 (3) the dates and times for voting at the facility; and
 3-34 (4) the names of the election judges for the facility.

3-35 Sec. 107.008. CONDUCT OF ELECTION. (a) In an election
 3-36 conducted under this chapter, the early voting clerk shall deliver
 3-37 to the election judges for a residential care facility the
 3-38 balloting materials for any qualified voters who have requested a
 3-39 mail ballot for an election that would have been otherwise mailed to
 3-40 the voter at the facility under Chapter 86.

3-41 (b) The election judges for a residential care facility
 3-42 shall deliver the balloting materials to the voter at the facility.

3-43 (c) The voter shall mark and seal the ballot in the same
 3-44 manner as a voter voting under Chapter 86.

3-45 (d) Both election judges for the residential care facility
 3-46 shall sign the carrier envelope as witnesses. In the space for the
 3-47 address of the witness, each election judge shall write in
 3-48 "Residential Care Facility Election Judge."

3-49 (e) The election judges shall accept the carrier envelope
 3-50 and place the envelope in a secure bag or ballot container for
 3-51 transport to the early voting clerk's office.

3-52 (f) Ballots voted at a residential care facility shall be
 3-53 processed for counting in the manner provided by Chapter 86 for a
 3-54 ballot voted by mail.

3-55 Sec. 107.009. VOTING BY ADDITIONAL QUALIFIED VOTERS.
 3-56 (a) The early voting clerk shall produce a list of all additional
 3-57 qualified voters who reside at a residential care facility where
 3-58 voting is conducted under this chapter.

3-59 (b) The clerk shall supply the election judges for the
 3-60 residential care facility with sufficient additional ballots and
 3-61 voting materials to allow any additional qualified voter who
 3-62 resides at the facility to vote under this chapter. During the
 3-63 voting period, any registered voter who resides at the facility may
 3-64 complete an application to request a mail ballot as if they were
 3-65 voting by mail. An election judge for the facility shall serve as a
 3-66 witness for any person who is unable to sign their name and may
 3-67 witness multiple applications.

3-68 (c) An election judge for the residential care facility must
 3-69 accept a properly completed application for a ballot made under

4-1 this section, and shall provide a ballot to the voter. The election
 4-2 judge shall make a notation on an application that it was made under
 4-3 this section.

4-4 (d) A voter who applies for a ballot under this section
 4-5 shall vote in the manner provided by Section 107.008, except that
 4-6 the voter's ballot must be stored with the voter's application, and
 4-7 the voter's ballot may not be counted if the voter was not a
 4-8 qualified voter for the election as demonstrated from the
 4-9 information contained in the voter's application.

4-10 Sec. 107.010. RETENTION OF RECORDS. (a) The election
 4-11 judges for the residential care facility shall record the number of
 4-12 ballots voted. Both of the election judges for each facility and
 4-13 the early voting clerk shall sign and attest to the number of
 4-14 ballots issued.

4-15 (b) On completion of voting under this chapter, the election
 4-16 judges must record the number of:

- 4-17 (1) completed ballots;
- 4-18 (2) spoiled ballots; and
- 4-19 (3) unused returned ballots.

4-20 Sec. 107.011. PROOF OF IDENTIFICATION PRESENTED AT
 4-21 RESIDENTIAL CARE FACILITY. (a) Notwithstanding Section 63.0101
 4-22 or any other law, a voter voting under this chapter may submit a
 4-23 statement as proof of identification signed by both election judges
 4-24 for the residential care facility that:

- 4-25 (1) contains the name and address of the voter; and
- 4-26 (2) verifies that the voter is a resident of the
 4-27 facility and appears on the list of registered voters.

4-28 (b) The election judges shall enclose the statement in the
 4-29 carrier envelope.

4-30 Sec. 107.012. ASSISTING VOTER; NOTICE. (a) On written
 4-31 request to the early voting clerk by a relative of a registered
 4-32 voter in a residential care facility, the clerk may notify the
 4-33 relative of the time or times at which election judges will conduct
 4-34 voting at the facility. The relative may be present at the facility
 4-35 while voting is conducted.

4-36 (b) On request of the voter, the following persons may
 4-37 assist a voter in marking the voter's ballot:

- 4-38 (1) an election judge; or
- 4-39 (2) a person selected by the voter who is present for
 4-40 voting conducted at the residential care facility.

4-41 (c) An election judge shall seal a ballot if the voter
 4-42 receives assistance from a person who is not an election judge.

4-43 Sec. 107.013. SECURITY OF BALLOTS AND MATERIALS. (a) On
 4-44 completion of the voting each day on which voting is conducted at a
 4-45 residential care facility under this chapter, the election judges
 4-46 for the facility shall seal the ballot envelopes and any absentee
 4-47 ballot applications inside a secure envelope and shall seal the
 4-48 envelope and sign the seal. The election judges shall place the
 4-49 envelope inside a ballot bag or container.

4-50 (b) As soon as possible after conducting voting at a
 4-51 residential care facility, but not later than 18 hours after
 4-52 leaving the facility, the election judges shall deliver the ballot
 4-53 bag or container to the early voting clerk.

4-54 Sec. 107.014. PROVISION OF MAIL BALLOT TO CERTAIN VOTERS.
 4-55 If a qualified voter residing at a residential care facility and
 4-56 seeking to vote at the facility under this chapter is not able to
 4-57 cast a ballot during any time when voting is conducted at the
 4-58 facility, the election judges for the facility shall inform the
 4-59 early voting clerk. The clerk shall mail the ballot to the voter
 4-60 not later than the fourth day before election day.

4-61 Sec. 107.015. WATCHERS. (a) In an election held under
 4-62 this chapter, a watcher may observe the process of ballot
 4-63 distribution in the common areas of a residential care facility in a
 4-64 manner consistent with Chapter 33.

4-65 (b) A political party entitled to have the names of its
 4-66 nominees placed on the general election ballot may appoint a
 4-67 watcher to accompany the election judges to a residential care
 4-68 facility.

4-69 (c) A political party seeking to appoint a watcher to serve

5-1 at a residential care facility shall submit the name of the watcher
5-2 to the county election officer of the county in which the facility
5-3 is located, not later than the close of business on the last
5-4 business day before the date the watcher seeks to observe the
5-5 conduct of the election under this chapter.

5-6 (d) A watcher must present the watcher's certificate of
5-7 appointment to an election judge for the residential care facility
5-8 on arrival at the facility.

5-9 Sec. 107.016. LIMITATIONS ON APPLICABILITY OF CHAPTER.

5-10 (a) The early voting clerk is not required to send election judges
5-11 to conduct an election at a residential care facility unless there
5-12 are at least five registered voters who are residents of the
5-13 facility.

5-14 (b) This chapter does not prevent a registered voter from:

5-15 (1) voting early by personal appearance;

5-16 (2) voting on election day; or

5-17 (3) voting by mail from an address other than the
5-18 residential care facility, including from the address of a family
5-19 member designated under Section 84.002.

5-20 Sec. 107.017. RULES. The secretary of state shall adopt
5-21 rules and prescribe procedures for voting at a residential care
5-22 facility in accordance with this chapter.

5-23 SECTION 4. Subchapter A, Chapter 241, Health and Safety
5-24 Code, is amended by adding Section 241.0071 to read as follows:

5-25 Sec. 241.0071. COMPLIANCE WITH CERTAIN REQUIREMENTS
5-26 REGARDING EARLY VOTING. A hospital must comply with Chapter 107,
5-27 Election Code.

5-28 SECTION 5. Subchapter A, Chapter 242, Health and Safety
5-29 Code, is amended by adding Section 242.0181 to read as follows:

5-30 Sec. 242.0181. COMPLIANCE WITH CERTAIN REQUIREMENTS
5-31 REGARDING EARLY VOTING. An institution must comply with Chapter
5-32 107, Election Code.

5-33 SECTION 6. Subchapter A, Chapter 246, Health and Safety
5-34 Code, is amended by adding Section 246.0041 to read as follows:

5-35 Sec. 246.0041. COMPLIANCE WITH CERTAIN REQUIREMENTS
5-36 REGARDING EARLY VOTING. A facility must comply with Chapter 107,
5-37 Election Code.

5-38 SECTION 7. Subchapter A, Chapter 247, Health and Safety
5-39 Code, is amended by adding Section 247.008 to read as follows:

5-40 Sec. 247.008. COMPLIANCE WITH CERTAIN REQUIREMENTS
5-41 REGARDING EARLY VOTING. An assisted living facility must comply
5-42 with Chapter 107, Election Code.

5-43 SECTION 8. Subchapter A, Chapter 248, Health and Safety
5-44 Code, is amended by adding Section 248.004 to read as follows:

5-45 Sec. 248.004. COMPLIANCE WITH CERTAIN REQUIREMENTS
5-46 REGARDING EARLY VOTING. A special care facility must comply with
5-47 Chapter 107, Election Code.

5-48 SECTION 9. Chapter 105, Human Resources Code, is amended by
5-49 adding Section 105.004 to read as follows:

5-50 Sec. 105.004. COMPLIANCE WITH CERTAIN REQUIREMENTS
5-51 REGARDING EARLY VOTING. An establishment must comply with Chapter
5-52 107, Election Code.

5-53 SECTION 10. Sections 241.0071, 242.0181, 247.008, and
5-54 248.004, Health and Safety Code, as added by this Act, apply only to
5-55 a license issued or renewed on or after the effective date of this
5-56 Act. A license issued or renewed before that date is governed by
5-57 the law in effect on the date the license was issued or renewed, and
5-58 the former law is continued in effect for that purpose.

5-59 SECTION 11. This Act takes effect September 1, 2017.

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