

SENATE BILL 642

By Marrero B

AN ACT to amend Tennessee Code Annotated, Title 2,
relative to voting by mail.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 2, Chapter 3, is amended by adding Sections 2 through 9 of this act as a new, appropriately designated part.

SECTION 2. Notwithstanding any other provision of law to the contrary, elections shall be conducted by mail in this state as follows:

(1) Any election held on the date of the primary or general election shall be conducted by mail.

(2) A state election not described in subdivision (1) may be conducted by mail. The state coordinator of elections, by rule, shall direct that a state election authorized to be conducted by mail under this subdivision (2) be conducted uniformly by mail or at polling places.

(3) A county election commission may conduct an election not described in subdivisions (1) and (2) by mail in the county or in a city under the supervision of the state coordinator of elections. In deciding to conduct an election by mail, the county election commission may consider requests from the governing body of the county or city and shall consider whether conducting the election by mail will be economically and administratively feasible.

(4) The state coordinator of elections shall promulgate rules and regulations to provide for uniformity in the conduct of state elections by mail.

SECTION 3.

(a) An election by mail shall be conducted as provided in this section. The state coordinator of elections shall promulgate rules and regulations governing the procedures

for conducting an election by mail in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(b) The state coordinator of elections, by rule, shall establish requirements and criteria for the designation of places of deposit for the ballots cast in the election. The rules shall also specify the dates and times the places of deposit must be open and the security requirements for the places of deposit. At a minimum, the places designated under this section shall be open on the date of the election for a period of eight (8) or more hours, but must be open until at least eight o'clock p.m. (8:00 p.m.) prevailing time in the eastern time zone or seven o'clock p.m. (7:00 p.m.) prevailing time in the central time zone. At each place of deposit designated under this section, the county election commission shall prominently display a sign stating that the location is an official ballot drop site.

(c)

(1) Except as provided in subdivisions (c)(2), (3) and (4), the county election commission shall mail by nonforwardable mail an official ballot with a return identification envelope and a secrecy envelope not sooner than the eighteenth day before the date of an election conducted by mail and not later than the fourteenth day before the date of the election, to each registered voter of the electoral district as of the twenty-first day before the date of the election.

(2) Notwithstanding subdivision (c)(1), if the county election commission determines that an registered voter of the electoral district as of the twenty-first day before the date of the election does not receive daily mail service from the United States Postal Service the county election commission shall mail by nonforwardable mail an official ballot with a return identification envelope and a secrecy envelope to the registered voter not sooner than the twentieth day before

the date of an election conducted by mail and not later than the eighteenth day before the date of the election.

(3) Notwithstanding subdivision (c)(1), the coordinator of elections by rule shall specify the date on which all ballots shall be mailed for any state election conducted by mail.

(4) Notwithstanding subdivision (c)(1), in the case of ballots to be mailed to addresses outside this state to voters who are not long-term absent registered voters the county election commission may mail the ballots not sooner than the twenty-ninth day before the date of the election.

(d) For an election held on the date of a primary election:

(1) The county election commission shall mail the official ballot of a political party to registered voter if the registered voter has applied for the ballot as provided in subdivision (d)(2) as of the twenty-first day before the date of the election.

(2) A registered voter who wishes to vote in the primary election of a political party shall apply to the county election commission in writing. The application shall indicate which political party ballot the registered voter wishes to receive. Except for registered voters described in subsection (e), the application must be received by the county election commission not later than five o'clock p.m. (5:00 p.m.) of the twenty-first day before the date of the election.

(3) If the primary election ballot includes city, county or nonpartisan offices or constitutional questions, a registered voter not wanting to vote in the primary election shall be mailed a ballot limited to those offices and questions for which the registered voter is eligible to vote.

(e) For each registered voter who updates a voter registration after the deadline in subsection (d), the county election commission shall make the official ballot, the return identification envelope and the secrecy envelope available either by mail or at the county commission's office or at another place designated by the county election commission. A registered voter to whom this subsection applies must request a ballot from the county election commission.

(f) The ballot or ballot label shall contain the following warning:

Any person who, by use of force or other means, unduly influences a voter to vote in any particular manner or to refrain from voting is subject to a fine.

(g) Upon receipt of any ballot described in this section, the registered voter shall mark the ballot, sign the return identification envelope supplied with the ballot and comply with the instructions provided with the ballot. The registered voter may return the marked ballot to the county election commission by United States mail or by depositing the ballot at the office of the county election commission or at any place of deposit designated by the county election commission. The ballot must be returned in the return identification envelope. If the registered voter returns the ballot by mail, the registered voter shall provide the postage. A ballot must be received at the office of the county election commission, the designated place of deposit or at any designated location not later than the end of the period determined under subsection (b) on the date of the election.

(h) A registered voter may obtain a replacement ballot if the ballot is destroyed, spoiled, lost or not received by the registered voter. Replacement ballots shall be issued and processed as described in this section or as otherwise provided by law. The county election commission shall keep a record of each replacement ballot provided under this subsection. Notwithstanding any deadline for mailing ballots in this section, a

replacement ballot may be mailed, made available in the office of the county election commission or made available at one (1) central location in the electoral district in which the election is conducted. The county election commission shall designate the central location. A replacement ballot need not be mailed after the fifth day before the date of the election.

(i) A ballot shall be counted only if:

(1) It is returned in the return identification envelope;

(2) The envelope is signed by the registered voter to whom the ballot is issued; and

(3) The signature is verified as provided in subsection (j).

(j) The county election commission shall verify the signature of each voter on the return identification envelope with the signature on the voter's registration card, according to the procedure provided by rules adopted by the state coordinator of elections. If the county election commission determines that a registered voter to whom a replacement ballot has been issued has voted more than once, the county election commission shall count only one (1) ballot cast by that registered voter.

(k) At eight o'clock p.m. (8:00 p.m.) on election day, registered voters who are at the county election commission's office, a site designated under subsection (b) or any other properly designated location and who are in line waiting to vote or deposit a voted ballot shall be considered to have begun the act of voting.

SECTION 4. The county election commission shall provide, at any location where ballots are issued, at least three (3) suitable compartments, shelves or tables at which registered voters may mark their ballots. The arrangement of the compartments, shelves or tables shall ensure that the registered voter may conveniently mark the ballot with absolute secrecy. The

compartments, shelves or tables shall be available during the entire time that ballots may be issued.

SECTION 5.

(a) Notwithstanding any other provision of law to the contrary, at each primary election and general election, the county election commission shall maintain voting booths in the county as follows:

(1) In each county with thirty five thousand (35,000) or more registered voters in the county, the county election commission shall maintain a number of voting booths equal to at least one (1) voting booth for every twenty thousand (20,000) registered voters in the county; and

(2) In each county with fewer than thirty five thousand (35,000) registered voters in the county, the county election commission shall maintain at least one (1) voting booth.

(b) The county election commission may determine the location of the voting booths required under this section.

SECTION 6.

The county election commission may employ personnel as necessary to open envelopes, prepare ballots for counting and count ballots. Such personnel shall not all be members of the same political party. A person who is the spouse, child, son-in-law, daughter-in-law, parent, mother-in-law, father-in-law, sibling, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, stepparent or stepchild of a candidate on the ballot at an election shall not be employed and may not serve as a volunteer in the capacity described in this section.

SECTION 7.

Not sooner than the seventh day before the date of an election, in preparation for counting ballots delivered by mail the county election commission may begin opening return identification and secrecy envelopes of ballots delivered by mail and received by the county election commission. The county election commission may take any other actions that are necessary to allow the counting of ballots delivered by mail to begin on election day.

SECTION 8.

(a) In an election conducted by mail, a registered voter may obtain a replacement ballot described in this act. To vote a replacement ballot, the registered voter must complete and sign a replacement ballot request form. The request for a replacement ballot may be made electronically, by telephone, in writing, in person or by other means designated by the state coordinator of elections, by rule.

(b) The replacement ballot request form shall be mailed or made available to the registered voter along with the replacement ballot.

(c) Upon receiving a request for a replacement ballot, the county election commission shall:

(1) Verify the registration of the voter and ensure that another ballot has not been returned by the voter;

(2) Note in the list of registered voters that the voter has requested a replacement ballot;

(3) Mark the return identification envelope clearly so that it may be readily identified as a replacement ballot; and

(4) Issue the replacement ballot by mail or other means.

(d) The completed and signed replacement ballot request form and the voted replacement ballot must be received at the office of the county election commission, a

place of deposit designated by the county election commission or at any other appropriately designated location not later than the end of the period determined under Section 2 on the date of the election.

(e) Upon receiving a voted replacement ballot, the county election commission shall verify that a completed and signed replacement ballot request form has been received by the county election commission or is included with the voted replacement ballot. If a request form has been completed and signed by the voter and received by the county election commission, the county election commission shall process the ballot. If the request form is not completed or signed by the voter or received by the county election commission, the county election commission may not process the ballot.

SECTION 9. After the date that ballots are mailed as provided in Section 2, the county election commission, if requested, shall permit authorized persons to be at the office of the county election commission to watch the receiving and counting of votes. The authorization shall be in writing, shall be signed by an officer or its county affiliate of a political party, a candidate or the county election commission and shall be filed with the county election commission. The county election commission shall permit only so many persons as watchers under this section as will not interfere with an orderly procedure at the office of the county election commission.

SECTION 10. This act shall take effect upon becoming a law, the public welfare requiring it.