

CHAPTER 4

EARLY VOTING BY MAIL

SECTION A: WHO IS ELIGIBLE TO VOTE EARLY BY MAIL

Any qualified voter may vote early by mail if the voter:

1. expects to be absent from the county of residency on election day and during the regular hours for early voting by personal appearance; [Sec. 82.001]

2. is disabled; [Sec. 82.002]

.

3. is 65 years of age or older on election day; or [Sec. 82.003]

.

4. is confined in jail. [Sec. 82.004]

.

SECTION B: HOW TO VOTE EARLY BY MAIL

1. Each qualified voter that wishes to vote early by mail must submit an application to the early voting clerk. [Sec. 84.001, 84.007]

2. Official applications must be available from the early voting clerk and the Secretary of State. [Sec. 84.012, 84.013]

3. An informal application may be used as long as it contains all the required information. [Sec. 84.001(c)]

4. Application must:

a. be in writing; [Sec. 84.001(b)]

b. be signed by applicant or by witness if applicant cannot sign; [Sec. 84.001(b)]

(If early voting clerk receives more than one application signed by the same witness, the validity of the application is not affected; however, the witness has committed a Class B misdemeanor if they are not related to all the applicants, and the early voting clerk should give a copy of the applications to the prosecuting attorney.) [Sec. 84.004]

c. contain applicant's name; [Sec. 84.002(a)(1)]

d. state the address at which voter is registered; [Sec. 84.002(a)(1)]

e. contain address to mail ballot to if different from residence address; [Sec. 84.002(a)(2)]
(If the reason is expected absence from the county, the application must give an out-of-county address to mail ballot.)

- f. state the grounds for voting early; and [Sec. 84.002 (a)(3)]
- g. indicate the type and date of election for which the voter is applying. [Sec. 84.002(a)(2)]
 - (1) If voter does not indicate a type or date of election, early voting clerk should mail the voter a ballot for the next election if they can determine in which election the voter wants to vote.
 - (2) Voter may apply for a runoff election on the same application.

SECTION C: HOW TO SUBMIT AN APPLICATION

1. Delivery of application

Before early voting by personal appearance begins

- (1) Application may be submitted: in person; by mail; by common or contract carrier; or by fax, if fax machine is available in the clerk's office and if applicant is outside of the county. [Sec. 84.007(b)]
- (2) Only the voter may deliver his or her application in person to early voting clerk, except if the voter is confined in jail. [Sec. 84.008, 84.009]

After early voting by personal appearance has begun, application must be mailed, sent by common or contract carrier, or submitted by fax, if fax machine is available in the clerk's office and if applicant is outside of the county. [Sec. 84.008]

2. Time for receiving application

Not earlier than 60 days before the election

Not later than 7 days before the election

(The application must be received before the close of regular business or 12 noon, whichever is later; application must be received, not postmarked on the 7th day.
)

(If voter applies for a runoff ballot on the same application, and the application is

2 received after the deadline for the main election, it will be rejected for the main election,
) but is acceptable for the runoff election. [Sec. 84.001(d)]

(If the 7th day before the election is a Saturday, Sunday, or legal state or national
3 holiday, the deadline is the first preceding regular business day. [Sec. 84.007]
)

3. Reviewing application to determine if:

application was submitted timely;

application was received properly (by mail, by common or contract carrier, by fax, or in person);

N If voter has faxed an application, but information on the fax transmittal indicates it
O was faxed from within the county, reject the application. If the fax transmittal reflects
TE it was transmitted from outside the county or contains no indication of from where it
: was transmitted, accept the application. [Sec. 84.007(b)(3)]

applicant is a registered voter or will have an effective registration certificate on or before election day;

N If applicant's name is on the suspense list, applicant is eligible to vote, but must be
O mailed a statement of residence with the balloting materials which the voter must
TE complete and return with the voted ballot.
:

application was mailed to the proper early voting clerk for the election the voter is applying to vote; and

application contains all required information.

(1) If signed by witness, the witness information must be complete; if the voter signs his or her application and then has a witness sign his or her application, the signature of the witness means nothing and can be ignored. [Sec. 84.003]

(2) Address to which ballot is mailed must be outside the county if the voter is voting because of expected absence from the county. Checking expected absence on the application is the only statement necessary to prove the voter was out of the county. DO NOT CHECK FOR POSTMARK!

(3) Checking disability is sufficient without further proof; voter cannot be challenged.

(4) If voter has checked 65 years or older, and list of registered voters indicates voter will not be 65 on or before election day, early voting clerk can challenge or reject the application based on the public record showing that the voter is not over 65. However, check voter registrar's records to make sure it is not a typographical error. [Sec. 82.003]

residence address on application matches residence address on list of registered voters.

- (1) If address is the SAME, then mail normal balloting materials.
- (2) If address is DIFFERENT, then a statement of residence must be enclosed with balloting materials and carrier envelope must be stamped "STATEMENT ENCLOSED."

SECTION D: ACCEPTING APPLICATION

1. Mail voter a ballot on the 45th day before the election.
 - a. If ballots are not available, mail ballot as soon as they become available. Sec. 86.004]
 - b. If voter indicates a date on which they can receive mail at the address given on the application, mail ballot on that date if it is later than 45 days before the election.
2. Make copy of application for public inspection. Copy of application is not available for public inspection for 48 hours after clerk receives application. [Sec. 86.014(a)]
3. Place original application in jacket envelope, and file in a safe place.
[Sec. 86.014(b)]
 - a. Original of application is not available until the day after the election
 - b. If application is received in an envelope, place the envelope in the jacket envelope, as it becomes part of the application.
 - c. Any other materials received with application become part of the application and should be placed in the jacket envelope
4. Place voter's name on early voting roster
5. Indicate date ballot was mailed.
6. Add voter's name to the early voting precinct list.
7. Make a notation on list of registered voters that voter was mailed a ballot.

SECTION E: REJECTING APPLICATION

1. Mail voter a written notice of rejection.
 - a. Include new application to be completed if the original application was received on or before the 12th day before the election.
 - b. If application was received after the 12th day before the election and before the 3rd day

- . before the election, only send voter notice of rejection.
- 2. Keep the rejected application in a file and attach a copy of the notice of rejection. [Sec. 86.008]

SECTION F: CANCELING APPLICATION

1. The request for cancellation must:
 - a. be in writing;
 - b. be submitted to early voting clerk;
 - c. be signed by the applicant (or witness if applicant is unable to sign);
 - d. specify the election for which the application is being made; and
 - e. be received by the early voting clerk no later than 3rd day before election and before the marked ballot is returned. [Sec. 84.032]

Exception #1 - after early voting by personal appearance has closed and after the third day before the election, request can be submitted, but it must be submitted in person, and the voter must accompany the request with the ballot or sign an affidavit that they never received their ballot. [Sec. 84.032(c)]

Exception #2 - on election day, a voter may cancel at the polling place by returning the mail ballot to the presiding election judge. [Sec. 84.032(d)]

2. Reviewing request

If proper cancellation request:

(give voter notice that application was canceled;

1
)-- Voter should present notice to precinct election judge if his or her name has already been given to the judge on the early voting precinct list.

--Voter should be allowed to vote after canceling his or her application on election day if otherwise qualified.

(take voter's name off early voting roster; [Sec. 84.035(1)]

2
)

(remove notation on list of registered voters that voter was mailed a ballot;

3
)

(if voter's name has already been added to early voting precinct list, remove name unless list has already been delivered to election day precinct judge;

)

(attach request to voter's application; and

5

)

(retain during the period for preserving election records. [Sec. 84.037]

6

)

If request is denied:

(notify applicant that request was denied; and

1

)

(state reason. [Sec. 84.034]

2

)

3. Reviewing request on election day at the polling place

If request complies, the presiding election judge must enter on the returned ballot "canceled," place it and the request in an envelope, and deposit the envelope in ballot box number 4.

If the request does not comply, the presiding judge shall enter on the request the date of and reason for the denial, and place the request in an envelope and deposit the envelope in ballot box number 4.