

SUBJECT: Abolishing constable office in Mills County

COMMITTEE: County Affairs — favorable, without amendment

VOTE: 5 ayes — Gutierrez, Lewis G., Longoria, Muñoz, Wohlgemuth

0 nays

1 present, not voting — R. Lewis

3 absent — Chisum, Hamric, Kamel

WITNESSES: None

BACKGROUND: Art. 5, sec. 18, of the Texas Constitution requires each county or precinct within a county to elect a constable for a four-year term. Constables are responsible for serving civil or criminal process such as citation, notice, warrant, subpoena in the county, and for attending justice court in the precinct or county.

DIGEST: HJR 80 would propose an amendment to Art. 5, sec. 18, of the Texas Constitution to abolish the elected office of constable in Mills County and transfer the constable's powers, duties and records to the county sheriff.

The proposed constitutional amendment would be submitted to the state's voters at the November 7, 1995, election. The ballot proposal would read: "The constitutional amendment providing for the abolition of the office of constable in Mills County." The abolition of the constable office would take effect January 1, 1996, and the constitutional effective-date provision would expire January 2, 1996.

SUPPORTERS SAY: If HJR 80 is approved by the state's voters, Mills County would no longer be burdened with a constitutional office that local residents believe should be abolished. The Mills County commissioners court recently passed a resolution supporting the abolishment of the constable office.

The sheriff's office has adequate law enforcement personnel to patrol the Central Texas county, which has a low crime rate. In addition, the sheriff's office personnel can perform all duties and legal processes of the justice and district courts. Local taxpayers cannot justify the expense for the

operation of a constable office. In fact, the office of constable had gone unfilled for years in Mills County, until two years ago.

As long as the Constitution specifies that the office of constable continues to exist, any person can file for the office at the next election, run unopposed and fill it, regardless of whether the county or the majority of voters want or need an elected constable. Mills County would be obligated to provide office space, equipment, etc. for the elected constable.

**OPPONENTS
SAY:**

HJR 80 would take the unprecedented step of abolishing the office of constable in one of the 254 counties. County voters should not be denied the opportunity to directly elect their county constable, and constitutional offices should not be too easily abolished. At the very least local voters should have a say in whether the constable office in Mills County is abolished.

**OTHER
OPPONENTS
SAY:**

Adding a special provision to the Texas Constitution for abolition of the Mills County constable office would start yet another series of special exceptions tacked onto the Constitution for individual counties. An ongoing mechanism should be established, as now allowed for local option abolition of the office of county surveyor, that would allow voters or the local commissioners court by local option to abolish certain county offices without forcing the Legislature and voters statewide to make these decisions.

NOTES:

A related measure, HJR 132 by Craddick, Black, Siebert, which would allow local county offices to be abolished or reestablished with voter approval at elections called by the county commissioners court, has been referred to the House State Affairs Committee.