

SUBJECT: Authorizing the Legislature to prescribe qualifications of constables

COMMITTEE: County Affairs — favorable, without amendment

VOTE: 6 ayes — R. Lewis, Bonnen, Chisum, Christian, Denny, Gutierrez
0 nays
3 absent — Kamel, Flores, G. Lewis

WITNESSES: For — Billy H. Reeves and Jerry Kunkle, Justices of the Peace and Constables Association of Texas
Against — None
On — Wayne Green, Texas Texas Commission on Law Enforcement Officer Standards and Education

BACKGROUND : Art. 5, sec. 18 of the Texas Constitution provides for constables to be elected to four-year terms by the voters of each county except Mills, Reagan and Roberts, where the office has been abolished.

Constables are local peace officers with jurisdiction in their home county over all criminal and civil law enforcement matters. Although constables primarily serve as officers of county commissioners courts, they have the same authority as other licensed peace officers in Texas. There are no minimum qualifications for constables.

DIGEST: HJR 83 would allow the Legislature to prescribe qualifications for individuals holding the office of constable.

The proposal would be presented to voters at an election on November 4, 1997. The ballot proposal would read: “The constitutional amendment to allow the legislature to prescribe the qualifications of constables.”

**SUPPORTERS
SAY:**

HJR 83 and its implementing legislation, HB 2071, would allow for statewide minimum requirements to ensure constables have the basic qualifications necessary to satisfactorily carry out their duties.

Constables hold a position of public trust and responsibility, often serving as the law enforcement officers in many counties. Despite the amount of responsibility vested in them, however, constables are not required to meet any minimum eligibility requirements beyond those set for individuals seeking public office. HJR 83 would authorize, and HB 2071 would set, minimum qualifications for the office of constable to ensure they have the training needed to respond to law enforcement situations.

HJR 83 and HB 2071 would close a loophole in Texas law that allows a constable to hold office without meeting any of the minimum qualifications set for peace officers, even though they are required to be licensed as a peace officer within two years after taking office. By establishing qualifications, HJR 83 and HB 2071 would ensure that constables were eligible for licensing as peace officers. In 1993 the Legislature proposed, and the voters approved, a similar amendment to allow minimum qualifications to be set for sheriffs, and constables should also have to meet basic qualifications.

**OPPONENTS
SAY:**

The office of constable is constitutional, and county voters decide who will fill the office. Voters know the qualifications of the candidates they choose, and the decision on who is qualified to serve should be left to them, not the state.

The bill could pose problems for some sparsely populated rural counties that may have a hard time finding a resident with the necessary eligibility requirements who is willing to serve as constable. While the qualifications initially may be minimal, the door would be opened for stricter eligibility requirements in the future.

**OTHER
OPPONENTS
SAY:**

HJR 83 and HB 2071 could prevent experienced constables who may not meet new requirements from seeking re-election, potentially inconveniencing the communities that have come to depend on these officers.

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NOTES: The implementing legislation for HJR 83, HB 2071 by Gutierrez, is also on today's calendar.

Rep. Gutierrez plans to offer a floor amendment to HB 2071 to exempt from the requirements individuals who currently hold the office of constable and seek re-election.