SUBJECT: Requiring state boards to have an odd number of members

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 12 ayes — Wolens, S. Turner, Bailey, Brimer, Danburg, Hilbert, Hunter, D. Jones, Longoria, Marchant, McCall, Merritt

0 nays

3 absent — Alvarado, Counts, Craddick

WITNESSES: None

BACKGROUND: The Texas Constitution, art. 16, sec. 30a allows the Legislature to establish boards for educational, eleemosynary, or penal institutions with terms of up to six years, provided that one-third of the members are elected or appointed every two years. This provision sometimes is called the "the rule of three" because it has been interpreted to mean that such boards must be composed of a number of members divisible by three.

DIGEST: HJR 29 would amend art. 16, sec. 30a of the Constitution to allow a state board to be composed of an odd number of three or more members who would serve six-year terms, with one-third, or as near to one-third as possible, being appointed or elected every two years.

A temporary provision would require the Legislature to reconstitute any board that does not have an odd number of members to conform with this change no later than September 1, 2003. The temporary provision would expire September 1, 2005.

The proposed amendment would be presented to Texas voters at an election on November 2, 1999. The ballot proposal would read: "The constitutional amendment authorizing the legislature to provide that a state board, commission, or other agency shall be governed by a board composed of an odd number of three or more members."

SUPPORTERS SAY:

HJR 29 would clear up confusion that now exists about the Legislature's authority to compose a board or commission that is not divisible by three. In order to compose a board that has an odd number of members — to prevent ties when voting — and still is divisible by three, boards are now limited to three, nine, or 15 members.

To add members to an existing board, the Legislature now must add either three, six, or nine additional members. This requirement can inhibit the Legislature's discretion without good reason if it would like to add one or two members to represent a certain group to a board or to reapportion the representation on a board.

OPPONENTS SAY:

This amendment could disrupt the operation of many boards that now function well with an even number of members. To comply with this amendment, the Legislature would have to identify every board to which this provision might apply and add or subtract a member, perhaps disturbing current balances of competing interests on those boards.

OTHER OPPONENTS SAY:

This is yet another example of the unnecessary restrictions in the current constitution that could be remedied by the adoption of a new, streamlined constitution.