

SUBJECT: Single-member district option and residency waiver in smaller school districts

COMMITTEE: Public Education — committee substitute recommended

VOTE: 8 ayes — Sadler, Dunnam, Grusendorf, Hardcastle, Hochberg, Oliveira, Olivo, Smith

0 nays

1 absent — Dutton

WITNESSES: For — Judy Brown, Texas Association of School Boards and Council of School Attorneys; Cathy Douglass, Texas Association of School Boards; David Duty; Phil McCormick, Schleicher County Independent School District; Kimball Miller, Fort Davis Independent School District

Against — Nina Peralies, Mexican American Legal Defense and Education Fund

BACKGROUND: Education Code, sec. 11.052 authorizes a school district board of trustees to order that all seven trustees be elected by single-member district or that no less than 70 percent of the trustees be elected by single-member district and the rest be elected at-large, known as the “5-2” plan. The board must hold a hearing before adopting such a system. If at least 15 percent or 15,000 of the district’s registered voters, whichever is less, present a petition seeking a single-member district plan, the board must order an election on the issue.

When a school district adopts a single-member or “5-2” system, it may provide that trustees elected at-large under the former election system continue to serve for the unexpired portion of their terms. School districts also may choose this option after each redistricting of the single-member districts.

Candidates for school board trustee and elected trustees must be residents of the single-member district for which they run or serve.

Sec. 5 of the federal Voting Rights Act (42 U.S.C. 1973c) requires certain states, including Texas, and their political subdivisions to submit all proposed policy changes affecting voting and elections to the U.S. Department of Justice or the U.S. District Court for the District of Columbia for preclearance. A jurisdiction submitting a voting change has the burden of showing that the change does not have the purpose or effect of worsening the position of minority voters when compared to the plan in place previously, known as “retrogression.”

DIGEST:

CSHB 328 would allow a school board in a county with a population of less than 10,000, on its own motion, to adopt a “4-3” election plan, with not less than 50 percent of the members of the board of trustees elected from single-member trustee districts and the rest elected at-large. The same procedures for adopting such a system would apply as for other single-member systems, including a hearing before adoption and voter petition for an election to adopt the system.

Candidates and elected trustees in school districts adopting the “4-3” system would not have to be residents of a single-member district, but would have to be residents of the school district.

Any district adopting a form of single-member district system, including a “4-3” system, could allow trustees in office to serve their unexpired terms following adoption of a single-member system or after each redistricting.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2001.

SUPPORTERS
SAY:

Small school districts who choose single-member districts for trustee elections have limited population in each of the single-member districts. CSHB 328 would allow smaller school districts that are having difficulty filling trustee positions the option of increasing the size of the individual school-trustee districts.

For example, a district with a total population of 3,500 that chooses a “5-2” plan has five single-member districts, with approximately 700 persons in each district. Only a portion of those persons will be eligible or have the

desire to run as a candidate. If the same district chooses a “7-0” plan, the candidate pool is further reduced to about 500 persons in each single-member district. By allowing the option of a “4-3” plan, CSHB 328 would increase the candidate pool to about 875 persons. In small districts, this could make a big difference in recruiting candidates to serve, yet still allow the advantages of single-member districts.

Another means of addressing the problem that some small school districts face would be to eliminate the residency requirement for single-member district candidates and trustees. For small districts choosing a “4-3” plan, candidates and trustees could live anywhere within the school district boundaries and would not have to live in the single-member district for which they sought election. The voters who reside in each single-member district would still decide who would be elected.

The federal Voting Rights Act would not be a concern under CSHB 328. Some small school districts may be more inclined to adopt a single-member district system that would enhance minority voting influence if they had another option such as a “4-3” system. Districts still would have to be drawn in a fashion that did not dilute the opportunity of minority voters to vote for candidates of their choice. Nor would the lack of a residency requirement significantly affect minority voting rights. In a majority-minority district, voters would not lose their ability to elect candidates of their choice, regardless of the residency of the candidate.

School districts are trustee governments rather than representative governments. Regardless of whether a particular trustee is elected by only the voters in an single-member district, that trustee still answers to all of the students, parents and taxpayers in the whole school district.

It is important to ensure experience on school boards, which have important fiscal and operational duties. Allowing a phase-in to single-member districts prevents election of all new board members who would take office and immediately face adopting a budget in July and August and having to set a tax rate by September 30. Also, it is important to prevent the early termination of board member’s terms. If all board members have to be up for election after a redistricting, then board members’ terms will be cut short.

These board members will again have to take the time and expense to run for office after serving only one or two years of their terms.

OPPONENTS
SAY:

CSHB 328 could violate the federal Voting Rights Act by diluting the opportunity of minority voters in single-member districts to elect candidates of their choice. Reducing the number of single-member districts and replacing them with at-large seats could be vulnerable to a Department of Justice preclearance challenge. According to the U.S. Supreme Court, any redistricting plan would be considered to be retrogressive if the new plan had the purpose or effect of worsening the position of minority voters when compared to the plan in place before. Given the demographics of certain school districts, CSHB 328 could decrease the influence of minority voters in certain districts if the number of single-member districts was reduced.

Eliminating the residency requirement for single-member districts would be contrary to the representative form of government. If the residency requirement were relaxed, there would be little purpose in having single-member districts. All of the candidates might as well be elected at large.

OTHER
OPPONENTS
SAY:

A better alternative to address the lack of candidates in smaller school districts would be simply to relax the residency requirement, as one of the provisions in CSHB 328 would do. This would help avoid problems under the federal Voting Rights Act from reducing the number of single-member districts.

NOTES:

The committee substitute added the provision allowing a candidate or trustee seeking to represent a single-member district not to be a resident as long as they were a resident of the school district. It also added the provision that if a redistricting plan was adopted by the board of trustees, trustees could serve their unexpired terms.

The companion bill, SB 166 by Madla, was referred to the Senate Education Committee on January 11.