

SUBJECT: Canceling a special election if a legislative candidate is unopposed

COMMITTEE: Elections — favorable, without amendment

VOTE: 6 ayes — Danburg, J. Jones, Denny, Hodge, Madden, Truitt
0 nays
3 absent — Gallego, Sadler, Wilson

WITNESSES: None

BACKGROUND: Election Code, Chapter 146 requires that to appear on a list of write-in candidates for an election, a candidate must make a declaration of write-in candidacy with the appropriate authority. Chapter 2 allows political subdivisions other than counties (municipalities, school districts, and certain water districts) that require write-in candidates formally to declare their candidacy to cancel a general election and declare the unopposed candidate the winner if there are no declared write-in candidates, no opposed candidates, and no propositions on the ballot. This provision does not extend to special elections to fill vacancies in the Legislature.

DIGEST: HB 831 would amend the Elections Code by authorizing the secretary of state (SOS) to declare an unopposed candidate the winner in an election to fill a vacancy in the Legislature if there are no opposed candidates, no propositions on the ballot, and no declared write-in candidates. If the SOS declared an unopposed candidate elected, the election would be canceled and a notice of the cancellation would have to be posted on election day at every polling place. The SOS would have to issue a certificate of election to each candidate as if the candidate had been elected at the election.

Write-in candidates in special elections to fill vacancies in the Legislature would have to declare their candidacy with the SOS by 5 p.m. of the fifth day after the filing deadline for a place on the ballot. Any votes received for a write-in candidate not on the list of write-in candidates could not be counted.

HB 831 would take effect January 1, 2002, but only if the 77th Legislature proposes, and Texas voters approve, a constitutional amendment to authorize filling vacancies in the Legislature without an election if a candidate is running unopposed.

**SUPPORTERS
SAY:**

HB 831 would spare the state and counties the unnecessary expense and administrative duties of holding a special election to fill a vacancy in the Legislature when a candidate is unopposed. For example, Denton County spent more than \$12,000 for a special election in which only one candidate ran to replace the late Rep. Ronny Crownover. HB 831 would allow unopposed candidates to take office without the expense and administrative inconvenience of unnecessary special elections.

This bill would not discourage anyone from running for office, nor would it interfere with anyone's voting rights. If a candidate is unopposed, the race is essentially decided. Anyone who desires to become a candidate after the close of the filing period has ample time in which to declare a write-in candidacy. Under current law, if there is an unopposed candidate on the ballot, the election becomes an expensive formality.

Art. 3 of the Texas Constitution sets forth the manner in which legislative candidates are elected to office and requires that senators and representatives be elected. Any proposal to cancel a special election to fill a vacancy in the Legislature would require a constitutional amendment. HB 831 would take effect only if the Legislature adopts, and the voters approve, such an amendment.

**OPPONENTS
SAY:**

Canceling a special election and restricting write-in candidates would deprive voters of their right to vote for candidates of their choice. Canceling a special election also would deprive candidates of the opportunity to gain visibility by campaigning to get their message to the voters. Even if voter turnout is low because there is only one candidate on the ballot, those who took the time to vote are exercising their right to make informed choices for the candidates they want to represent them.

NOTES:

HJR 47 by Madden/Crownover, the proposed constitutional amendment for which HB 831 would be the enabling legislation, was reported favorably without amendment by the House Elections Committee on February 28.

A similar bill, HB 444 by Madden, regarding write-in candidacy requirements for city special elections, passed the House on second reading yesterday and was scheduled for third reading consideration today.