

SUBJECT: Election date for charter amendments in home-rule municipality

COMMITTEE: Elections — committee substitute recommended

VOTE: 5 ayes — Denny, Howard, Bohac, Harper-Brown, Uresti

1 nay — Coleman

1 absent — Deshotel

WITNESSES: For — George Hammerlein, Harris County Tax Office; Bruce Hotze, Let the People Vote; Barry Klein; *(Registered, but did not testify:)* Mike Ford, Initiative for Texas

Against — Don Cheatham, City of Houston; *(Registered, but did not testify:)* Ricardo Armendariz, City of El Paso

On — Cliff Borofsky; *(Registered, but did not testify:)* Ann McGeehan, Secretary of State's Office

BACKGROUND: A home-rule city with more than 5,000 inhabitants derives its power from Texas Constitution, Art. 11, sec. 5. Adoption or amendment of city charters is subject to and limited only by the the constitution or the general laws enacted by the Legislature. Home-rule municipalities may adopt, amend, or repeal the city charter every two years.

Local Government Code, ch. 9 allows a municipal governing body to submit a proposed charter amendment to voters if the submission is supported by a petition signed by at least 5 percent of qualified voters or 20,000, whichever is less.

A charter amendment election must be held on the first authorized uniform election date prescribed by the Election Code or on the earlier of next municipal or presidential general election date. Proposed charter changes may include a variety of issues, including changes in zoning ordinances, term limits, and tax limitations.

DIGEST: CSHB 2183 would amend the Local Government Code to require that a proposed charter amendment election be held on the first authorized uniform election date prescribed by the Election Code.

The bill would take effect September 1, 2003.

SUPPORTERS SAY: CSHB 2183 would expedite initiatives for citizens of home-rule cities by requiring that charter amendment elections be held on the next available uniform election date. Current law gives the municipal governing body too much flexibility by allowing it to decide when to put proposed charter change amendments on the ballot. The authority to hold such elections on the next general election date, added in 1997, should be repealed, because it allows the will of the people to be delayed and manipulated.

Since the Constitution allows charter changes only every two years, it is important that citizen initiatives be voted on as soon as possible. Under current law, proposed charter change amendments can take up to three years to get on the ballot, even under the best of circumstances. For example, citizens may submit a petition at any point during the year, hoping to get on the next available election date that year. If the city is hostile to the proposal, the governing body can decide to delay its election in order to wait for another date that could be more advantageous, such as an election date that typically has a lower voter turnout. That delay can push the election into the next year. Since the city charter can be changed only every two years, the delay can add another year.

Stand-alone elections cost extra money, but democracy and the right to initiative and referendum are basic rights for the residents of a home-rule city, regardless of the cost. The cost of an election is no excuse for preventing citizens' voices from being heard as soon as possible.

The provisions of CSHB 2183 would become even more necessary if the number of uniform elections dates in Texas is reduced from four to two, as currently proposed in HB 872 by Denny.

OPPONENTS SAY: CSHB 2183 would take away the flexibility that current law gives a home-rule city. Citizen initiatives are important, and their value cannot and should not be diminished, but stand-alone elections are very costly. The decision

when to hold an election should be left up to the local officials who were elected to make those decisions. Officials need the flexibility to be able to consider the budgetary circumstances of their localities and assess the community interest. All Texas cities, not only home-rule cities, are feeling the effects of budget tightening. A stand-alone election in a large municipality can cost between \$1.2 million and \$1.5 million in taxpayer dollars. Home-rule cities' flexibility would be reduced even more if the number of uniform election dates was reduced from four to two.

Citizens can begin promoting a petition at any time during the year; no law prohibits when they can begin their efforts. Interested groups can ensure that their voices are heard as soon as possible by beginning early to collect the required signatures and submit their petitions, keeping in mind that it takes time to process the petition, including verifying signatures, if necessary.

NOTES:

The committee substitute changed the effective date from immediate effect to September 1, 2003, and conformed to Texas Legislative Council drafting style.

HB 872 by Denny, which would limit uniform election dates to the third Saturday in May and the first Tuesday after the first Monday in November, passed the House on April 3 and was referred to the Senate State Affairs Committee on April 9.