

SUBJECT: Elections for proposed charter amendments in home-rule municipalities

COMMITTEE: Elections — favorable, without amendment

VOTE: 6 ayes — Denny, Bohac, Anchia, Anderson, Hughes, J. Jones

0 nays

1 absent — T. Smith

WITNESSES: For — Fred Lewis, Campaigns for People

Against — Don Cheatham, City of Houston

On — (*Registered, but did not testify:* Elizabeth Hanshaw Winn, Secretary of State's Office)

BACKGROUND: A home-rule city with more than 5,000 inhabitants derives its authority from Texas Constitution, and adoption or amendment of city charters is subject to and limited only by the constitution or general laws enacted by the Legislature. Home-rule municipalities may adopt, amend, or repeal a city charter only 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. Proposed charter changes may include a variety of issues, including changes in zoning ordinances, term limits, and tax limitations.

In 1997, the 75th Legislature enacted HB 331 by Danburg, which requires charter amendment elections be held on the first authorized uniform election date prescribed by the Election Code or on the earlier of the next municipal or presidential general election date. Before that, charter amendment elections were held on the first authorized uniform election date prescribed by the Election Code.

DIGEST: HB 652 would require that a proposed charter amendment election be held on the first authorized uniform election date prescribed by the Election

Code. If more than one such amendment were submitted at an election, the amendments supported by petitions signed by the required number of qualified voters of a municipality would appear on the ballot before other amendments.

The bill would take effect September 1, 2005.

**SUPPORTERS
SAY:**

HB 652 would expedite initiatives for citizens of home-rule cities by requiring that charter amendment elections be held on the next available uniform election date. The bill also would allow amendments supported by citizen petitions to appear on ballots ahead of other amendments.

Municipal governing bodies now have too much flexibility to decide when to put proposed charter change amendments on ballots. The authority to hold such elections on the next general election date, added in 1997, should be repealed, because it allows the will of the people to be manipulated and delayed. The previous law authorizing charter amendment elections to be held on the first authorized uniform election date prescribed by the Election Code worked well for more than 80 years and should be reinstated.

Because the Constitution allows charter changes only every two years, it is important that citizen initiatives be voted on as soon as possible. Proposed charter amendments now can take up to three years to get on a ballot under the best of circumstances. 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 delay its election to wait for another date that could be more advantageous, such as an election date that typically has a lower voter turnout. That can push the election into the next year. Because the city charter can be amended 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 fundamental for residents of home-rule cities, regardless of cost. Cost is no excuse for preventing citizens' voices from being heard as soon as possible. If the state reduces the number of uniform election dates from four to two, as proposed, the cost argument would be greatly diminished.

The bill's provision on where to place amendments on ballots would reduce the chance that ballot placement could be used to affect the

outcome of a proposed charter amendment. Currently, if a home-rule city does not want a petition-driven charter amendment to pass, officials can move the proposed amendment to the end of the ballot, knowing that voter ballot fatigue might help their version pass over the citizens' version. However, with enough public support for a petition-driven amendment to get on the ballot, it ought to carry more weight and be placed ahead of other amendments.

Municipalities should not be allowed to interfere with the will of the people by postponing unreasonably these elections or burying citizen amendments on the ballot. HB 652 would give people a voice by permitting timely votes on petition-driven charter amendments and making sure they receive priority ballot placement.

**OPPONENTS
SAY:**

This bill would take away the flexibility that current law grants to home-rule cities. Citizen initiatives are important, but stand-alone elections are costly. A stand-alone election in a large municipality can cost between \$1.2 million and \$1.5 million in taxpayer dollars.

When to hold an election should be left up to local officials who were elected to make such decisions. Most governing bodies are sensitive to the needs of their communities, but officials should be able to consider the budgetary circumstances of their localities and assess community interest. All Texas cities, not only the 290 home-rule cities, are experiencing the effects of budget tightening. A city-wide election would cost the city of Houston \$2.5 million, whether it was for a full slate or one proposed charter amendment, and would need considerable planning.

Citizens can promote petitions at any time during the year, so interest groups can ensure that their voices are heard as soon as possible by beginning early to collect the required signatures and submitting their petitions, keeping in mind that it takes time to process such petitions, including verifying signatures.

The bill's ballot order provision would be an unnecessary departure from long-held practice. The change would not make that much difference because most governing bodies do not try to manipulate outcomes. The suggestion that voters grow weary before completing a ballot is not substantiated. People vote on the merits of an issue regardless of an amendment's location on the ballot.

NOTES:

According to the fiscal note for HB 652, election costs per local government would vary depending on the number of registered voters. If the first authorized uniform election were a general election date, a local government likely would not experience a significant cost because the state would pay the majority of the costs. If the first authorized uniform election were a uniform election date other than a general election date, the local government would incur the full costs associated with conducting an election.

A related bill, HB 2751 by Hartnett, which would require that notice of elections for proposed charter amendments include estimates of the anticipated fiscal impacts to municipalities, was reported favorably, as substituted, by the Elections Committee on April 22.