

**SUBJECT:** Requiring certain counties to call local-option elections on sale of alcohol

**COMMITTEE:** Licensing and Administrative Procedures — favorable, without amendment

**VOTE:** 8 ayes — Flores, Geren, Chisum, Goolsby, Hamilton, Homer, D. Jones, Quintanilla

0 nays

1 absent — Morrison

**SENATE VOTE:** On final passage, May 3 — voice vote

**WITNESSES:** No public hearing

**BACKGROUND:** Texas Constitution, Art. 16, sec. 20 empowers the Legislature to enact a law regulating mixed alcoholic beverages on a local-option basis and to enact laws allowing the qualified voters of a county, justice of the peace precinct, or incorporated town or city to decide whether alcoholic beverages are legal within the subdivision's boundaries.

Alcoholic Beverage Code, sec. 251, allows "dry" areas to hold local-option elections to legalize the sale of one or more types of alcoholic beverages for on- or off-premise consumption. To request a local-option election on the sale of alcoholic beverages, 10 or more qualified voters must file an application with the county clerk for the clerk to issue a petition to collect the needed signatures. A local-option election on the sale of mixed beverages in a restaurant requires a petition containing the signatures of 35 percent of the political subdivision's registered voters who voted in the most recent gubernatorial election. Petitioners have 60 days to collect the signatures.

The 78th Legislature in 2003 enacted HB 1199 by Krusee, which changed procedures for a petition calling for a local-option election on alcoholic beverage sales; created a criminal penalty for misstating the purpose of a local-option election petition; set different thresholds for the number of signatures needed to call an election; extended the time required to collect

signatures; and authorized elections in any city or town located in two or more counties.

**DIGEST:**

SB 1246 would amend Alcoholic Beverage Code, ch. 251, to require an election to be held in a county with a population of more than 1.4 million or an adjacent county if the sale of mixed beverages in restaurants was not legal in all or part of the county. An election on "the legal sale of mixed beverages in restaurants by food and beverage certificate holders only" would be held during the first uniform election after September 1, 2005.

Before the second anniversary of a local option election authorizing the sale of mixed beverages in restaurants in a qualifying county, restaurants that held private club registration permits could be issued mixed beverage permits with food and beverage permits at the time the private club permit was eligible for renewal if the application were approved by a vote of the private club's members. State and local fees would be assessed as if the private club permits were mixed beverage permits. The permit holder would not have to maintain security fees required by Tax Code, sec. 183.053, that exceeded the amount that would have been required for a private club permit.

The bill would take effect September 1, 2005.

**SUPPORTERS  
SAY:**

SB 1246 would allow 10 populous urban and suburban Texas counties to hold immediate local option elections to consider allowing mixed beverage sales in restaurants without first having to meet petition requirements in current law. Meeting the petition requirements of collecting signatures from 35 percent of voters within 60 days is virtually impossible in these counties. By requiring an immediate election, SB 1246 would allow voters in these counties to either approve or disapprove mixed beverages in restaurants without having to meet onerous petition requirements. The bill would preserve the local option, and voters would still be able to reject the practice of selling mixed beverages in restaurants. The bill would not create additional costs for local governments because the issue would have to be voted on in an election that would be held anyway.

OPPONENTS  
SAY:

The petition requirements in current law are designed to ensure that a majority of voters want this issue to be considered. By requiring that a vote be held during the next election, the bill would take away the local option aspect of current law.