

- SUBJECT:** Local option elections regarding sale of alcoholic beverages
- COMMITTEE:** Licensing and Administrative Procedures — committee substitute recommended
- VOTE:** 8 ayes — Flores, Geren, Chisum, Goolsby, Hamilton, Homer, D. Jones, Quintanilla  
0 nays  
1 absent — Morrison
- SENATE VOTE:** On final passage, April 28 — 31-0, on Local and Uncontested Calendar
- WITNESSES:** No public hearing
- BACKGROUND:** Texas Constitution, Art. 16, sec. 20, empowers the Legislature to enact a law regulating mixed 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.
- The 77th Legislature in 2001 enacted HB 892 by Swinford and HB 1948 by Keel, allowing local option elections on the sale of wine at a winery. In 2003, the 78th Legislature enacted HB 1199 by Krusee, et al, which, among other provisions, gives petitioners 60 days, rather than 30, to collect the required number of signatures on a petition for a local option election regarding the sale of alcoholic beverages and provides standards for the number of signatures for such a petition. Alcoholic Beverage Code, sec. 251.11(a), states that a petition has to include a number of signatures equal to 35 percent of registered voters in the political subdivision to a call a local-option election to allow or prohibit the sale of:
- all alcoholic beverages for off-premise consumption only;
  - all alcoholic beverages, except mixed beverages;
  - all alcoholic beverages, including mixed beverages; or
  - mixed beverages.

Petitions for local option elections on the sale of wine at wineries requires a number of signatures equal to 25 percent of those who voted in the most recent general election. Petitions for local option elections on the sale of alcoholic beverages at restaurants, grocery stores, and convenience stores have to have signatures equal to 35 percent of those who voted in the most recent gubernatorial election.

**DIGEST:**

CSSB 1626 would amend Alcoholic Beverage Code, sec. 251.11(a) to change one of the three formulas for necessary signatures on a petition requiring a commissioners court to order a local option election regarding the sale of alcoholic beverages. The bill would specify that a petition requiring a local option election regarding the sale of all alcoholic beverages or mixed beverages would have to contain signatures of 35 percent of registered voters in a political subdivision who voted in the most recent gubernatorial election, rather than requiring 35 percent of all registered voters in the subdivision.

Subject to sec. 251.81 authorizing the sale of wine up to 14 or 17 percent alcohol, the bill also would allow a wine only package store permit to be issued for premises in an area where the sale of wine had been legalized by a local option election.

The 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, 2005 and would apply only to a local option election for which an application for a petition was filed on or after the effective date.

**SUPPORTERS  
SAY:**

CSSB 1626 would change the number of signatures on a petition requiring a local option election on sales of alcoholic beverages from 35 percent of registered voters in a political subdivision to 35 percent of the registered voters in the subdivision who voted in the last gubernatorial election. Current law provides three different standards regarding the number of signatures on a petition calling for a local option election. The highest threshold, 35 percent of registered voters in a county, city, or justice of the peace precinct, has proven overly burdensome to a number of communities wishing to hold elections to allow the sale of alcohol at package stores, especially when compared to the lower requirements for beer and wine outlets and wineries. The highest standard has proven to be almost insurmountable in many communities that might want to conduct elections to permit the sale of distilled spirits for off-premise or on-

premise consumption. CSSB 1626 would make the signature requirement for all alcoholic beverages and mixed beverages the same as the standard for wine and beer elections, except wineries.

Further, the bill would clarify that the Texas Alcoholic Beverage Commission could issue licenses to wine-only package stores in areas where an election authorized the sale of wine, but not the sale of wines over 14 to 17 percent alcohol. The bill would make clear that a wine-only package store could receive a permit in areas already "wet" for wine if the permit bore a restriction prohibiting the sale of higher proof wines that were not authorized under the election.

OPPONENTS  
SAY:

By lowering the threshold of required signatures for a petition regarding the sale of alcoholic beverages, CSSB 1626 could lead to a rash of petitions requiring costly elections.

NOTES:

The committee substitute differs from the Senate-passed version by allowing a wine-only package store permit to be issued, subject to restrictions that the wines could not be more than 14 to 17 percent alcohol, in an area where the sale of wine was approved by a local option election.

The companion bill, HB 2994 by Kuempel, which would change the signature requirements for petitions for all local option elections regarding the sale of alcoholic beverages to 25 percent of those who voted in the most recent general election, was referred to the Licensing and Administrative Procedures Committee.