(The House considered SB 935 by Seliger, the Senate companion bill, in lieu of HB 423, the House version of the bill, which had been set on the daily calendar and was analyzed by the House Research Organization. The bill subsequently was enacted as SB 935.)

HOUSE RESEARCH ORGANIZATION bill analysis 5/8/2009 HB 423 Guillen

SUBJECT: Authorizing municipal court judges to conduct marriage ceremonies

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Hunter, Hughes, Alonzo, Branch, Hartnett, Leibowitz, Lewis, Madden, Martinez

0 nays

2 absent — Jackson, Woolley

WITNESSES: For — Missy Medary; Bob Richter; Robin Smith, John Vasquez, Texas Municipal Courts Association; (*Registered, but did not testify*: Katherine Peake; Joyce Spisak)

Against — None

BACKGROUND: Family Code, sec. 2.202(a) authorizes an officer of a religious organization and almost all federal, state, and county judges to conduct marriage ceremonies.

DIGEST: HB 423 would authorize municipal judges to conduct marriage ceremonies.

The bill would apply only to marriage ceremonies conducted on or after its September 1, 2009, effective date.

SUPPORTERS SAY: HB 423 would make it easier for Texas residents to marry by expanding the availability of judicial officers who could conduct marriage ceremonies. Currently, residents living in sparsely populated areas face limitations on the choice and availability of persons authorized to perform marriages. The bill would benefit those residents by giving them an additional option when deciding who will perform their wedding.

Excepting municipal judges from conducting marriage ceremonies makes

little sense given the variety of duties these judges already are authorized to perform. These responsibilities include domestic violence cases, juvenile crimes, traffic citations, and other matters. By extending to municipal judges the authority to perform a marriage ceremony—an important, though relatively simple task—this bill would enable these judges to better serve their communities.

The argument that the privilege of conducting marriage ceremonies should be restricted to only elected judicial officials is misplaced for three reasons. First, it fails to explain why the responsibility of conducting a marriage ceremony should be considered in a different way than the responsibilities already granted to municipal judges. Second, it downplays the existing ways by which municipal judges are held accountable for their performance. Although not directly elected by voters, municipal judges are accountable to the elected city officials who appoint (and remove) them. Third, it does not adequately address the discrepancy in current law allowing unelected federal judges and federal magistrates to conduct marriages but prohibiting municipal judges from doing so.

OPPONENTS SAY:

HB 423 would improperly grant an important civil function to unelected municipal judges, who do not receive the same level of public scrutiny and accountability as their elected counterparts. Because municipal judges are appointed and not elected, the voting public has no way to hold municipal judges directly accountable for their actions. The authority to conduct marriage ceremonies should come with the condition of public accountability through direct election, and this bill would exempt municipal judges from that requirement.

NOTES:

The companion bill, SB 935 by Seliger, passed the Senate by 30-0 on April 23 and has been referred to the House Judiciary and Civil Jurisprudence Committee.

HB 319 by West, considered by the 80th Legislature in 2007 but not enacted, would have authorized municipal judges to conduct marriage ceremonies only in municipalities with populations of 15,000 or less.