

SUBJECT: Filling vacancies on the governing bodies of home-rule cities

COMMITTEE: Urban Affairs — favorable, without amendment

VOTE: 5 ayes — Dutton, Alvarado, Elkins, Leach, J. Rodriguez
1 nay — Sanford
1 absent — Anchia

WITNESSES: For — Matt Ruszczak, Greater Mission Chamber of Commerce, City of Mission, Texas
Against — None

BACKGROUND: Section 11, Article XI of the Texas Constitution prohibits a city with terms of office between two and four years from filling vacancies by appointment. Instead, cities must fill vacancies by majority vote during a special election held within 120 days after the start of the vacancy.

Local Government Code, sec. 26.045, requires a municipality with a population of 1.5 million or more to fill a city government vacancy by special election if there are more than 270 days left before the next general election. The special election is held in the district in which the vacancy occurred or in the entire municipality if the vacancy was in an at-large position.

Home-rule municipalities have a population of more than 5,000 and have adopted a home-rule charter.

DIGEST: HB 1372 would remove from the requirements of Local Government Code, sec. 26.045 a municipality with a population of 1.5 million or greater that had adopted by charter or charter amendment a different procedure for filling a city government vacancy for which the unexpired term was 24 months or less.

The bill would take effect on the date the voters approved HJR 87, which would amend the Texas Constitution to authorize a home-rule municipality to provide in its charter a procedure to fill a vacancy on its

governing body with an unexpired term of 12 months or less. If HJR 87 were not adopted by the 83rd Legislature and approved by the voters, HB 1372 would have no effect.

**SUPPORTERS
SAY:**

In conjunction with voter approval of HJR 87 by Muñoz, HB 1372 would allow citizens of home-rule cities to decide through their charters how to fill short-term vacancies in city elected offices that had terms longer than 12 months. Before its passage by the House on April 26, HJR 87 was amended to reduce from 24 months to 12 months the maximum length of the unexpired term for a vacancy that could be filled under the provisions of the resolution. The author plans to introduce a floor amendment that would conform HB 1372 to the engrossed version of HJR 87 by changing the unexpired term language from “24 months or less” to “12 months or less.”

HB 1372 is both enabling and conforming legislation that would align the Local Government Code with the amendment to the Constitution proposed by HJR 87. By creating an exception to the provisions of sec. 26.045, the bill would allow a municipality with a population of 1.5 million or greater (Houston) to decide through its charter to fill short-term vacancies by appointment, which would be authorized by voter approval of HJR 87. Currently, Houston must spend taxpayer money to order a special election to fill any governing body vacancy. The bill simply would make the application of the proposed constitutional amendment even across all home-rule municipalities.

Neither HB 1372 nor HJR 87 would invite corruption or erode democracy. These measures would preserve democratic accountability because the cities affected by both still would have to hold regular elections as usual after the expiration of an appointed official’s term.

**OPPONENTS
SAY:**

HB 1372 would increase the opportunity for corruption in local government by allowing city officials to appoint one another. Voting and elections are essential functions of government and are the best way to ensure democratic accountability. The cost of special elections is a small price to pay for democracy.

NOTES:

HB 1372 is the enabling legislation for HJR 87 by Munoz, which would propose an amendment to authorize a home-rule municipality with city government terms longer than two years to provide in its charter the procedure to fill a vacancy on its governing body with an unexpired term

of 12 months or less. HJR 87 was passed by the House and was reported engrossed on April 26.