

SUBJECT: Constitutionally allowing cities to decide how to fill vacant elected seats

COMMITTEE: Urban Affairs — favorable, without amendment

VOTE: 4 ayes — Dutton, Alvarado, Elkins, J. Rodriguez
2 nays — Leach, Sanford
1 absent — Anchia

WITNESSES: For — (*Registered, but did not testify:* Scott Houston, Texas Municipal League; Matt Ruszczak, Greater Mission Chamber of Commerce)
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.

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

DIGEST: HJR 87 would propose an amendment to allow a home-rule city to specify through its charter the procedure to fill a vacancy in city government that had an unexpired term of 24 months or less.

The proposal would be presented to the voters at an election on Tuesday, November 5, 2013. The ballot proposal would read: “The constitutional amendment authorizing a home-rule municipality to provide in its charter the procedure to fill a vacancy on its governing body for which the unexpired term is 24 months or less.”

SUPPORTERS SAY: HJR 87 would cut taxpayer costs while preserving accountability by allowing citizens of home-rule cities to have the power to decide through their charter how to fill a short-term vacancy in city elected office. Under current law, when an elected official passes away or otherwise leaves office, the Constitution requires cities to hold a special election to fill the seat within 120 days, even if only a few months remain in the term.

Taxpayers unnecessarily pay tens of thousands of dollars to hold special elections only a few months before a regular election. A number of Texas' roughly 360 home-rule cities have already voted to amend their charters to allow appointment as a way to fill short-term vacancies, but the Constitution prohibits them from implementing those amendments.

An affirmative vote on HJR 87 would simply allow citizens of Texas' hundreds of home-rule cities to decide through their charters how they wanted to fill vacancies. HJR 87 would preserve democratic accountability, as cities still would have to hold elections as usual after the expiration of an appointed official's term.

OPPONENTS
SAY:

The Constitution should not be altered to allow a home-rule city to specify through its charter the procedure to fill certain vacancies in city government with unexpired terms. Voting and elections are essential functions of government and the best way to ensure democratic accountability. HJR 87 could increase the opportunity for corruption in local government by allowing city officials to appoint one another. The cost of special elections is a small price to pay to ensure accountability.

NOTES:

According to the Legislative Budget Board, the state would pay \$108,921 to publish the resolution.

HB 1372, the enabling legislation for HJR 87, would allow home-rule cities to choose a different procedure than provided for in the Constitution for filling a city government vacancy of 24 months. It is set for the House General State Calendar on April 30.