

SUBJECT: Removing authority of political parties to determine ballots

COMMITTEE: Elections — committee substitute recommended

VOTE: 7 ayes — Smith, Bucy, Burrows, Capriglione, DeAyala, Manuel, Swanson

0 nays

2 absent — E. Morales, Vo

WITNESSES: For — David Luther, Texas Republican Chairmans Association; James Dickey; Kathy Haigler; Susan Johnson; Eric Opiela; Dwayne Wright (*Registered, but did not testify*: Stacy McMahan, East Texans for Liberty; Beth Cubriel; Russell Hayter; Sherri Heckendorn)

Against — Clark Patterson, Libertarian Party; Cindi Castilla, Texas Eagle Forum; Robert L. Green, Travis County Republican Party and its Election Integrity Committee for Legislation; Joe White (*Registered, but did not testify*: Angela Smith, Fredericksburg Tea Party; Andrew Amelang, Libertarian Party of Texas; Jill Glover, Chad Shoemake, Republican Party of Texas; John Beckmeyer, RPT; Ken Moore, SREC; Andrew Eller, State Republican Executive Committee SD24; and seven individuals)

On — Marco Orrantia, Texas Democratic Party; Christina Adkins, Texas Secretary of State (*Registered, but did not testify*: Katya Ehresman, Common Cause Texas; Cynthia Van Maanen, Travis County Democratic Party)

BACKGROUND: Under Election Code sec. 162.002, a person is eligible to affiliate with a political party if they are a registered voter or eligible to vote a limited ballot at the time of affiliating.

DIGEST: CSHB 1635 would prohibit a party official from denying a person eligible to affiliate with a political party the ability to affiliate.

The bill would make void and unenforceable a political party's rule that conflicted with state or federal law. Additionally, rules adopted by the state executive committee of each political party holding a presidential primary election would be required to be consistent with national party rules. The authority with whom an application for a place on the general primary election ballot was filed would review the application to determine whether the application complied with state or federal law.

CSHB 1635 would remove the ability for the county executive committee to determine that the drawing of names for a general primary ballot be conducted by the primary committee. Additionally, the county chair, rather than the executive committee, would be required to supervise the overall conduct of a primary election in each county.

CSHB 1635 would prohibit a political party from using a primary fund to pay expenses relating to a primary election if that party had authorized a party official to reject an application for a place on the primary ballot or declare a candidate ineligible for any reason not specified under state or federal law. Additionally, any funds disbursed to the primary fund of a political party used in such a way would be sent to the secretary of state immediately on request and deposited in the state treasury to finance primary elections.

CSHB 1635 would repeal provisions requiring the establishment of a primary party committee in each county that has party county executive committee and provisions requiring a party's county chair to submit the format for the official primary election ballot to the primary committee for its review and approval.

The bill would take effect September 1, 2023.

**SUPPORTERS
SAY:**

CSHB 1635 would ensure that primary voters could decide who was on a ballot rather than political party leadership. By eliminating the ability for a party to remove eligible candidates from a primary ballot, the bill would make certain that voters could consider all candidates qualified to run.

By requiring the county chair to supervise primary elections, CSHB 1635 would ensure that the election process was objective. The bill would protect the integrity of Texas primaries by closing potential loopholes for bad actors to make rules that could compromise these elections.

With frequent turnover of party chairs, CSHB 1635 would address inconsistencies and misinterpretations stemming from partisan rulemaking by removing a parties' authority to manage primary ballots. CSHB 1635 would codify standard practices for the Republican and Democratic parties and simplify the process for candidates.

CSHB 1635 would not infringe upon an individual's right to freedom of association, as this right is not absolute and exceptions have been provided by The U.S. Supreme Court for the necessity of government regulation of the election process.

CRITICS
SAY:

CSHB 1635 would allow the government to intervene in party politics, which would be an over-step as parties are private entities that should be kept separate from the government. Parties may know more about candidates than general voters and could make a more informed decision about a candidate's eligibility. CSHB 1635 would limit a party's ability to apply its informed discretion and established party values to a candidate in a primary ballot. The supervision of primary elections should remain with the executive committee rather than the county chair. CSHB 1635 also could infringe upon a party member's right to freedom of association by prohibiting political parties from removing a candidate from a primary ballot.