

SUBJECT: Canceling election in a political subdivision if candidate is unopposed

COMMITTEE: Elections — favorable, without amendment

VOTE: 6 ayes — Denny, Howard, Bohac, Coleman, Harper-Brown, Uresti

0 nays

1 absent — Deshotel

WITNESSES: For — *(Registered but did not testify:)* Seth Mitchell, Bexar County
Commissioners Court

Against — None

On — *(Registered but did not testify:)* Elizabeth Hanshaw Winn, Secretary of
State; Jesse Lewis, Republican Party of Texas

BACKGROUND: When candidates are unopposed for election, Election Code, ch. 2 allows political subdivisions, other than counties, that require write-in candidates to declare formal candidacy to cancel an election and declare the unopposed candidate elected if there are no declared write-in candidates, no opposed candidates, and no propositions on the ballot. This provision also extends to a special election to fill a vacancy in the Legislature, as authorized by an amendment to Texas Constitution, Art. 3, sec. 13 (HJR 47 by Madden) approved by the voters in 2001.

DIGEST: HJR 59 would amend the Constitution by adding Art. 16, sec. 13A to authorize the Legislature to permit a person to assume an office of any political subdivision without an election, if the person was the only candidate to qualify in an election held for that office.

The proposed amendment would be presented to voters at an election on Tuesday, November 4, 2003. The ballot proposal would read: “The constitutional amendment authorizing the legislature to permit a person to assume an office of a political subdivision without an election if the person is the only candidate to qualify in an election for that office.”

**SUPPORTERS
SAY:**

By allowing all political subdivisions to forego the time and expense of holding an election when a candidate is unopposed, HJR 59 and its enabling legislation, CSHB 1344 by Uresti, if approved by voters and the Legislature, would promote efficiency in election administration and would help reduce the cost of elections. It also would give election officials greater flexibility in ballot preparation.

The proposed change would not interfere with anyone's right to vote. If a candidate is unopposed, the race is decided. Under current law, if there is an unopposed candidate on the ballot, the election becomes a costly formality.

Since the Texas Constitution establishes which offices, including county offices, require an election for these offices, any proposal to cancel an election requires a constitutional amendment as well as a change in the Election Code.

**OPPONENTS
SAY:**

Canceling an election would deprive voters of their right to vote for the candidates of their choice. It also would deprive candidates of the opportunity to gain visibility by campaigning and would deprive voters of knowing who their elected leaders are. Even if voter turnout is low and there is only one candidate on the ballot for an office, those who take the time to vote are exercising their right to endorse the candidate they wish to represent them and validate their election to public office.

NOTES:

CSHB 1344 by Uresti, the enabling legislation for HJR 59, would allow an unopposed candidate for an office of a political subdivision to be declared elected without an election if the candidate was the only one who qualified for the office and there were no declared write-in candidates. The unopposed candidate's name would not be listed on the ballot. This bill has been placed on today's General State Calendar.

The companion joint resolution, SJR 51 by Van de Putte, was reported favorably, without amendment, by the Senate State Affairs Committee on April 29 and recommended for the Local and Uncontested Calendar. SB 1213 by Van de Putte, the companion to HB 1344, was considered in a public hearing by the Senate State Affairs Committee on April 28. A similar bill, The

A related proposal, HJR 62 by Truitt, also on today's Constitutional Amendments Calendar, would allow the Legislature to authorize an unopposed candidate for any office to take office without an election. Its enabling legislation, HB 1476 by Truitt, on today's House General State Calendar, would allow an unopposed candidate for a statewide or district office or a candidate for a county or a precinct office to be declared elected without an election if there were no declared write-in candidates and the candidate was unopposed. The candidate's name as elected to the office would have to be printed on the ballot, but no votes would be cast for that candidate.