

**SUBJECT:** Allowing governor to name presiding officers of agency governing bodies

**COMMITTEE:** Government Reform — favorable, without amendment

**VOTE:** 4 ayes — Swinford, Allen, Casteel, R. Cook

0 nays

3 absent — Gallego, Callegari, T. Smith

**WITNESSES:** No public hearing

**DIGEST:** HB 11 would allow the governor, notwithstanding any other law, to designate a member of the governing body of each state agency as the presiding officer to serve at the governor's pleasure. State agencies would include university systems, higher education institutions, river authorities as defined under the Water Code, departments, commissions, boards, offices, councils, authorities, and other agencies in the executive branch of state government.

The bill would not apply to an agency headed by one or more statewide elected officials, entities that advise or report to state agencies headed by one or more statewide elected officials, river authorities with elected governing bodies, or junior college districts.

The bill would take effect December 1, 2003.

**SUPPORTERS SAY:** HB 11 would grant the governor the authority necessary to manage the executive branch appropriately. Under current law, the governor names many but not all presiding officers of state boards, commissions, agencies, and other entities. As a result, parts of the executive branch inappropriately can operate outside of the governor's influence. Many Texans erroneously believe that the governor — as the most visible statewide elected official and the head of the executive branch — already has this power to manage state government. HB 11 would give the governor broad authority to appoint the presiding officers of all state agencies, boards, and commissions.

This change would ensure that the governor had some authority over all executive branch entities and therefore could be held accountable for their operations and actions and also would promote more consistent and uniform policies. Giving the governor the power to appoint presiding officers has been a standard recommendation of the Sunset Advisory Commission for years, and about half of the state agencies already operate this way.

Texas government would retain checks and balances. The governor's authority would extend only to appointing presiding officers, whose authority generally includes setting up and running meetings and setting agendas. The governor would receive no additional appointments or votes nor the authority to replace sitting board members. The executive branch would remain fragmented by a multitude of boards and commissions whose members serve long, staggered terms. Most boards and commissions, rather than the governor, appoint the chief executive officer for the agency, and this bill would not change that system.

There is no reason that certain state entities such as university systems or river authorities with appointed members should not operate like all other agencies with the governor appointing the board's presiding officers.

Voter approval of the change proposed by HB 11 would be unnecessary. The decision about who appoints presiding officers for state agencies is a policy decision that should be made by the Legislature, just as lawmakers have done by establishing a policy similar to HB 11 through the sunset process. Since the bill does not deal with appointment of chief executive officers, it would not establish a cabinet form of government or make such a fundamental change in current practice that would require the Legislature to take the extraordinary step of seeking voter approval.

HB 11 would not apply to agencies headed by statewide elected officials. These officials, chosen by Texas voters, would continue to be able name their own presiding officers. Similarly, the bill would not apply to river authorities who board members are elected nor to junior college districts, most of which have elected boards.

It would be inappropriate to limit the governor's appointments to board members who have been confirmed since the Senate currently does not have a

say in who becomes a presiding officer. No other interim appointees of the governor have restrictions on their authority merely because they have not been confirmed by the Senate.

**OPPONENTS  
SAY:**

HB 11 would violate the long-standing Texas tradition of not concentrating too much power in the hands of a single elected official. The current structure of state government was crafted carefully to ensure that some boards and commissions elect their own presiding officers to retain enough autonomy to operate without undue political influence from the governor.

Even though the governing boards of many agencies now have presiding officers appointed by the governor, it is better to make decisions about giving the governor this power on an agency-by-agency basis, as happens through the sunset process, than to give the governor the broad authority proposed by HB 11. Some boards, such as those governing universities, might operate more effectively and efficiently when members are empowered to elect their own presiding officers.

Voters should decide on proposals to grant such sweeping additional power to the governor and to change the structure of state government. Voters have spoken on similar issues before, such as in 1999, when more than 52 percent of the voters rejected constitutional amendments to allow the adjutant general and human services commissioner to serve at the governor's pleasure.

**OTHER  
OPPONENTS  
SAY:**

To ensure a check and balance on the governor's authority and to preserve the role of the Legislature in approving important appointments, the governor's authority to name presiding officers should be limited to naming persons whose appointments to governing bodies have been confirmed by the Senate. Otherwise, the governor could appoint as presiding officer someone who has never undergone Senate review.

**NOTES:**

During the first called session, the House on July 10 passed by nonrecord vote, 15 members recorded voting nay, HB 53 by Swinford, which is identical to HB 11 except for the December 1, 2003, effective date. The Senate Government Organization adopted a committee substitute for HB 53 that was an omnibus government reorganization bill, but the Senate did not consider the bill.

Art. 7 of SB 22 by Ellis, first called session, an omnibus government reorganization bill, would have allowed the governor to designate as presiding officers only members of governing bodies who have been confirmed by the Senate. If no member of the governing body had been confirmed by the Senate and the Legislature was not in session, the governor could designate a person who had not yet been confirmed but who was subject to Senate confirmation. SB 22 passed the Senate, but died in the House Government Reform Committee.

During the Senate Government Organization's consideration of SB 19 by Ellis, first called session, which included a provision identical to HB 11 in Art. 10, Sen. Ellis laid out an amendment that would have required a September 13, 2003, statewide referendum on any provision that would have added, deleted, or changed a power or duty of the governor. SB 19 was left pending in committee. During consideration HB 53 on July 10, the House by 74 to 65 tabled a similar amendment by Rep. Gallego.