

## **BILL ANALYSIS**

Senate Research Center  
77R4269 DRH-D

H.B. 831  
By: Madden (Shapiro)  
State Affairs  
3/28/2001  
Engrossed

### **DIGEST AND PURPOSE**

Legislation enacted during the 74th Regular Session authorized political subdivisions other than counties that make provisions for write-in candidacy declarations to cancel an election and declare an unopposed candidate elected if no contested races and no propositions appear on the ballot. There have been instances in the past in which a legislator has died while in office and in the ensuing special election to fill the seat, only one name appeared on the ballot. This highlights a potential need to apply the same criteria for election cancellation to state office races. As proposed, H.B. 831 establishes election cancellation provisions and write-in candidacy declaration procedures for a special election to fill a vacancy in the legislature.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 2.051(a), Election Code, to provide that, except as provided by Section 2.055, this subchapter applies only to certain elections.

SECTION 2. Amends Chapter 2C, Election Code, by adding Section 2.055, as follows:

Sec. 2.055. SPECIAL ELECTION TO FILL VACANCY IN LEGISLATURE. Authorizes the secretary of state to declare an unopposed candidate elected to fill a vacancy in the legislature if certain requirements are met. Provides that if a declaration is made under Subsection (a), the election is not held. Requires a copy of the declaration to be posted on election day at each polling place that would have been used in the election. Requires the secretary of state to issue a certificate of election to each candidate in the same manner as provided for a candidate elected at the election.

SECTION 3. Amends Chapter 146, Election Code, by adding Subchapter D, as follows:

#### **SUBCHAPTER D. WRITE-IN CANDIDATE IN SPECIAL ELECTION TO FILL VACANCY IN LEGISLATURE**

Sec. 146.081. CANDIDATE'S NAME REQUIRED TO APPEAR ON LIST. Prohibits a write-in vote, in a special election to fill a vacancy in the legislature, from being counted unless the name written in appears on the list of write-in candidates.

Sec. 146.082. DECLARATION OF WRITE-IN CANDIDACY REQUIRED. Requires a candidate, to be entitled to a place on the list of write-in candidates, to file a declaration of write-in candidacy with the secretary of state.

Sec. 146.083. FILING DEADLINE. Requires a declaration of write-in candidacy to be filed

by a certain date.

Sec. 146.084. APPLICABILITY OF OTHER CODE PROVISIONS. Provides that Subchapter B applies to write-in voting in a special election to fill a vacancy in the legislature except to the extent of a conflict with this subchapter.

SECTION 4. Provides that this Act takes effect January 1, 2002, but only if the constitutional amendment proposed by the 77th Legislature, Regular Session, 2001, authorizing the filling of a vacancy in the legislature without an election if a candidate is running unopposed in an election to fill the vacancy, is approved by the voters. Provides that if that amendment is not approved by the voters, this Act has no effect.