

SUBJECT: Requiring electors to vote in accordance with their party

COMMITTEE: Elections — favorable, without amendment

VOTE: 6 ayes — Danburg, J. Jones, Denny, Madden, Truitt, Wilson
0 nays
3 absent — Gallego, Hodge, Sadler

WITNESSES: For — Molly Beth Malcom, Texas Democratic Party; *Registered but did not testify:* Suzy Woodford, Common Cause Texas
Against — None
On — Melinda Nickless, Secretary of State

DIGEST: HB 1852 would amend the Election Code to require an elector to vote by open ballot for the presidential and vice-presidential candidates in accordance with the political party, independent, or write-in candidate for which the elector was chosen. An elector would have to sign his or her ballot. Before voting, an elector would have to sign an affidavit that they would vote in accordance with the party or candidate for which they were chosen.

If an elector failed to vote in accordance with the party or candidate for which they were chosen, the vote could not be counted, the elector's position would be declared vacant and would be filled by a replacement elector appointed by a majority of electors present from a list provided by the Secretary of State.

An elector would commit a misdemeanor offense punishable by a fine up to \$1,000 if they failed to vote in accordance with the party or candidate for which they were chosen.

By the Friday before the date the electors were scheduled to vote, the party, independent, or write-in candidate affiliated with an elector would have to

submit a list of acceptable replacement electors to the Secretary of State. A political party would determine the list in accordance with party rules.

This bill would take effect September 1, 2001.

**SUPPORTERS
SAY:**

CSHB 1852 is needed to ensure that electors voted for the presidential and vice-presidential candidates that corresponded to the party or write-in candidate for which they were chosen. Several other states, such as Michigan, North Carolina, Utah, and New Mexico, already have statutes requiring that electors vote in accordance with their party. This bill would eliminate the possibility of “faithless” electors voting for another party’s candidate in a close, disputed election, such as could have occurred during the most recent presidential election. In addition, the bill would require electors to vote by open ballot, which would add transparency and accountability to the electoral process.

**OPPONENTS
SAY:**

CSHB 1852 would remove the safeguards provided by the electoral college. For instance, if a public scandal involving a presidential or vice-presidential candidate arose after the election and before the electoral college voted, CSHB 1852 would prohibit an elector from casting his or her ballot to avoid electing a discredited public figure. Additionally, a misdemeanor offense would be too harsh a penalty. Electors should not be subject to a criminal penalty for exercising a political right. Other states require electors to vote in accordance with their party but do not provide a penalty.