

**SUBJECT:** Requirements for write-in candidates in a city special election

**COMMITTEE:** Elections — favorable, without amendment

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

**WITNESSES:** For — Mary Lynne Stratta, City of Bryan  
Against — None

**BACKGROUND:** Election Code, Chapter 146 requires that in order to appear on a list of write-in candidates for an election, a candidate must make a declaration of write-in candidacy with the appropriate authority.

Election Code, Chapter 2 allows political subdivisions other than counties (municipalities, school districts, and certain water districts) that require write-in candidates formally to declare their candidacy to cancel a general election and declare the unopposed candidate the winner if there are no declared write-in candidates, no opposed candidates, and no propositions on the ballot. This provision does not extend to city special elections, such as to fill a vacancy on the city council, because the provision for declaring a write-in candidacy does not apply to these elections.

**DIGEST:** HB 444 would amend the Elections Code by prohibiting votes for a write-in candidate in a special city election from being counted unless the candidate's name appears on the list of write-in candidates. This bill would take effect September 1, 2001.

**SUPPORTERS SAY:** HB 444 would bring consistency to procedures for formally declaring a write-in candidacy between city general and special elections. With no requirements for a declaration of write-in candidacy, voters can write in any name on the ballot in a city special election, including their own or even spurious names such as Mickey Mouse or Elvis Presley.

The bill also would spare cities unnecessary expense and administrative duties in holding special elections. Currently, a city cannot cancel a special election and declare an unopposed candidate the winner because the election cancellation provision only applies when write-in candidacies must be declared in advance. The city must hold an election so that potential write-in votes, if any, can be counted, even if there are no contested races on the ballot.

Cities need to be able to cancel special elections if there are unopposed candidates and no propositions on the ballot, but they cannot because of the potential for write-in votes. If write-in candidates had to file a declaration of candidacy, as would be necessary under this bill, the city would know about them ahead of time and would not have to conduct an election that could have only one outcome.

This bill would not discourage anyone from running for office, nor would it interfere with anyone's voting rights. If a candidate is unopposed, the race is essentially decided. Anyone who desires to become a candidate after the close of the filing period has five days in which to declare a write-in candidacy. If no one declares a write-in candidacy, then no write-in votes may be counted, and the election becomes merely an expensive formality.

HB 444 would save cities money by allowing unopposed candidates to take office without the expense and administrative inconvenience of unnecessary special elections. Small communities that are struggling to conduct elections would benefit especially and would save thousands of dollars.

OPPONENTS  
SAY:

Restricting write-in candidates and canceling a special city election when no one formally declares a write-in candidacy would deprive the voters of their right to vote for the candidates of their choice. The voters should have the opportunity to write in whomever they prefer, regardless of any formal declaration of candidacy. Particularly in smaller cities, voters may want to draft a worthy local citizen to fill a city council vacancy by writing-in the person's name in a special election, even though that person did not formally file as a candidate or declare as a write-in candidate.

NOTES: A similar bill, HB 831 by Madden, which would allow the cancellation of a special election to fill a vacancy in the Legislature when the candidate is unopposed, was reported favorably without amendment by the House Elections Committee on February 28, and set on the March 13 calendar.