

SUBJECT: Prohibiting undeclared write-in votes for county and precinct party chair

COMMITTEE: Elections — committee substitute recommended

VOTE: 5 ayes — Howard, Deshotel, Bohac, Coleman, Harper-Brown

0 nays

2 absent — Denny, Uresti

WITNESSES: For — Stephanie Klick, Tarrant County Republican Party; (*Registered, but did not testify:*) Pat Carlson, Tarrant County Republican Party

Against — None

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

BACKGROUND: Election Code, sec. 171 sets forth the requirements for parties nominating by primary election and the organization of the state and county executive committees. Sec. 171.0231 stipulates that a declaration of write-in candidacy for precinct chair is required, but if no one files for a place on the ballot or declares a write-in candidacy, then the office of precinct chair still is placed on the ballot and only write-in votes may be counted.

Chapter 146 stipulates which elections require a declaration of write-in candidacy and which ones permit write-in votes to be counted without a declaration. Other elections that require a declaration are city elections, school and junior college district elections, water district elections, and hospital district elections. Under 172.112, no write-in votes may be counted in a primary election except for the party offices of county and precinct chair. Subchapter B sets forth the requirements for write-in candidates in a general election for state and county officers.

DIGEST: CSHB 3128 would prohibit votes for a write-in candidate for the office of county chair in a general primary election from being counted unless the candidate's name appeared on the list of write-in candidates.

Candidates for county chair wishing to declare their write-in candidacy would have to file the declaration no later than 5 p.m. of the 62nd day before the general primary election. If a candidate whose name was to appear on the ballot for the office of county chair died or was declared ineligible after the third day before the date of the regular filing deadline, the deadline for filing a declaration would be moved to 5 p.m. on the 59th day before election day.

The bill would specify, by repealing sec. 171.0231.(f), that if no candidate for the office of precinct chair was on the ballot or no candidate had declared a write-in candidacy, write-in votes could not be cast and would not eligible to be counted.

To the extent practicable, Ch. 146, subch. B also would apply to write-in voting for the office of county chair.

The bill would take effect September 1, 2003.

**SUPPORTERS  
SAY:**

CSHB 3128 would increase the efficiency of elections by helping elections administrators deal with the problem of verifying and counting write-in votes. Counting these votes is very time consuming because there literally can be hundreds of write-in votes, many of them frivolous. With no requirement for a declaration of write-in candidacy, voters can enter any name on the ballot, including their own or even spurious names such as Micky Mouse or Elvis Presley. The bill would simplify the ballot and cut the cost of elections.

Most people who are elected by write-in vote decline to serve. It is in the interest of Texans to identify and vote only for people who are interested in participating in the elections process. The declared write-in process would provide elections administrators with a phone number and address of candidates that genuinely were interested in the office. If they subsequently were elected, elections administrators would know where to locate them.

The current declaration procedure for write-in candidacy provides a sufficient amount of time for someone to decide if they are interested in serving. There is nothing in current law that prohibits the county parties from starting as early as they want in the recruiting process. Having a different category of

write-in candidates with a different procedure would be confusing for elections administrators and the voters.

According to the Legislative Budget Board, a county might experience slight savings if there were no write-in votes to count.

**OPPONENTS  
SAY:**

Restricting write-in candidates when no one formally declared a write-in candidacy would deprive voters of their right to vote for the candidates of their choice. The voters should continue to have the opportunity to write in whomever they prefer, regardless of any formal declaration of candidacy. Particularly in smaller communities, voters might want to choose a worthy citizen for these party positions, even though that person did not formally declare as a write-in candidate.

The bill would stifle the ability of county parties to recruit qualified persons to serve as precinct chair when no one has filed by the regular deadlines. There needs to be additional time to recruit in precincts when no one has declared their intent. A workable solution would be an additional deadline whereby an interested person could file a declaration of intent with the county party chair. Their name would not be on the ballot or on the declared write-in list, but votes for them could be counted.

**NOTES:**

The committee substitute differs from the bill as introduced by conforming it to Texas Legislative Council drafting style.