Allowing the governor to issue a pardon after successful deferred adjudication

SB 223 by West (Thompson)

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DIGEST: SB 223 would have expanded the governor's authority to grant pardons, reprieves, and commutations, upon recommendation of the Board of Pardons and Paroles, to cases in which a person had successfully completed a term of deferred adjudication community supervision.

GOVERNOR'S REASON FOR VETO:

"Senate Bill No. 223 would have given a governor the authority to grant a pardon to a person who had received a judgment of deferred adjudication in a criminal case. Before the authority could take effect, however, the voters also would have to pass a constitutional amendment granting that authority to a governor. The joint resolution that would have allowed the people of Texas to grant that authority to a governor did not pass during the 81st Legislative Regular Session, and Senate Bill No. 223 provided that, without the passage of the amendment, Senate Bill No. 223 had no effect.

"Senator Royce West, Representative Senfronia Thompson and others have worked diligently to seek the passage of a good bill.

"Currently, only a person who has been convicted of a crime is eligible for clemency consideration. A person who has received a judgment of deferred adjudication is not a convicted person, leaving a person who received a lesser form of punishment ineligible to receive clemency. That is not right or equitable.

"Because the statutory authority must be re-enacted by a future legislature along with a joint resolution for a constitutional amendment that is approved by the people of Texas, I reluctantly veto Senate Bill No. 223 because it has no effect."

RESPONSE: **Sen. Royce West**, the bill's author, said, "It is unfortunate that Governor Perry was left only with the option of vetoing Senate Bill 223. Similar legislation that would provide the governor the ability to pardon an offense for which the subject has successfully completed deferred adjudication has been introduced twice previously (78th, 79th Legislatures). The third time, we felt, would be the charm.

"SB 223 passed the Senate unanimously and passed the House as amended with no opposition. It addresses a quirk of Texas law that denies relief — in this case, a pardon — in cases for which the courts have determined that justice is best served by allowing them to be dismissed without imposition of a conviction after supervision has been successfully completed. It is inconsistent that a more serious offense that merited conviction can by law be pardoned.

"While SB 223 gained ultimate legislative approval, the accompanying resolution to amend the Texas Constitution granting the governor the authority to act was among legislation to not emerge from the House during the final days of eligibility. SJR 11 was also amended in the House to allow the governor the ability to issue a posthumous pardon.

"We have worked with the Legislature and governor's office to hone this legislation since 2003 and feel confident that given another opportunity, maybe soon, legislation addressing this topic will indeed prevail."

Rep. Senfronia Thompson, the House sponsor, had no comment.

NOTES: The HRO analysis of SB 223 appeared in the May 18 *Daily Floor Report*. The HRO analysis of SJR 11 by West, the proposed constitutional amendment that SB 223 would have implemented, appeared in the May 20 *Daily Floor Report*.