

SUBJECT: Authorizing school district elections by mail pilot program

COMMITTEE: Public Education — committee substitute recommended

VOTE: 8 ayes — Sadler, Dutton, Grusendorf, Hochberg, Lengefeld, Oliveira, Olivo, Smith
0 nays
1 absent — Dunnam

WITNESSES: None

DIGEST: HB 1825 would authorize the secretary of state to develop an election by mail pilot program for school district board member elections for the spring uniform election date in 2000. The participating school districts would conduct their elections completely by mail. The secretary of state would adopt rules for the pilot program, requiring:

- ! ballots to be mailed to all registered voters;
- ! ballot secrecy to be preserved;
- ! voter instructions on how to mark the ballot, when and how the ballot should be returned, and requirements for a ballot to be counted;
- ! a process for voter signature verification;
- ! a process allowing voters to deposit mailed ballots by 7 p.m. on election day;
- ! a procedure for mailing replacement ballots;
- ! a procedure to ensure that only one ballot was returned per voter;
- ! a means for submitting a signed statement declaring that the voter was qualified to vote and had cast only one ballot;
- ! notice to a voter that failure to sign the statement would invalidate the ballot; and
- ! measures to prevent release of information on who was voting by mail, with the exception of confirmation to voters seeking to verify that ballots were received.

The secretary of state could adopt rules and modify provisions of the Election Code as necessary to allow the pilot program. However, the secretary of state

would not be able to allow ballots to be cast any later than current law provides.

The secretary of state would present an evaluation to the 77th Legislature and state leaders, with recommendations on whether such elections should be used and how implement them. Each participating school district would report a comparison of costs of elections by mail or regular elections, effects on turnout, and any problems encountered.

This bill would take effect September 1, 1999.

**SUPPORTERS
SAY:**

CSHB 1825 would create an election by mail pilot program that could benefit both voters and school districts by cutting the cost of elections, increasing voter convenience, and, in turn, increasing voter participation. Money saved in school districts holding elections by mail is money that would directly fund educational expenses.

Oregon has conducted elections by mail for several years and has significantly decreased the cost of elections, while improving voter turnout. Florida, New Mexico and Washington have seen excellent results with voting by mail. Texas already has taken the first step toward this system by allowing mail-in ballots for absentee voters and the elderly.

The bill would provide a strong system of safeguards against voter fraud. Rules adopted by the secretary of state would include a process for signature verification, a procedure to ensure that only one ballot was returned per voter, and a requirement that voters submit a signed statement declaring that the voter was qualified to vote and had cast only one ballot. Without such a signed statement, ballots would not be counted.

CSHB 1825 would allow experimentation with a pilot program to determine the best approach before deciding whether to use this system for other elections. It would provide the secretary of state with flexibility needed to devise effective regulations, allowing that office to work out the details of implementation before such details are put into state law. A mail-in ballot system is too new and untested for legislation at this time, without a trial period using the resources of the Secretary of State's Office. Under CSHB 1825 the secretary could modify provisions of the Election Code for the sole purpose of implementing the pilot program. This would provide legislative

exemptions to the Elections Code as needed to effectively implement the pilot program. Because the bill provides the exemption to the secretary only to implement the pilot program, it is not a delegation of legislative responsibility to the executive branch, but rather a legislative exemption for the pilot program.

OPPONENTS
SAY:

CSHB 1825 would grant far too much rule-making authority to the secretary of state and therefore could violate the separation of powers in the Texas Constitution. The bill would allow the secretary to modify provisions of the Election Code to implement the pilot program. That means this bill would delegate legislative responsibility to the secretary of state, part of the executive branch.

NOTES:

The substitute would allow more than one school district to participate in the pilot program. The substitute would modify some of the required rules that the secretary of state must adopt, including different procedures for signature verification and replacement ballots. The substitute would prevent information on who is voting by mail from being made public.