

- SUBJECT:** Filing deadlines for write-in candidate in elections
- COMMITTEE:** Elections — favorable, without amendment
- VOTE:** 7 ayes — Morrison, Miles, Johnson, Klick, R. Miller, Simmons, Wu  
0 nays
- WITNESSES:** For — (*Registered, but did not testify:* Jim Allison, County Judges and Commissioners Association of Texas; Jacquelyn Callanen, Bexar County, Texas Association of Election Administrators Legislative Chair; Dana DeBeauvoir, County and District Clerks Legislative Committee; Rosemary Edwards, Texas Republican County Chairmans Association; George Hammerlein, Harris County Clerk’s Office; Glen Maxey, Texas Democratic Party; John Oldham, Texas Association of Election Administrators; Eric Opiela, Republican County Chairman’s Association, Karnes County Republican Party)
- Against — (*Registered, but did not testify:* Chris Howe)
- On — Bill Eastland; (*Registered, but did not testify:* Keith Ingram, Texas Secretary of State, Elections Division)
- BACKGROUND:** Election Code, ch. 146 governs write-in candidacy. Under this provision, a write-in vote may not be counted unless the name written on the ballot appears on a list of write-in candidates. Candidates wishing to appear on this list must make a declaration of write-in candidacy, and the authority responsible for preparing the ballot must prepare this list and distribute it to the counting officers and election judges in the election. Write-in candidates may not withdraw their names from this list after the 67th day before election day.
- Under Election Code, sec. 146.025, with certain exceptions, a declaration of write-in candidacy must be filed not later than 5 p.m. the 78th day before election day and not earlier than 30 days before the regular filing deadline. This deadline is the 75th day before the election if a candidate whose name is to appear on the general ballot dies or is declared ineligible fewer than three days before the filing deadline.

Sec. 146.054 governs filing deadlines for declaration of a write-in candidacy in a city election. The deadline for elections held on the date of a general election is the 74th day before election day. The deadline for a uniform election date other than a general election is the 71st election day before election day. The deadline for all other city elections is five days after the deadline for an application for a place on the ballot.

Sec. 146.083 governs filing deadlines for a declaration of write-in candidacy in a special election to fill a vacancy in the Legislature. This deadline is the same as the deadline for an application for a place on the ballot.

Election Code, sec. 144.006 provides deadlines for the filing of a declaration of write-in candidacy for office of a political subdivision other than a county or city. These deadlines are equivalent to those listed in sec. 146.054, except that the deadline for elections held on the date of a general election is the 78th day before election day.

Election Code, sec. 171.0231(d) governs the deadline for filing a declaration of write-in candidacy for county chair or precinct chair. The deadline is the fifth day after the date of the filing deadline for the general primary election.

Election Code, ch. 145 governs withdrawal, death, and ineligibility of candidates. Under sec. 145.032 a candidate may not withdraw from a general election after the 74th day before election day.

**DIGEST:**

HB 3101 would add Election Code, sec. 146.003 to specify that the filing deadline for an application for a place on the ballot also would be the deadline for a declaration of write-in candidacy.

The bill would repeal the following sections that govern current write-in candidate deadlines:

- sec. 146.025;
- sec. 146.054;
- sec. 146.083;
- sec. 144.006; and
- sec. 171.0231(d).

The bill would specify that the new write-in candidate deadlines under sec. 146.003 would also apply to:

- trustees of an independent school district;
- members of the governing body of a junior college district;
- board members of a hospital district; and
- members of the board of navigation and canal commissioners.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2013.

**SUPPORTERS  
SAY:**

HB 3101 would ease the administration of elections by providing uniformity and consistency in the law. Write-in candidates have a later deadline than other candidates for withdrawing their names, which causes an unnecessary delay in the preparation of the write-in candidate list, and also delays the mailing of ballots to military and overseas voters.

Deadlines for declarations of write-in candidate are scattered and differ across the board, making it difficult and confusing for laypeople considering a write-in candidacy to determine when their deadline is. This difference in deadline requirements for write-in candidates also has resulted in strange logistical quirks wherein sometimes the write-in candidate filing deadline falls before the filing deadline for other candidates. The bill would solve the problems created by these inconsistencies by creating uniform deadlines throughout the Election Code.

**OPPONENTS  
SAY:**

HB 3101 significantly would alter the nature of the write-in candidacy. Such candidates often decide to declare their candidacy as a write-in candidate because of dissatisfaction with the other candidates in a race or because they encounter barriers to filing via the normal application process. Because of the common motivations behind write-in candidacy, these candidates merit extra time to be able to declare their candidacy. Giving write-in candidates the same filing deadlines as other candidates would reintroduce some of these barriers and defeat the idea behind write-in candidacy.