

SUBJECT: Removal from the ballot after the untimely withdrawal of a candidate

COMMITTEE: Elections — favorable, without amendment

VOTE: 6 ayes — Laubenberg, Israel, R. Anderson, Fallon, Larson, Reynolds
1 nay — Swanson

WITNESSES: For — (*Registered, but did not testify*: Ann Hettinger, Center for the Preservation of American Ideals; Heather Hawthorne, County and District Clerk's Association of Texas; Alan Vera, Harris County Republican Party Ballot Security Committee; John Bucy, Texas Democratic County Chairs Association; Glen Maxey, Texas Democratic Party; Bill Fairbrother, Texas Republican County Chairmen's Association)

Against — None

On — George Hammerlein, Harris County Clerk's Office; (*Registered, but did not testify*: Keith Ingram, Texas Secretary of State, Elections Division)

BACKGROUND: Election Code, ch. 145 governs the withdrawal, death, and ineligibility of a candidate in an election. Generally, a candidate cannot withdraw from an election after 5 p.m. on the fifth day after the deadline for filing the application for a place on the ballot. To withdraw, a candidate must request that his or her name be omitted from the ballot. The request must be in writing, signed and acknowledged by the candidate, and be timely filed with the appropriate authority. A withdrawal not meeting these requirements has no legal effect and is not considered filed.

Election Code, sec. 2.052 requires the authority responsible for preparing the official ballot to certify in writing that a candidate is unopposed for an election to office if, were the election held, only the votes cast for that candidate in the election for that office would be counted. The certification must be delivered to the governing body of the political subdivision as soon as possible after the filing deadlines for placement on the ballot and list of write-in candidates.

Observers point out that allowing the entity responsible for preparing the ballots in certain elections to omit a candidate from the ballot who has filed an untimely but otherwise valid withdrawal request could save political subdivisions both time and resources.

DIGEST: HB 1661 would provide an authority responsible for preparing election ballots with an option to omit a candidate who filed a withdrawal request after the prescribed deadline, if the request was otherwise valid and the ballots had not been prepared at the time the candidate filed the request.

The authority also could certify that a candidate was unopposed following the withdrawal of another candidate if the withdrawal request was filed after the prescribed deadline, but before the ballots were prepared, and the request complied with all other requirements.

This bill would take effect on September 1, 2017.