

SUBJECT: Temporary provisions for 2022 primary elections

COMMITTEE: Constitutional Rights and Remedies, Select — favorable, without amendment

VOTE: 10 ayes — Ashby, Clardy, Geren, Jetton, Klick, Landgraf, Longoria, Lozano, Shaheen, White

0 nays

5 absent — S. Thompson, Bucy, A. Johnson, Moody, Neave

SENATE VOTE: On final passage, August 9 — 28-1 (Gutierrez)

WITNESSES: No public hearing.

BACKGROUND: Election Code sec. 41.007 sets the general primary election date as the first Tuesday in March in each even-numbered year. The runoff primary election date is the fourth Tuesday in May following the general primary election.

DIGEST: SB 13 would establish dates for the candidate-filing period, general primary election, and primary runoff election for the 2022 election cycle contingent on the dates applicable redistricting plans become law. The temporary provisions would supersede any conflicting statute with respect to a primary election to be held in 2022, and would expire January 1, 2023.

The bill would provide three sets of dates as options for elections, depending on when new district plans for the Texas House and Senate, State Board of Education, and U.S. Congress become law. For purposes of the bill, a redistricting plan would become law on the earlier of:

- the date that the governor signed an Act of the 87th Legislature relating to the composition of the State Board of Education (SBOE), state legislative, or federal congressional districts; or

- the date that the act became law without the governor's signature upon the expiration of the gubernatorial signing period under Texas Constitution Art. 4, sec. 14.

If a redistricting plan became law on or before November 15, 2021, the following dates would apply:

- an application for a place on the general primary election ballot would have to be filed not earlier than November 29, 2021, and not later than 6 p.m. on December 13, 2021;
- the general primary election date would be March 1, 2022; and
- the runoff primary election date would be May 24, 2022.

If a redistricting plan became law after November 15, 2021, and on or before December 28, 2021, the following dates would apply:

- an application for a place on the general primary election ballot would have to be filed not earlier than January 10, 2022, and not later than 6 p.m. on January 24, 2022;
- the general primary election date would be April 5, 2022; and
- the runoff primary election date would be June 21, 2022.

If a redistricting plan became law after December 28, 2021, and on or before February 7, 2022, the following dates would apply:

- an application for a place on the general primary election ballot would have to be filed not earlier than February 21, 2022, and not later than 6 p.m. on March 7, 2022;
- the general primary election date would be May 24, 2022; and
- the runoff primary election date would be July 26, 2022.

If a plan for a state legislative, SBOE, or federal congressional district became law on dates included under more than one of the bill's provisions, the latest dates provided for the filing period and the general and runoff primary elections would apply. The county chair would

conduct the drawing to determine the order of the candidates' names on the general election primary ballot in accordance with Election Code provisions after the date of the applicable filing deadline.

A date set for the filing period or the general primary election under SB 13 would have to be the date of any filing period provided under the Election Code or of any general primary election held under the Election Code.

If a redistricting plan had not become law on or before February 7, 2022, the secretary of state would set the dates of the filing period and the general and runoff primary elections. In setting dates, the secretary of state would have to ensure the efficient and orderly administration of elections and would be required, to the extent practicable, to set dates in a manner that allowed the same interval of time in relation to the date of the election as would be provided by the application of other law.

The secretary of state would be required to adjust the schedule for canvassing election returns, declaring results, or performing any other official act relating to an election held on a date under the bill as necessary for the efficient and orderly administration of the election. To the extent practicable, the secretary of state would have to adjust the schedules in a manner that allowed the same interval of time in relation to the date of the election as would be provided by the application of other law.

The bill would take effect immediately if it received a vote of two-thirds of all the members elected to each house. Otherwise, it would take effect on the 91st day after the last day of the legislative session.

**SUPPORTERS
SAY:**

SB 13 would ensure the efficient administration of the 2022 primary elections by temporarily adjusting the candidate filing period and dates for the general primary and primary runoff elections to account for the U.S. Census Bureau's delayed delivery of the 2020 redistricting data to the states. By providing alternate dates for next year's primary elections, the bill would provide a practical way to allow the necessary time for the Legislature to redraw district lines for the Texas House and Senate, State

Board of Education, and U.S. Congress. It would give election administrators clarity about key deadlines and sufficient time to carry out their duties, which include reconfiguring voting precincts and meeting deadlines for mailing ballots to military and overseas voters.

The bill would provide three optional time frames for primary elections and runoffs to account for the uncertainty about when the redistricting plans would become law. It also would provide flexibility for the secretary of state to establish other election dates and candidate filing deadlines if a redistricting plan became law after February 7, 2022. While some say SB 13 would give the secretary of state too much flexibility and could lead to voter confusion, the bill offers a practical solution to delays in delivery of Census data that would allow additional time for legislative action.

CRITICS
SAY:

SB 13 could lead to voter confusion by revising the usual March primary election calendar based on various scenarios for when legislative redistricting plans became law. The bill would prioritize giving the Legislature more time for redistricting at the expense of consistency and predictability in election law. The bill would grant too much power to the secretary of state, an unelected member of the executive branch, in certain circumstances to establish unspecified alternate dates and deadlines for the candidate filing period and election. Delaying primary elections to an indeterminate time could create unforeseen logistical hurdles for election administrators, who need to know elections dates well in advance to prepare for an efficient election.

NOTES:

The House companion bill, HB 15 by Hunter, was referred to the House Select Committee on Constitutional Rights and Remedies on August 23.