

BILL ANALYSIS

C.S.S.B. 1034
By: Fraser
Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law relating to local option elections for the sale of alcoholic beverages primarily focuses on the initial election to determine whether or not an area wants to allow the sale of alcoholic beverages. The law provides a cumbersome, time-consuming, and costly procedure for citizens and municipalities that seek to allow newly annexed areas to hold subsequent local option elections on the sale of alcohol.

Subsequent annexation of new land into municipalities often leaves small pockets of areas that are not afforded the same rights and options available to the majority of citizens within the municipal limits as it relates to the sale of alcoholic beverages. The administrative burdens under the law often create an inequitable situation for citizens of the municipality whereby one area is afforded certain rights and residents in another part of the municipality are denied those same rights.

C.S.S.B. 1034 authorizes a municipality with a population of a certain size to hold a local option election to extend local option legalization of the sale of one or more types or classifications of alcoholic beverages to newly annexed areas where the sale of such types or classifications is illegal.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 1034 adds provisions to the Election Code, set to expire September 1, 2015, that authorize the governing body of a municipality with a population of at least 112,000 located in a county with a population of not more than 135,000—in which, as a result of a local option election, the sale of one or more types or classifications of alcoholic beverage is legal in the municipality, and in which, after the election is held, the municipality annexes territory where the sale of one or more of those types of alcoholic beverages is not legal—to order by resolution a local option election in the municipality to legalize such beverages. The bill requires the resolution of the governing body ordering the election to be preceded by a public hearing on the matter. The bill specifies required contents of the resolution.

C.S.S.B. 1034 requires such an election, as ordered by the governing body of the municipality, to be conducted by the municipality instead of the county. The bill establishes, for the purposes of an election under the provisions of the bill, that a reference in the Election Code to the county is considered to refer to the municipality, a reference to the commissioners court is considered to refer to the governing body of the municipality, a reference to the county clerk or registrar of voters is considered to refer to the secretary of the municipality or to the person performing the functions of a secretary if there is no secretary, and a reference to the county judge is considered to refer to the mayor of the municipality or to the presiding officer of the governing body of the

municipality if there is no mayor. The bill requires the annexing municipality to pay the expense of the election.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.S.B. 1034 differs from the original by authorizing the ordering of an election in a municipality with a population of at least 112,000 located in a county with a population of not more than 135,000, rather than in a municipality with a population of at least 114,000 and not more than 123,000.