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H.B. 458
134th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Passed by the House

Primary Sponsor: Rep. Hall

Local Impact Statement Procedure Required: No

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Highlights

- The bill generally eliminates the ability of a political subdivision or taxing authority to conduct a special election in August, except during the same time as a special election for a congressional seat. As a result of this limitation, political subdivisions and taxing authorities would avoid the costs related to these special elections. Costs for special elections related to local offices, questions, or issues are typically paid for by a county board of elections, or the political subdivision or taxing district seeking to place an office, question, or issue on the ballot.
- The bill contains an exception to this limitation that permits a political subdivision or school district to hold a special election in August if those entities are under a designation of fiscal emergency at the time the issue is certified for the ballot. As of December 2021, there are 11 local governments and one school district in fiscal emergency.
- The bill also contains an exception that allows a special election in August 2022, specifically for a question of whether to adopt a charter.
- The special elections for nominating or electing a candidate for member of the U.S. House of Representatives are currently paid for by the state from the BOE Reimbursement and Education Fund (Fund 5FG0), used by the Secretary of State (SOS). Fund 5FG0 receives cash transfers from the Emergency Purposes/Contingencies Fund (Fund 5KM0) under the purview of the Controlling Board.

Detailed Analysis

Elimination of August special elections

The bill generally would reduce special election costs to county boards of elections, political subdivisions, and taxing authorities by eliminating the ability for these entities to hold August special elections. When special elections are held, the political subdivision or taxing authority is responsible for the costs of conducting them. These costs fluctuate depending on the number of voting precincts involved. Overall, the per-precinct costs of conducting an election varies based upon the precinct location and number of voters in that precinct. Typically, these costs vary from between \$800 to \$1,000 per precinct in rural precincts to approximately \$1,600 to \$2,000 for urban precincts. For the August 4, 2020 special election, there were 19 special election ballot questions statewide. In the most recent August 3, 2021 special election, there were seven ballot measures in jurisdictions across the state in addition to the congressional nomination elections for the 11th and 15th congressional districts.

Exceptions for August special elections

The bill allows for political subdivisions or taxing authorities to conduct an August special election in two circumstances. The first is when it is held at the same time as a special election to nominate or elect a candidate for the U.S. House of Representatives. In such cases, a political subdivision or taxing authority whose territory is located entirely within the congressional district may hold a special election for an office, ballot question, or ballot issue. The second exception is when a political subdivision or school district is in fiscal emergency. In such cases, those entities may conduct an August special election, regardless of whether or not there is a congressional race. As of December 2021, there are 11 local governments and one school district in fiscal emergency.

The bill maintains current law limits on the authority of subdivisions to submit certain tax levy questions to voters at an August special election. These levies must instead be submitted at the November general or spring primary election. The bill includes a limitation applying specifically to the renewal of a school district combined property tax and income tax levy, the renewal of a school district emergency property tax levy for current expenses, and a county sales tax levy (including general levies and special purpose levies and rate reallocations for sports facilities). The bill's limitation does not explicitly apply to several other types of property tax levies that are prohibited under continuing law from being submitted to voters at an August special election. It is unclear whether some or all of these unreferenced levies could be submitted at an August special election called under the bill.

If an August special election for an office, question, or issue is held in conjunction with a congressional special election, the bill specifies that the costs of the special election must be divided proportionally between the state and each political subdivision or taxing authority based upon the ratio determined by the number of offices, questions, or issues placed on the ballot in each precinct, as under current law. The cost of a special election for the nomination or the election of a member to the U.S. House of Representatives is paid from the BOE Reimbursement and Education Fund (Fund 5FG0), within the budget of the Secretary of State (SOS). Under current law, the county boards of elections within the congressional district conduct the election and pay the expenses. Those boards of elections then certify those costs to the SOS, and are reimbursed for those expenses from Fund 5FG0. Fund 5FG0 receives cash transfers from the Emergency

Purposes/Contingencies Fund (Fund 5KM0) used by the Controlling Board to pay any election reimbursement expenses. Most recently, the SOS reimbursed 14 county boards of elections a total of just under \$2.5 million for the August 3, 2021 special election for the vacancies in the 11th and 15th congressional districts. The costs of special elections conducted by entities in fiscal emergency that are not held during a congressional special election are paid entirely by the local entity placing the issue on the ballot.

The bill also contains a provision that allows for a political subdivision to conduct a special election in August 2022, for the sole purpose of deciding whether to adopt a charter. Presumably there would be very few additional special election ballot questions resulting from this provision.