

By: Bettencourt

S.B. No. 221

A BILL TO BE ENTITLED

AN ACT

relating to requirements for certain petitions requesting an election and ballot propositions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 52.072, Election Code, is amended by adding Subsection (g) to read as follows:

(g) A proposition must substantially submit the question with such definiteness, certainty, and facial neutrality that the voters are not misled.

SECTION 2. Chapter 233, Election Code, is amended by adding Section 233.0115 to read as follows:

Sec. 233.0115. BALLOT LANGUAGE MANDAMUS ACTION. If a court orders a new election under Section 233.011, a person may seek from the court a writ of mandamus to compel the governing body of a city to comply with the requirement that a ballot proposition must substantially submit the question with such definiteness, certainty, and facial neutrality that the voters are not misled, as provided by Section 273.102.

SECTION 3. Section 253.094(b), Election Code, is amended to read as follows:

(b) A corporation or labor organization may not make a political contribution in connection with a recall election, including the circulation and submission of a petition to call an election. This subsection does not prohibit a religious

1 organization from circulating or submitting a petition in
2 connection with a recall election.

3 SECTION 4. Chapter 273, Election Code, is amended by adding
4 Subchapter F to read as follows:

5 SUBCHAPTER F. BALLOT PROPOSITION LANGUAGE ENFORCEMENT PROVISIONS

6 Sec. 273.101. REVIEW BY SECRETARY OF STATE. (a) Not later
7 than the seventh day after the date on which a home-rule city
8 publishes in the election order or by other means ballot
9 proposition language proposing an amendment to the city charter or
10 a voter-initiated initiative or referendum as requested by
11 petition, a registered voter eligible to vote in the election may
12 submit the proposition for review by the secretary of state.

13 (b) The secretary of state shall review the proposition not
14 later than the seventh day after the date the secretary receives the
15 submission to determine whether the proposition is misleading,
16 inaccurate, or prejudicial.

17 (c) If the secretary of state determines that the
18 proposition is misleading, inaccurate, or prejudicial, the city
19 shall draft a proposition to cure the defects and give notice of the
20 new proposition using the method of giving notice prescribed for
21 notice of an election under Section 4.003.

22 (d) A proposition drafted by a city under Subsection (c) to
23 cure the defects may be submitted to the secretary of state under
24 Subsection (a). If the secretary of state determines that the city
25 has on its third attempt drafted a proposition that is misleading,
26 inaccurate, or prejudicial, the secretary of state shall draft the
27 ballot proposition.

1 (e) The proposition shall be reviewed by the secretary of
2 state within seven days after receiving the proposition for review.

3 Sec. 273.102. MANDAMUS ACTIONS. (a) In an action in a
4 court of competent jurisdiction seeking a writ of mandamus to
5 compel the city's governing body to comply with the requirement
6 that a ballot proposition must substantially submit the question
7 with such definiteness, certainty, and facial neutrality that the
8 voters are not misled, the court shall make its determination
9 without delay and may order the city to use ballot proposition
10 language drafted by the court.

11 (b) The court may award a plaintiff or relator who
12 substantially prevails in a mandamus action described by Subsection
13 (a) the party's reasonable attorney's fees, expenses, and court
14 costs.

15 (c) Governmental immunity to suit is waived and abolished
16 only to the extent of the liability created by Subsection (b).

17 Sec. 273.103. MANDATORY SUBMISSION TO SECRETARY OF STATE.
18 Following a final nonappealable judgment containing a finding by a
19 court that a ballot proposition drafted by a city failed to
20 substantially submit the question with such definiteness,
21 certainty, and facial neutrality that the voters are not misled,
22 the city shall submit to the secretary of state for approval any
23 proposition to be voted on at an election held by the city before
24 the fourth anniversary of the court's finding.

25 Sec. 273.104. CITY REQUIRED TO PAY FOR LEGAL SERVICES.
26 Notwithstanding a home-rule city charter provision to the contrary,
27 a city may not accept legal services relating to a proceeding under

1 this subchapter without paying fair market value for those
2 services.

3 SECTION 5. Chapter 277, Election Code, is amended by
4 designating Sections 277.001, 277.002, 277.0021, 277.0022,
5 277.0023, 277.0024, and 277.003 as Subchapter A and adding a
6 subchapter heading to read as follows:

7 SUBCHAPTER A. PROVISIONS RELATING TO SIGNATURES, VALIDITY, AND
8 VERIFICATION OF PETITIONS

9 SECTION 6. Section 277.001, Election Code, is amended to
10 read as follows:

11 Sec. 277.001. APPLICABILITY OF SUBCHAPTER [~~CHAPTER~~]. This
12 subchapter [~~chapter~~] applies to a petition authorized or required
13 to be filed under a law outside this code in connection with an
14 election.

15 SECTION 7. Section 277.002, Election Code, is amended by
16 adding Subsection (g) to read as follows:

17 (g) The illegibility of a signature on a petition submitted
18 to a home-rule city is not a valid basis for invalidating the
19 signature if the information provided with the signature as
20 required by this section and other applicable law legibly provides
21 enough information to demonstrate that the signer:

- 22 (1) is eligible to have signed the petition; and
23 (2) signed the petition on or after the 180th day
24 before the date the petition was filed.

25 SECTION 8. Subchapter A, Chapter 277, Election Code, as
26 added by this Act, is amended by adding Section 277.005 to read as
27 follows:

1 Sec. 277.005. PETITION FORM; USE BY CITY AND OTHER PERSONS.

2 (a) The secretary of state shall prescribe a form, content, and
3 procedure for a petition.

4 (b) A home-rule city that uses a form that is different from
5 the official form prescribed under Subsection (a) may not
6 invalidate a petition because the petition does not contain
7 information that the petition form failed to provide for or to
8 require to be provided.

9 (c) A person who circulates or submits a petition is not
10 required to use a petition form prescribed by the secretary of state
11 or a home-rule city. A petition that does not use an officially
12 prescribed form must contain the substantial elements required to
13 be provided on the officially prescribed form.

14 SECTION 9. Chapter 277, Election Code, is amended by adding
15 Subchapter B to read as follows:

16 SUBCHAPTER B. SUBMISSION OF CERTAIN CITY PETITIONS

17 Sec. 277.031. APPLICABILITY OF SUBCHAPTER. This subchapter
18 applies to a home-rule city that has a procedure requiring the
19 governing body of the city to hold an election on receipt of a
20 petition requesting the election that complies with the applicable
21 requirements.

22 Sec. 277.032. CONFLICTS WITH CITY CHARTER OR OTHER LAW. The
23 provisions of this subchapter apply notwithstanding any city
24 charter provision or other law. The provisions of this subchapter
25 shall not interfere with the Military and Overseas Voter
26 Empowerment Act.

27 Sec. 277.033. DETERMINATION OF VALIDITY. The city

1 secretary shall determine the validity of a petition submitted
2 under this subchapter, including by verifying the petition
3 signatures, not later than the 30th day after the date the city
4 receives the petition.

5 Sec. 277.034. COLLECTOR REQUIREMENTS PROHIBITED. A city
6 may not restrict who may collect petition signatures.

7 SECTION 10. Sections 9.004(a) and (c), Local Government
8 Code, are amended to read as follows:

9 (a) The governing body of a municipality on its own motion
10 may submit a proposed charter amendment to the municipality's
11 qualified voters for their approval at an election. The governing
12 body shall submit a proposed charter amendment to the voters for
13 their approval at an election if the submission is supported by a
14 petition signed by a number of registered ~~qualified~~ voters of the
15 municipality equal to at least five percent of the number of
16 registered ~~qualified~~ voters of the municipality on the date of
17 the most recent election held throughout the municipality or
18 20,000, whichever number is the smaller.

19 (c) Notice of the election shall be published in a newspaper
20 of general circulation published in the municipality. The notice
21 must:

22 (1) include a substantial copy of the proposed
23 amendment in which language sought to be deleted by the amendment is
24 bracketed and stricken through and language sought to be added by
25 the amendment is underlined;

26 (2) include an estimate of the anticipated fiscal
27 impact to the municipality if the proposed amendment is approved at

1 the election; and

2 (3) be published on the same day in each of two
3 successive weeks, with the first publication occurring before the
4 14th day before the date of the election.

5 SECTION 11. Section 277.004, Election Code, is repealed.

6 SECTION 12. Not later than January 1, 2024, the secretary of
7 state shall adopt a petition form as required by Section 277.005,
8 Election Code, as added by this Act.

9 SECTION 13. The changes in law made by this Act apply only
10 to a petition submitted on or after January 1, 2024.

11 SECTION 14. This Act takes effect September 1, 2023.