

By: Pickett

H.B. No. 333

A BILL TO BE ENTITLED

AN ACT

relating to the recall of a member of the board of trustees of an independent school district.

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

SECTION 1. Chapter 11, Education Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. RECALL OF MEMBER OF BOARD OF TRUSTEES

Sec. 11.401. APPLICATION. A member of a board of trustees of an independent school district may be recalled from office as provided by this subchapter.

Sec. 11.402. LIMITATIONS ON RECALL. A recall petition may not be filed:

(1) earlier than the 91st day after the beginning date of the member's term;

(2) earlier than the 91st day after the date of a recall election that failed to recall the member; or

(3) later than the 91st day before the date the member's term expires.

Sec. 11.403. VALIDITY OF PETITION. To be valid, a recall petition must:

(1) be timely filed with the appropriate authority;

(2) contain valid signatures in the number required by Section 11.405;

(3) comply with the requirements as to form and

1 content prescribed by this subchapter; and

2 (4) comply with Chapter 277, Election Code, except for
3 a provision of that chapter that conflicts with this chapter.

4 Sec. 11.404. FILING DEADLINE. A recall petition must be
5 filed not later than the 90th day after the initial date of
6 circulation of the petition for the recall of the member.

7 Sec. 11.405. SIGNATURES REQUIRED. (a) The minimum number
8 of signatures that must appear on a recall petition is a number
9 equal to 25 percent of the total number of ballots cast in the most
10 recent election of trustees in the territory from which the member
11 is elected.

12 (b) To be valid, a signature must be:

13 (1) the signature of an individual who, at the time of
14 signing, is a registered voter of the territory from which the
15 member is elected; and

16 (2) affixed on the petition on or after the initial
17 date of circulation of the petition and before the date of filing or
18 refiling of the petition.

19 Sec. 11.406. FORM AND CONTENT OF PETITION. (a) A recall
20 petition may propose the recall of only one member.

21 (b) The following statement must appear at the top of each
22 page of the petition: "The purpose of this petition is to request
23 that an election be held to determine whether (member's name) is
24 recalled from the board of trustees of the (name of school
25 district)."

26 (c) The initial date of circulation of the petition must
27 appear on each page of the petition.

1 (d) The pages of the petition must be duplicates except as
2 to signatures and information required to be affixed by signers and
3 circulators.

4 (e) The petition may consist of multiple parts.

5 (f) The part of the petition in which signatures appear must
6 contain the affidavit required by Section 11.408.

7 (g) The statement and date required by Subsections (b) and
8 (c) must appear, at the time of signing, on the petition on the page
9 on which each signature is affixed.

10 Sec. 11.407. METHOD OF ACQUIRING SIGNATURE. A person
11 circulating a recall petition must:

12 (1) before permitting a person to sign, point out and
13 read to the person the statement required by Section 11.406(b);

14 (2) witness each signature;

15 (3) ascertain that each date of signing is correct;

16 and

17 (4) before the petition is filed, verify each signer's
18 registration status and ascertain that each registration number
19 entered on the petition is correct.

20 Sec. 11.408. AFFIDAVIT OF CIRCULATOR. (a) Each part of a
21 recall petition must include an affidavit of the person who
22 circulated it stating that the person:

23 (1) pointed out and read to each signer, before the
24 petition was signed, the statement required by Section 11.406(b);

25 (2) witnessed each signature;

26 (3) verified each signer's registration status; and

27 (4) believes each signature to be genuine and the

1 corresponding information correct.

2 (b) The printed name and residence address of the circulator
3 and the date of execution of the affidavit must be included in the
4 affidavit.

5 Sec. 11.409. AUTHORITY WITH WHOM PETITION FILED. (a) A
6 recall petition must be filed with the clerk or secretary of the
7 board of trustees of the school district.

8 (b) All parts of the petition must be filed on the same date.

9 Sec. 11.410. COVER LETTER. A cover letter containing the
10 following information must accompany a recall petition:

11 (1) the name of the member sought to be recalled;

12 (2) the signature, printed name, business or residence
13 address, and telephone number of at least one but not more than
14 three proponents of the recall;

15 (3) the date of filing; and

16 (4) the number of parts of the petition.

17 Sec. 11.411. REVIEW OF PETITION. (a) On the filing of a
18 recall petition, the clerk or secretary with whom the petition is
19 filed shall review the petition to determine its validity.

20 (b) The review shall be completed as soon as practicable
21 after the date of filing.

22 Sec. 11.412. ACTION ON PETITION. (a) If the clerk or
23 secretary determines that the petition is valid and the date of
24 filing does not violate Section 11.402, the board of trustees of the
25 school district shall order an election in the territory from which
26 the member is elected on the question of recalling the member.

27 (b) If the clerk or secretary determines that the petition

1 is invalid or the date of filing violates Section 11.402, the clerk
2 or secretary shall promptly reject the petition and return it along
3 with written reasons for the rejection to one of the proponents of
4 the recall.

5 (c) A rejected petition may be refiled before the deadline
6 prescribed by Section 11.404.

7 Sec. 11.413. NOTICE TO MEMBER. (a) Not later than the
8 fifth day after the date a determination is made under Section
9 11.412, the clerk or secretary shall deliver by registered mail a
10 written notice of the determination to the member who is the subject
11 of the recall.

12 (b) If a recall election is ordered, the notice must include
13 the date of the election.

14 Sec. 11.414. ELECTION ORDER; DATE. (a) A recall election
15 shall be ordered not later than the fourth day after the date a
16 determination is made under Section 11.412(a).

17 (b) The recall election shall be held on the first
18 authorized uniform election date that occurs at least 45 days after
19 the date the election is ordered.

20 (c) If the election date required by Subsection (b) occurs
21 on a date on which the member who is the subject of the recall either
22 no longer holds the office or is a candidate for reelection, the
23 recall election may not be held.

24 Sec. 11.415. FORM OF BALLOT. The ballot for a recall
25 election shall be printed to provide for voting for or against the
26 proposition: "Recalling (member's name) from the board of trustees
27 of the (name of school district)."

1 Sec. 11.416. CONDUCT OF ELECTION. Except as otherwise
2 provided by this chapter, a recall election shall be, to the extent
3 possible, conducted and the results canvassed, tabulated, and
4 reported in accordance with the procedures prescribed by law for a
5 general election for a member of the board of trustees.

6 Sec. 11.417. VOTE NECESSARY FOR RECALL. If a majority of
7 the votes received in a recall election vote "for," the member is
8 recalled from office and a vacancy in that office occurs on the date
9 the final canvass of the election is completed.

10 Sec. 11.418. FILLING VACANCY AFTER RECALL. A vacancy in
11 office resulting from a recall election is filled as provided by
12 Section 11.060.

13 Sec. 11.419. INELIGIBILITY OF RECALLED MEMBER. A member
14 who is recalled may not be appointed, during the term from which the
15 member is recalled, to fill a vacancy in the office from which the
16 recall is made.

17 Sec. 11.420. INELIGIBILITY OF RESIGNED MEMBER. A member
18 who resigns on or after the initial date of circulation of a
19 petition demanding the member's recall may not be appointed, during
20 the term from which the member resigns, to fill a vacancy in the
21 office from which the recall is demanded.

22 SECTION 2. This Act takes effect January 1, 2004, but only
23 if the constitutional amendment proposed by the 78th Legislature,
24 Regular Session, 2003, authorizing elections for the recall of
25 independent school district trustees, is approved by the voters.
26 If that amendment is not approved by the voters, this Act has no
27 effect.