

By: Marquez, N. Gonzalez of El Paso, Fallon,
Pickett

H.B. No. 179

Substitute the following for H.B. No. 179:

By: Morrison

C.S.H.B. No. 179

A BILL TO BE ENTITLED

AN ACT

relating to the recall of members of school district boards of trustees.

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 MEMBERS OF BOARDS OF TRUSTEES

Sec. 11.401. DEFINITION. In this subchapter, "recall election" means an election conducted under this subchapter to recall a member of a school district board of trustees.

Sec. 11.402. GROUNDS FOR RECALL. (a) A member of a school district board of trustees may be recalled from office for:

(1) an act of malfeasance or misconduct while in office;

(2) a violation of the trustee's oath of office;

(3) failure to perform duties prescribed by law; or

(4) wilful misuse, conversion, or misappropriation, without authority, of public property or public funds entrusted to or associated with the office of trustee.

(b) A member of a school district board of trustees may not be recalled on the basis of the trustee's discretionary performance of a lawful act or prescribed duty.

Sec. 11.403. ORDERING ELECTION. Except as otherwise provided by this subchapter, the board of trustees of a school

1 district shall order a recall election for a trustee if the board is
2 presented with a petition that:

3 (1) meets the requirements of Section 11.404; and

4 (2) is certified as valid under Section 11.407.

5 Sec. 11.404. PETITION. (a) A petition for a recall
6 election must have, preceding the space reserved for signatures on
7 each page, the following:

8 (1) a statement substantially as follows: "This
9 petition is to require that an election be held in (name of school
10 district) on the recall of trustee (name of trustee)."; and

11 (2) a brief description of the grounds under Section
12 11.402 on which the petition is based.

13 (b) A petition may not name more than one trustee.

14 (c) To be considered valid under Section 11.407, a petition
15 must be signed by a number of registered voters residing in the
16 school district equal to or greater than 20 percent of the number of
17 votes cast in the most recent general election for trustees in the
18 district.

19 (d) Each person signing a petition must enter beside the
20 person's signature the date the voter signs the petition. A
21 signature may not be counted if the date of signature is earlier
22 than:

23 (1) the 180th day after the date the trustee's current
24 term began; or

25 (2) the 90th day before the date the petition is
26 submitted to the board of trustees.

27 (e) Each person signing a petition must provide the person's

1 current voter registration number, printed name, and residential
2 address, including zip code.

3 Sec. 11.405. ACTION ON PETITION. (a) Not later than the
4 fifth day after the date a petition for a recall election is
5 received in the office of the board of trustees, the board shall
6 submit the petition to the secretary of the board. If the petition
7 is to require a recall election for the trustee who serves as
8 secretary, the board shall appoint an acting secretary to perform
9 the secretary's duties under this subchapter.

10 (b) Not later than the fifth day after the date the petition
11 is submitted to the secretary, the secretary shall:

12 (1) begin the process of determining whether the
13 petition is signed by the required number of registered voters in
14 the school district as provided by Section 11.404(c); and

15 (2) file an application with a district court in the
16 county in which the school district is primarily located requesting
17 a hearing and determination under Section 11.406.

18 (c) The board of trustees or secretary of the board is not
19 required to take action in accordance with this section if the
20 trustee named in the petition resigns the office of trustee.

21 Sec. 11.406. COURT HEARING REGARDING GROUNDS FOR RECALL.

22 (a) A district court that receives an application under Section
23 11.405(b)(2) shall conduct a hearing to determine if sufficient
24 facts exist to support the allegations regarding the grounds under
25 Section 11.402 on which the petition is based.

26 (b) The court must conduct the hearing not later than the
27 10th day after the date the court receives the application.

1 (c) The court shall give notice of the hearing to the
2 trustee named in the petition and other interested parties.

3 (d) After conducting the hearing, the court shall determine
4 if sufficient facts exist to support the allegations regarding the
5 grounds under Section 11.402 on which the petition is based and
6 inform the secretary of the board of trustees of the court's
7 determination. If the court does not find that sufficient facts
8 exist, the recall process terminates and no further action may be
9 taken as a result of the petition.

10 (e) The district court is not required to conduct a hearing
11 and make the determination required by this section if the trustee
12 named in the petition resigns the office of trustee, and the court
13 may cancel a hearing scheduled to begin after the date of
14 resignation or discontinue a hearing in progress on the date of
15 resignation, as applicable.

16 Sec. 11.407. CERTIFICATION OF PETITION VALIDITY OR
17 INVALIDITY. If the court determines under Section 11.406 that
18 sufficient facts exist and the recall process may proceed, the
19 secretary of the board of trustees, not later than the 15th day
20 after the date the secretary receives notice of the court's
21 determination, shall certify in writing to the board of trustees
22 whether the petition is valid or invalid, based on the secretary's
23 review of the signatures on the petition. If the secretary
24 determines the petition is invalid, the secretary shall state each
25 reason for that determination.

26 Sec. 11.408. DATE OF ELECTION; ORDER. (a) If the secretary
27 certifies that a petition is valid, the board of trustees shall, not

1 later than the 30th day after the date of certification, order that
2 an election be held in the school district on the first Saturday
3 after the 62nd day following the date the board orders the election.
4 Section 41.001(a), Election Code, does not apply to an election
5 ordered under this subchapter.

6 (b) If the term of the trustee named in the petition expires
7 before the first anniversary of the date the secretary certifies
8 the petition is valid, the board may not order the election.

9 (c) The board shall state in the order the issue to be voted
10 on at the election.

11 (d) The board of trustees is not required under Subsection
12 (a) to order an election if the trustee named in the petition
13 resigns the office of trustee. If the trustee resigns after the
14 board orders the election but before the election is held, the board
15 may cancel the election.

16 Sec. 11.409. BALLOT PROPOSITION. The ballot in a recall
17 election must be printed to provide for voting for or against the
18 proposition: "Recalling (name of school district) trustee (name of
19 trustee)."

20 Sec. 11.410. RESULTS OF ELECTION; VACANCY. (a) If the
21 majority of votes received in a recall election are for the recall
22 of the trustee, the office held by the trustee becomes vacant
23 immediately on the canvassing of the votes. The vacancy shall be
24 filled as provided by Section 11.060, except as provided by
25 Subsection (c).

26 (b) Notwithstanding Subsection (a), a trustee recalled
27 under this subchapter continues to serve in accordance with Section

1 17, Article XVI, Texas Constitution, until the trustee's successor
2 qualifies for the office of trustee.

3 (c) If a majority of the members of the board of trustees are
4 recalled in a single recall election under this subchapter, the
5 board of trustees shall, not later than the 30th day after the date
6 on which the vacancies on the board occur as a result of the recall
7 election, order a special election to be held on a date specified in
8 the order to fill the vacancies. If the board fails to comply with
9 this subsection, the county judge of the county in which the school
10 district is primarily located shall order the special election.
11 The expenses of the special election shall be paid by the district,
12 regardless of whether the election is ordered by the board or the
13 county judge.

14 Sec. 11.411. MULTIPLE RECALL ATTEMPTS PROHIBITED. The
15 board of trustees may not order a recall election for a trustee who
16 has been the subject of a previous recall election during the
17 trustee's current term.

18 SECTION 2. This Act takes effect January 1, 2014, but only
19 if the constitutional amendment proposed by the 83rd Legislature,
20 Regular Session, 2013, authorizing elections for the recall of
21 independent school district trustees, is approved by the voters.
22 If that amendment is not approved by the voters, this Act has no
23 effect.