

By: Moody

H.B. No. 3015

A BILL TO BE ENTITLED

AN ACT

relating to a recall election for officials of certain general-law municipalities.

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

SECTION 1. Chapter 21, Local Government Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. REMOVAL OF MEMBER OF GOVERNING BODY OF CERTAIN GENERAL-LAW MUNICIPALITIES FOLLOWING ELECTION

Sec. 21.101. REMOVAL BY RECALL ELECTION AUTHORIZED. A member of the governing body of a general-law municipality with a population of less than 5,000 located in a county that borders the United Mexican States and has a population of more than 800,000 may be removed from office through a recall election initiated by petition as provided by this subchapter.

Sec. 21.102. PETITION. (a) Before circulating a petition, a notice of intent to circulate a petition must be filed with the municipal clerk. A notice of intent to circulate a petition may not be filed before the 180th day after the date the officer whose removal is sought:

(1) was elected; or

(2) was subject to an unsuccessful recall election.

(b) After notice is filed under Subsection (a), a petition may be circulated. Each page of the petition must legibly and conspicuously:

1 (1) be titled "Recall Petition";

2 (2) state that the petition seeks to initiate a recall
3 election to remove a member of the governing body;

4 (3) state the full name and title of the member whose
5 removal is sought; and

6 (4) state the reasons for seeking removal.

7 (c) For a signature to be valid, it must:

8 (1) comply with the requirements of Section 277.002,
9 Election Code; and

10 (2) be the signature of a registered voter in the
11 territory that elected the member whose removal is sought.

12 (d) At least one signer of the petition must swear before a
13 notary public or other person authorized to administer oaths that
14 each signature on the petition was made by the person whose
15 signature it purports to be, and that oath must be memorialized on
16 the petition.

17 (e) A petition is valid if:

18 (1) the petition complies with the requirements of
19 Subsections (a), (b), (c), and (d) of this section and Chapter 277,
20 Election Code;

21 (2) the total number of valid signatures on the
22 petition equals at least 50 percent of the total number of votes
23 cast in the most recent election of the member whose removal is
24 sought that was not a runoff election; and

25 (3) the petition is filed with the municipal clerk not
26 later than the 30th day after the date of the filing of notice under
27 Subsection (a).

1 Sec. 21.103. REVIEW OF PETITION. (a) Not later than the
2 10th day after the date a petition is filed, the municipal clerk
3 shall review the petition and determine whether the petition is
4 valid.

5 (b) If the municipal clerk determines the petition is valid,
6 the clerk shall attach a certificate to the petition stating that
7 the petition is valid and submit the petition and certificate to the
8 governing body of the municipality as soon as practicable. If the
9 clerk determines that the petition is not valid:

10 (1) the clerk shall attach a certificate to the
11 petition stating the facts supporting the determination that the
12 petition is not valid;

13 (2) the clerk shall notify the person who filed the
14 petition of the clerk's determination;

15 (3) the petition may be amended or supplemented and
16 resubmitted not later than the 10th day after the date of the
17 certification under Subdivision (1); and

18 (4) the clerk shall return the petition to the person
19 who filed it.

20 (c) The municipal clerk shall determine the validity of a
21 petition resubmitted under Subsection (b)(3) in the same manner as
22 the original submission except that if the clerk determines the
23 petition is not valid the petition may not be further amended or
24 supplemented and the recall election is not held.

25 Sec. 21.104. ELECTION. (a) Unless the member who is the
26 target of the petition resigns before the sixth day after the date a
27 petition and certificate are delivered to the governing body of the

1 municipality, the governing body shall order that a recall election
2 be held on the first uniform election date that occurs 78 days after
3 the date of the order.

4 (b) The ballot for a recall election shall be printed to
5 permit voting for or against the proposition: "The removal of (name
6 of the member of the governing body) from the governing body of
7 (name of the municipality)".

8 (c) If less than a majority of the votes received at the
9 recall election are in favor of removal of the member of the
10 governing body named on the ballot, the member remains in office.
11 If a majority of the votes received are in favor of the removal of
12 the member, the governing body shall immediately declare the
13 member's office vacant and the vacancy shall be filled in the manner
14 prescribed by law for filling a vacancy on the governing body. A
15 member removed by recall may not be appointed to fill the vacancy
16 and may not be a candidate in any election called to fill the
17 vacancy.

18 Sec. 21.105. CLERK. In this subchapter, a municipal clerk
19 includes a municipal secretary or any other officer of the
20 municipality who performs the duties of a municipal clerk or
21 secretary.

22 SECTION 2. The heading to Subchapter B, Chapter 21, Local
23 Government Code, is amended to read as follows:

24 SUBCHAPTER B. JUDICIAL REMOVAL OF MEMBER OF GOVERNING BODY OF
25 GENERAL-LAW MUNICIPALITY

26 SECTION 3. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2013.