

BILL ANALYSIS

C.S.H.B. 1327
By: Galindo
Elections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that school board members hold an important authority over the daily lives of children in Texas. When an elected official abuses that right by mismanaging funds that finance education for Texas students, these parties contend that voters should have the right to recall the elected official. C.S.H.B. 1327 seeks to address this issue.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1327 amends the Education Code to authorize a member of a school district board of trustees to be recalled from office if the commissioner of education lowers the district's accreditation status and the member has held office for at least two years at the time the accreditation status is lowered. The bill requires a district board of trustees to order a recall election for a trustee if the board is presented with a petition that meets the bill's requirements and is certified as valid. The bill sets out provisions relating to the form, content, and validity of a petition for a recall election and requires a board of trustees, not later than the fifth day after the date a petition is received in the board's office, to submit the petition to the secretary of the board. The bill requires the board, if the petition is to require a recall election for the trustee who serves as secretary, to appoint an acting secretary to perform the secretary's duties that relate to the recall. The bill requires the secretary, not later than the 15th day after the date the petition is submitted to the secretary, to determine whether the petition is signed by the required number of registered voters in the school district.

C.S.H.B. 1327 requires the secretary to certify in writing to the board of trustees whether the petition is valid or invalid, based on the secretary's review of the signatures on the petition. The bill requires the secretary, if the secretary determines the petition to be invalid, to state each reason for that determination. The bill excepts the board or secretary of the board from having to take action on the petition if the trustee named in the petition resigns the office.

C.S.H.B. 1327 requires the board of trustees, not later than the 30th day after the secretary certifies a petition as valid, if the secretary so certifies the petition, to order that an election be held in the school district on the first Saturday after the 62nd day following the date the board orders the election. The bill exempts such an election from Election Code provisions regarding the uniform election dates. The bill prohibits the board from ordering the election if the term of

the trustee named in the petition expires before the first anniversary of the date the secretary certifies the petition is valid. The bill requires the board to state in the election order the issue to be voted on at the election, exempts the board from being required to order an election if the trustee named in the petition resigns the office, and authorizes the board to cancel the election if the trustee resigns after the board orders the election but before the election is held.

C.S.H.B. 1327 provides for the ballot proposition language in a recall election and establishes that, if the majority of votes received in a recall election are for the recall of the trustee, the office held by the trustee becomes vacant immediately on the canvassing of the votes. The bill requires the vacancy to be filled as provided by current law and establishes that, notwithstanding the immediate vacancy of office, a recalled trustee continues to serve until the trustee's successor qualifies for the office. The bill requires the board of trustees, if a majority of the members of the board are recalled in a single election and not later than the 30th day after the date on which the vacancies on the board occur as a result, to order a special election to be held on a date specified in the order to fill the vacancies. The bill requires the county judge of the county in which the school district is primarily located, if the board fails to order the special election, to order the election. The bill requires the expenses of the special election to be paid by the district, regardless of whether the election is ordered by the board or the county judge. The bill prohibits the board of trustees from ordering a recall election for a trustee who has been the subject of a previous recall election during the trustee's current term.

EFFECTIVE DATE

January 1, 2016, if the constitutional amendment proposed by H.J.R. 86, 84th Legislature, Regular Session, 2015, is approved by the voters.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1327 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

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

SUBCHAPTER J. RECALL OF MEMBERS OF BOARDS OF TRUSTEES
Sec. 11.451. 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. 11.452. GROUNDS FOR RECALL. A member of a school district board of trustees may be recalled from office if the bond rating for the district's bonds is lowered by a nationally recognized investment rating firm primarily on the basis of discretionary actions taken by the board of trustees.

Sec. 11.453. ORDERING ELECTION. Except as otherwise provided by this

HOUSE COMMITTEE SUBSTITUTE

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Sec. 11.452. GROUNDS FOR RECALL. A member of a school district board of trustees may be recalled from office if:

(1) the commissioner lowers the accreditation status of the district under Section 39.051; and

(2) the member has held office for at least two years at the time the accreditation status is lowered.

Sec. 11.453. ORDERING ELECTION. Except as otherwise provided by this

subchapter, the board of trustees of a school district shall order a recall election for a trustee if the board is presented with a petition that:

(1) meets the requirements of Section 11.454; and

(2) is certified as valid under Section 11.457.

Sec. 11.454. PETITION. (a) A petition for a recall election must have, preceding the space reserved for signatures on each page, the following:

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

(2) a brief description of the discretionary actions taken by the board of trustees that resulted in the district's bond rating being lowered.

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

(c) To be considered valid under Section 11.457, a petition must be signed by a number of registered voters residing in the school district equal to or greater than 10 percent of the number of votes cast in the most recent general election for trustees in the district.

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

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

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

(e) Each person signing a petition must provide the person's current voter registration number, printed name, and residential address, including zip code.

Sec. 11.455. ACTION ON PETITION. (a) Not later than the fifth day after the date a petition for a recall election is received in the office of the board of trustees, the board shall submit the petition to the secretary of the board. If the petition is to require a recall election for the trustee who serves as secretary, the board shall appoint an acting secretary to perform the secretary's duties under this subchapter.

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

subchapter, the board of trustees of a school district shall order a recall election for a trustee if the board is presented with a petition that:

(1) meets the requirements of Section 11.454; and

(2) is certified as valid under Section 11.455.

Sec. 11.454. PETITION. (a) A petition for a recall election must have, preceding the space reserved for signatures on each page, the following:

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

(2) a brief explanation that the recall petition is based on the lowering of the school district's accreditation status by the commissioner.

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

(c) To be considered valid under Section 11.455, a petition must be signed by a number of registered voters residing in the school district equal to or greater than 10 percent of the number of votes cast in the most recent general election for trustees in the district.

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

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

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

(e) Each person signing a petition must provide the person's current voter registration number, printed name, and residential address, including zip code.

Sec. 11.455. ACTION ON PETITION. (a) Not later than the fifth day after the date a petition for a recall election is received in the office of the board of trustees, the board shall submit the petition to the secretary of the board. If the petition is to require a recall election for the trustee who serves as secretary, the board shall appoint an acting secretary to perform the secretary's duties under this subchapter.

(b) Not later than the 15th day after the date the petition is submitted to the secretary, the secretary shall determine

(1) begin the process of determining whether the petition is signed by the required number of registered voters in the school district as provided by Section 11.454(c); and
(See Sec. 11.457 below)

(2) file an application with a district court in the county in which the school district is primarily located requesting a hearing and determination under Section 11.456.

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

Sec. 11.456. COURT HEARING REGARDING GROUNDS FOR RECALL.

(a) A district court that receives an application under Section 11.455(b)(2) shall conduct a hearing to determine if sufficient facts exist to support the allegation that the district's bond rating was lowered primarily on the basis of discretionary actions taken by the board of trustees.

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

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

(d) After conducting the hearing, the court shall determine if sufficient facts exist to support the allegation and inform the secretary of the board of trustees of the court's determination. If the court does not find that sufficient facts exist, the recall process terminates and no further action may be taken as a result of the petition.

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

Sec. 11.457. CERTIFICATION OF

whether the petition is signed by the required number of registered voters in the school district as provided by Section 11.454(c).

The secretary shall certify in writing to the board of trustees whether the petition is valid or invalid, based on the secretary's review of the signatures on the petition. If the secretary determines the petition is invalid, the secretary shall state each reason for that determination.

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

PETITION VALIDITY OR INVALIDITY.

If the court determines under Section 11.456 that sufficient facts exist and the recall process may proceed, the secretary of the board of trustees, not later than the 15th day after the date the secretary receives notice of the court's determination, shall certify in writing to the board of trustees whether the petition is valid or invalid, based on the secretary's review of the signatures on the petition. If the secretary determines the petition is invalid, the secretary shall state each reason for that determination.

Sec. 11.458. DATE OF ELECTION; ORDER. (a) If the secretary certifies that a petition is valid, the board of trustees shall, not later than the 30th day after the date of certification, order that an election be held in the school district on the first Saturday after the 62nd day following the date the board orders the election. Section 41.001(a), Election Code, does not apply to an election ordered under this subchapter.

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

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

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

Sec. 11.459. BALLOT PROPOSITION. The ballot in a recall election must be printed to provide for voting for or against the proposition: "Recalling (name of school district) trustee (name of trustee)."

Sec. 11.460. RESULTS OF ELECTION; VACANCY. (a) If the majority of votes received in a recall election are for the recall of the trustee, the office held by the trustee becomes vacant immediately on the canvassing of the votes. The vacancy shall be filled as provided by Section 11.060, except as provided by Subsection (c).

(b) Notwithstanding Subsection (a), a trustee recalled under this subchapter continues to serve in accordance with Section 17, Article XVI, Texas Constitution, until the trustee's successor qualifies for the

(See Sec. 11.455(b) above.)

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

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

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

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(b) Notwithstanding Subsection (a), a trustee recalled under this subchapter continues to serve in accordance with Section 17, Article XVI, Texas Constitution, until the trustee's successor

office of trustee.

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

Sec. 11.461. MULTIPLE RECALL ATTEMPTS PROHIBITED. The board of trustees may not order a recall election for a trustee who has been the subject of a previous recall election during the trustee's current term.

SECTION 2. This Act takes effect January 1, 2016, but only if the constitutional amendment proposed by the 84th Legislature, Regular Session, 2015, authorizing elections for the recall of independent school district trustees, is approved by the voters. If that amendment is not approved by the voters, this Act has no effect.

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

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