

BILL ANALYSIS

C.S.H.B. 2762
By: Laubenberg
Elections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties explain that petitions are used in Texas for a variety of reasons, including providing the opportunity for citizens to oppose measures passed by city government. The parties contend that this fundamental check on elected officials has been eroded in recent years due to the use of legal technicalities to invalidate petitions. The parties also contend that the time necessary to prepare a petition, collect signatures, and ensure that the petition meets the local standards necessary to be valid often exceeds the time allotted for preparation. Consequently, these parties assert that the petition process for addressing a local ordinance is often undermined by the very locality that passed and sought to protect the ordinance in question and that it has become necessary to clarify and protect the petition process to ensure accountability and protect this crucial aspect of democracy. C.S.H.B. 2762 seeks to provide for these clarifications and protections.

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. 2762 amends the Local Government Code to require a petition regarding the repeal of a home-rule municipality's order, ordinance, or resolution to be filed not later than the 90th day after the later of the date on which the order, ordinance, or resolution finally passed or was published. The bill requires the secretary of the municipality or other authority responsible for verifying the signatures, if the secretary or other authority determines the petition contains an insufficient number of valid signatures, to state all the grounds for invalidating a signature. The bill prohibits the secretary or other authority, if a petition is invalidated and later refiled, from invalidating a subsequent petition on grounds that existed but were not raised during an earlier determination of the petition's validity. These provisions regarding the filing of a petition do not apply to a change in a provision of a municipal charter.

C.S.H.B. 2762 requires the municipality to make available on its official website, if one exists, a petition form that complies with state law and the municipality's ordinances, orders, and other resolutions that apply to the filing of a petition with the municipality. The bill prohibits the secretary of the municipality or other authority responsible for verifying the signatures from invalidating a petition because the petition did not contain information that the municipality's petition form failed to provide or to require to be provided.

C.S.H.B. 2762 amends the Election Code to make a conforming change.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2762 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 277, Title 16, Elections Code, is amended to read as follows:

Sec. 277.004. ~~EFFECT OF CITY CHARTER OR ORDINANCE.~~

~~Any requirements for the validity or verification of petition signatures in addition to those prescribed by this chapter that are prescribed by a home rule city charter provision or a city ordinance are effective only if the charter provision or ordinance was in effect September 1, 1985.~~

TIME TO FILE PETITION.

(a) A petition under this chapter must be filed within the later of (1) ninety (90) days after final passage of said order, ordinance, or resolution, or (2) ninety (90) days after its publication.

(b) If the city secretary or other authority responsible for verifying the signatures determines the petition contains an insufficient number of signatures, he must state all the specific grounds invalidating any signature.

(c) If a petition is invalidated and subsequently refiled, the city secretary or other authority responsible for verifying the signatures may not invalidate a subsequent petition on grounds that existed but were not raised during an earlier determination of validity of the petition.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 277.004, Election Code, is amended to read as follows:

Sec. 277.004. EFFECT OF CITY CHARTER OR ORDINANCE. Except for the requirements under Sections 51.080 and 51.081, Local Government Code, any [Any] requirements for the validity or verification of petition signatures in addition to those prescribed by this chapter that are prescribed by a home-rule city charter provision or a city ordinance are effective only if the charter provision or ordinance was in effect September 1, 1985.

SECTION 2. Subchapter E, Chapter 51, Local Government Code, is amended by adding Sections 51.080 and 51.081 to read as follows:

Sec. 51.080. TIME TO FILE PETITION.

(a) A petition regarding the repeal of an order, ordinance, or resolution must be filed not later than the 90th day after the later of the date on which the order, ordinance, or resolution:

- (1) finally passed; or
- (2) was published.

(b) If the secretary of the municipality or other authority responsible for verifying the signatures determines the petition contains an insufficient number of valid signatures, the secretary or other authority shall state all the grounds for invalidating a signature.

(c) If a petition is invalidated and later refiled, the secretary of the municipality or other authority responsible for verifying the signatures may not invalidate a subsequent petition on grounds that existed but were not raised during the initial determination of the petition's validity.

(d) This section does not apply to a change

Sec. 277.005. CONTENTS OF PETITION.
(a) A political subdivision must make available on its website a petition form that complies with state law and the political subdivision's ordinances, orders and other resolutions concerning petitions.

(b) The city secretary or other authority responsible for verifying the signatures may not invalidate a petition because it failed to contain information that the political subdivision's petition form provided pursuant to this section itself fails to require.

No equivalent provision.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

in a provision of the municipal charter.

Sec. 51.081. CONTENT OF PETITION.
(a) A municipality must make available on the official website, if any, of the municipality a petition form that complies with state law and the municipality's ordinances, orders, and other resolutions that apply to the filing of a petition with the municipality.

(b) The secretary of the municipality or other authority responsible for verifying the signatures may not invalidate a petition because the petition did not contain information that the municipality's petition form under Subsection (a) failed to provide or to require to be provided.

SECTION 3. The changes in law made by this Act apply only to a petition filed on or after the effective date of this Act. A petition filed before the effective date of this Act is governed by the law in effect when the petition was filed, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2015.