

By: Galindo

H.B. No. 1327

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

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

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

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

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

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

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

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

24 Sec. 11.455. ACTION ON PETITION. (a) Not later than the
25 fifth day after the date a petition for a recall election is
26 received in the office of the board of trustees, the board shall
27 submit the petition to the secretary of the board. If the petition

1 is to require a recall election for the trustee who serves as
2 secretary, the board shall appoint an acting secretary to perform
3 the secretary's duties under this subchapter.

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

6 (1) begin the process of determining whether the
7 petition is signed by the required number of registered voters in
8 the school district as provided by Section 11.454(c); and

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

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

15 Sec. 11.456. COURT HEARING REGARDING GROUNDS FOR RECALL.

16 (a) A district court that receives an application under Section
17 11.455(b)(2) shall conduct a hearing to determine if sufficient
18 facts exist to support the allegation that the district's bond
19 rating was lowered primarily on the basis of discretionary actions
20 taken by the board of trustees.

21 (b) The court must conduct the hearing not later than the
22 10th day after the date the court receives the application.

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

25 (d) After conducting the hearing, the court shall determine
26 if sufficient facts exist to support the allegation and inform the
27 secretary of the board of trustees of the court's determination. If

1 the court does not find that sufficient facts exist, the recall
2 process terminates and no further action may be taken as a result of
3 the petition.

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

10 Sec. 11.457. CERTIFICATION OF PETITION VALIDITY OR
11 INVALIDITY. If the court determines under Section 11.456 that
12 sufficient facts exist and the recall process may proceed, the
13 secretary of the board of trustees, not later than the 15th day
14 after the date the secretary receives notice of the court's
15 determination, shall certify in writing to the board of trustees
16 whether the petition is valid or invalid, based on the secretary's
17 review of the signatures on the petition. If the secretary
18 determines the petition is invalid, the secretary shall state each
19 reason for that determination.

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

27 (b) If the term of the trustee named in the petition expires

1 before the first anniversary of the date the secretary certifies
2 the petition is valid, the board may not order the election.

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

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

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

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

20 (b) Notwithstanding Subsection (a), a trustee recalled
21 under this subchapter continues to serve in accordance with Section
22 17, Article XVI, Texas Constitution, until the trustee's successor
23 qualifies for the office of trustee.

24 (c) If a majority of the members of the board of trustees are
25 recalled in a single recall election under this subchapter, the
26 board of trustees shall, not later than the 30th day after the date
27 on which the vacancies on the board occur as a result of the recall

1 election, order a special election to be held on a date specified in
2 the order to fill the vacancies. If the board fails to comply with
3 this subsection, the county judge of the county in which the school
4 district is primarily located shall order the special election.
5 The expenses of the special election shall be paid by the district,
6 regardless of whether the election is ordered by the board or the
7 county judge.

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

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