

By: Bettencourt, et al.

S.B. No. 488

A BILL TO BE ENTITLED

AN ACT

relating to requirements for certain petitions requesting an election and ballot propositions.

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

SECTION 1. Section 52.072, Election Code, is amended by adding Subsection (f) to read as follows:

(f) A proposition must substantially submit the question with such definiteness and certainty in identifying the proposition's chief features that the voters are not misled.

SECTION 2. Chapter 233, Election Code, is amended by adding Section 233.0115 to read as follows:

Sec. 233.0115. BALLOT LANGUAGE MANDAMUS ACTION. If a court orders a new election under Section 233.011, a person may seek from the court a writ of mandamus to compel the governing body of a city to comply with the requirement that a ballot proposition must substantially submit the question with such definiteness and certainty that the voters are not misled, as provided by Section 273.102.

SECTION 3. Section 253.094(b), Election Code, is amended to read as follows:

(b) A corporation or labor organization may not make a political contribution in connection with a recall election, including the circulation and submission of a petition to call an election. This subsection does not prohibit a religious

1 organization from circulating or submitting a petition in
2 connection with a recall election.

3 SECTION 4. Chapter 273, Election Code, is amended by adding
4 Subchapter F to read as follows:

5 SUBCHAPTER F. BALLOT PROPOSITION LANGUAGE ENFORCEMENT PROVISIONS

6 Sec. 273.101. REVIEW BY SECRETARY OF STATE. (a) Not later
7 than the seventh day after the date on which a home-rule city
8 publishes in the election order or by other means ballot
9 proposition language proposing an amendment to the city charter or
10 a voter-initiated initiative or referendum as requested by
11 petition, a registered voter eligible to vote in the election may
12 submit the proposition for review by the secretary of state.

13 (b) The secretary of state shall review the proposition not
14 later than the seventh day after the date the secretary receives the
15 submission to determine whether the proposition substantially
16 submits the question with such definiteness and certainty that the
17 voters are not misled.

18 (c) If the secretary of state determines that the
19 proposition fails to substantially submit the question with such
20 definiteness and certainty that the voters are not misled, the city
21 shall draft a proposition to cure the defects and give notice of the
22 new proposition using the method of giving notice prescribed for
23 notice of an election under Section 4.003.

24 (d) A proposition drafted by a city under Subsection (c) to
25 cure the defects may be submitted to the secretary of state under
26 Subsection (a). If the secretary of state determines that the city
27 has on its third attempt drafted a proposition that fails to

1 substantially submit the question with such definiteness and
2 certainty that the voters are not misled, the secretary of state
3 shall draft the ballot proposition.

4 Sec. 273.102. MANDAMUS ACTIONS. (a) In an action in a
5 court of competent jurisdiction seeking a writ of mandamus to
6 compel the city's governing body to comply with the requirement
7 that a ballot proposition must substantially submit the question
8 with such definiteness and certainty that the voters are not
9 misled, the court shall make its determination without delay and
10 may order the city to use ballot proposition language drafted by the
11 court.

12 (b) The court may award a plaintiff or relator who
13 substantially prevails in a mandamus action described by Subsection
14 (a) the party's reasonable attorney's fees, expenses, and court
15 costs.

16 (c) Governmental immunity to suit is waived and abolished
17 only to the extent of the liability created by Subsection (b).

18 Sec. 273.103. MANDATORY SUBMISSION TO SECRETARY OF STATE.
19 Following a final nonappealable judgment containing a finding by a
20 court that a ballot proposition drafted by a city failed to
21 substantially submit the question with such definiteness and
22 certainty that the voters are not misled, the city shall submit to
23 the secretary of state for approval any proposition to be voted on
24 at an election held by the city before the fourth anniversary of the
25 court's finding.

26 Sec. 273.104. CITY REQUIRED TO PAY FOR LEGAL SERVICES.
27 Notwithstanding a home-rule city charter provision to the contrary,

1 a city may not accept legal services relating to a proceeding under
2 this subchapter without paying fair market value for those
3 services.

4 Sec. 273.105. RULES. The secretary of state may adopt rules
5 as necessary to implement this subchapter.

6 SECTION 5. Sections 277.001, 277.002, 277.0021, 277.0022,
7 277.0023, 277.0024, and 277.003, Election Code, are designated as
8 Subchapter A, Chapter 277, Election Code, and a heading is added to
9 Subchapter A to read as follows:

10 SUBCHAPTER A. PROVISIONS RELATING TO SIGNATURES, VALIDITY, AND
11 VERIFICATION OF PETITIONS

12 SECTION 6. Section 277.001, Election Code, is amended to
13 read as follows:

14 Sec. 277.001. APPLICABILITY OF SUBCHAPTER [~~CHAPTER~~]. This
15 subchapter [~~chapter~~] applies to a petition authorized or required
16 to be filed under a law outside this code in connection with an
17 election.

18 SECTION 7. Section 277.002, Election Code, is amended by
19 adding Subsection (f) to read as follows:

20 (f) The illegibility of a signature on a petition submitted
21 to a home-rule city is not a valid basis for invalidating the
22 signature if the information provided with the signature as
23 required by this section and other applicable law legibly provides
24 enough information to demonstrate that the signer:

- 25 (1) is eligible to have signed the petition; and
26 (2) signed the petition on or after the 180th day
27 before the date the petition was filed.

1 SECTION 8. Subchapter A, Chapter 277, Election Code, as
2 added by this Act, is amended by adding Sections 277.005 and 277.006
3 to read as follows:

4 Sec. 277.005. PETITION FORM; USE BY CITY AND OTHER PERSONS.

5 (a) The secretary of state shall prescribe the form and content
6 for a petition related to a city charter amendment or city
7 initiative or referendum election.

8 (b) A home-rule city that uses a form that is different from
9 the official form prescribed under Subsection (a) may not
10 invalidate a petition because the petition does not contain
11 information that the petition form failed to provide for or to
12 require to be provided.

13 (c) A person who circulates or submits a petition is not
14 required to use a petition form prescribed by the secretary of state
15 or a home-rule city. A petition that does not use a prescribed form
16 must contain the substantial elements required to be provided on
17 the prescribed form.

18 Sec. 277.006. RULES. The secretary of state may adopt rules
19 as necessary to implement this subchapter.

20 SECTION 9. Chapter 277, Election Code, is amended by adding
21 Subchapter B to read as follows:

22 SUBCHAPTER B. SUBMISSION OF CERTAIN CITY PETITIONS

23 Sec. 277.031. APPLICABILITY OF SUBCHAPTER. This subchapter
24 applies to a home-rule city that has a procedure requiring the
25 governing body of the city to hold an election on receipt of a
26 petition requesting the election that complies with the applicable
27 requirements.

1 Sec. 277.032. CONFLICTS WITH CITY CHARTER OR OTHER LAW. The
2 provisions of this subchapter apply notwithstanding any city
3 charter provision or other law.

4 Sec. 277.033. DETERMINATION OF VALIDITY. The city
5 secretary shall determine the validity of a petition submitted
6 under this subchapter, including by verifying the petition
7 signatures, not later than the 30th day after the date the city
8 receives the petition.

9 Sec. 277.034. COLLECTOR REQUIREMENTS PROHIBITED.

10 (a) Except as provided by Subsection (b), a city may not restrict
11 who may collect petition signatures.

12 (b) A city may require a person who collects petition
13 signatures to be a resident of the city. This subsection does not
14 authorize a city to require a person who collects petition
15 signatures to be a registered voter.

16 SECTION 10. Sections 9.004(a) and (c), Local Government
17 Code, are amended to read as follows:

18 (a) The governing body of a municipality on its own motion
19 may submit a proposed charter amendment to the municipality's
20 qualified voters for their approval at an election. The governing
21 body shall submit a proposed charter amendment to the voters for
22 their approval at an election if the submission is supported by a
23 petition signed by a number of registered ~~qualified~~ voters of the
24 municipality equal to at least five percent of the number of
25 registered ~~qualified~~ voters of the municipality on the date of
26 the most recent election held throughout the municipality or
27 20,000, whichever number is the smaller.

1 (c) Notice of the election shall be published in a newspaper
2 of general circulation published in the municipality. The notice
3 must:

4 (1) include a substantial copy of the proposed
5 amendment in which language sought to be deleted by the amendment is
6 bracketed and stricken through and language sought to be added by
7 the amendment is underlined;

8 (2) include an estimate of the anticipated fiscal
9 impact to the municipality if the proposed amendment is approved at
10 the election; and

11 (3) be published on the same day in each of two
12 successive weeks, with the first publication occurring before the
13 14th day before the date of the election.

14 SECTION 11. Subchapter E, Chapter 51, Local Government
15 Code, is amended by adding Section 51.080 to read as follows:

16 Sec. 51.080. PUBLICATION OF INITIATIVE OR REFERENDUM BALLOT
17 PROPOSALS. (a) This section applies to a municipality for which a
18 petition may be submitted requesting an election on an amendment to
19 the municipality's charter or a voter-initiated initiative or
20 referendum.

21 (b) In addition to any other notice or publication
22 requirements, a municipality shall publish the ballot proposition
23 language to be voted on at an election described by Subsection (a)
24 not later than the 109th day before the date of the election.

25 (c) The municipality must provide on its website in an
26 easily accessible location a clear and concise explanation of the
27 process used to submit a petition requesting an election on an

1 amendment to the municipality's charter or a voter-initiated
2 initiative or referendum.

3 SECTION 12. Section 277.004, Election Code, is repealed.

4 SECTION 13. Not later than January 1, 2018, the secretary of
5 state shall adopt a petition form as required by Section 277.005,
6 Election Code, as added by this Act.

7 SECTION 14. The changes in law made by this Act apply only
8 to a petition submitted on or after January 1, 2018.

9 SECTION 15. This Act takes effect September 1, 2017.