BILL ANALYSIS

Senate Research Center   S.B. 1225
86R6916 ATP-D   By: Bettencourt
                                                                                                     Property Tax
                                                                                                        4/7/2019
                                                                                                        As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties suggest that greater uniformity is advisable when certain initiatives are put before the voters in order to ensure fairness for all involved. Home-rule municipalities in Texas have fairly broad discretion to place initiatives before voters for consideration; however, there is little uniformity in the processes used due to local elections being governed by each municipality's charter. The Supreme Court of Texas has recently been tasked, as the result of citizen-led mandamus and recall petitions, with reviewing the actions of local governments and the ballot language used when initiatives were put forth. The court ultimately found that voters were being misled by the ballot language and required that referendums be resubmitted to voters, resulting in additional costs to taxpayers.

S.B. 1225 seeks to address these issues by providing for requirements for certain petitions requesting an election and ballot propositions. In order to guarantee citizens uniform and fair elections, S.B. 1225 outlines the process that must be followed by home-rule municipalities to propose charter amendments and citizen-driven petition referendums, and establishes safeguards to ensure that ballot language accurately describes the proposition being placed before voters. Specifically, the bill standardizes forms and removes overly broad restrictions when submitting petitions, removes ambiguous statutory language and establishes a uniform process for citizen-driven referendums, and allows an objective review of ballot language before being put to voters.

As proposed, S.B. 1225 amends current law relating to requirements for certain petitions requesting an election and ballot propositions.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 52.072, Election Code, by adding Subsection (f) to require a proposition to substantially submit the question with such definiteness and certainty that the voters are not misled.

SECTION 2. Amends Chapter 233, Election Code, by adding Section 233.0115, as follows:

> Sec. 233.0115. BALLOT LANGUAGE MANDAMUS ACTION. Authorizes a person, if a court orders a new election under Section 233.011 (New Election Ordered if Contested Election Void), to 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 is required to substantially submit the question with such definiteness and certainty that the voters are not misled, as provided by Section 273.102.

SECTION 3. Amends Section 253.094(b), Election Code, to provide that this subsection does not prohibit a religious organization from circulating or submitting a petition in connection with a recall election.

SECTION 4. Amends Chapter 273, Election Code, by adding Subchapter F, as follows:

SUBCHAPTER F. BALLOT PROPOSITION LANGUAGE ENFORCEMENT PROVISIONS

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

(b) Requires SOS to review the proposition not later than the seventh day after the date SOS receives the submission to determine whether the proposition is misleading or inaccurate.

(c) Requires the city, if SOS determines that the proposition is misleading or inaccurate, to draft a proposition to cure the defects and give notice of the new proposition using the method of giving notice prescribed for notice of an election under Section 4.003 (Method of Giving Notice).

(d) Authorizes a proposition drafted by a city under Subsection (c) to cure the defects to be submitted to SOS under Subsection (a). Requires SOS, if SOS determines that the city has on its third attempt drafted a proposition that is misleading or inaccurate, to draft the ballot proposition.

Sec. 273.102. MANDAMUS ACTIONS. (a) Requires the court, in an action in a court of competent jurisdiction seeking a writ of mandamus to compel the city's governing body to comply with the requirement that a ballot proposition is required to substantially submit the question with such definiteness and certainty that the voters are not misled, to make its determination without delay and authorizes the court to order the city to use ballot proposition language drafted by the court.

(b) Authorizes the court to award a plaintiff or relator who substantially prevails in a mandamus action described by Subsection (a) the party's reasonable attorney's fees, expenses, and court costs.

(c) Provides that governmental immunity to suit is waived and abolished only to the extent of the liability created by Subsection (b).

Sec. 273.103. MANDATORY SUBMISSION TO SECRETARY OF STATE. Requires the city, following a final nonappealable judgment containing a finding by a court that a ballot proposition drafted by a city failed to substantially submit the question with such definiteness and certainty that the voters are not misled, to submit to SOS for approval any proposition to be voted on at an election held by the city before the fourth anniversary of the court's finding.

Sec. 273.104. CITY REQUIRED TO PAY FOR LEGAL SERVICES. Prohibits a city, notwithstanding a home-rule city charter provision to the contrary, from accepting legal services relating to a proceeding under this subchapter without paying fair market value for those services.

SECTION 5. Designates Sections 277.001, 277.002, 277.0021, 277.0022, 277.0023, 277.0024, and 277.003, Election Code, as Subchapter A, Chapter 277, Election Code, and adds a heading to Subchapter A to read as follows:

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

SECTION 6. Amends Section 277.001, Election Code, as follows:

Sec. 277.001. New heading: APPLICABILITY OF SUBCHAPTER. Provides that this subchapter, rather than this chapter, applies to a petition authorized or required to be filed under a law outside this code in connection with an election.

SECTION 7. Amends Section 277.002, Election Code, by adding Subsection (f), as follows:

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

(1) is eligible to have signed the petition; and

(2) signed the petition on or after the 180th day before the date the petition was filed.

SECTION 8. Amends Subchapter A, Chapter 277, Election Code, as added by this Act, by adding Section 277.005, as follows:

Sec. 277.005. PETITION FORM; USE BY CITY AND OTHER PERSONS. (a) Requires SOS to prescribe a form, content, and procedure for a petition.

(b) Prohibits a home-rule city that uses a form that is different from the official form prescribed under Subsection (a) from invalidating a petition because the petition does not contain information that the petition form failed to provide for or to require to be provided.

(c) Provides that a person who circulates or submits a petition is not required to use a petition form prescribed by SOS or a home-rule city. Requires a petition that does not use an officially prescribed form to contain the substantial elements required to be provided on the officially prescribed form.

SECTION 9. Amends Chapter 277, Election Code, by adding Subchapter B, as follows:

SUBCHAPTER B. SUBMISSION OF CERTAIN CITY PETITIONS

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

Sec. 277.032. CONFLICTS WITH CITY CHARTER OR OTHER LAW. Provides that the provisions of this subchapter apply notwithstanding any city charter provision or other law.

Sec. 277.033. DETERMINATION OF VALIDITY. Requires the city secretary to determine the validity of a petition submitted under this subchapter, including by verifying the petition signatures, not later than the 30th day after the date the city receives the petition.

Sec. 277.034. COLLECTOR REQUIREMENTS PROHIBITED. Prohibits a city from restricting who is authorized to collect petition signatures.

SECTION 10. Amends Sections 9.004(a) and (c), Local Government Code, as follows:

(a) Requires the governing body to submit a proposed charter amendment to the voters for their approval at an election if the submission is supported by a petition signed by a number of registered voters, rather than qualified voters, of the municipality equal to at least five percent of the number of registered voters, rather than qualified voters, of the

municipality on the date of the most recent election held throughout the municipality or 20,000, whichever number is the smaller.

(c) Requires the notice published in a newspaper of general circulation to:

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

(2)–(3) makes no changes to these subdivisions.

SECTION 11. Repealer: Section 277.004 (Effect of City Charter or Ordinance), Election Code.

SECTION 12. Requires SOS, not later than January 1, 2020, to adopt a petition form as required by Section 277.005, Election Code, as added by this Act.

SECTION 13. Makes application of this Act prospective to January 1, 2020.

SECTION 14. Effective date: September 1, 2019.