

By: Swanson

H.B. No. 211

A BILL TO BE ENTITLED

AN ACT

1
2 relating to requirements for certain petitions requesting an
3 election and ballot propositions and to related procedures and
4 provisions.

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

6 SECTION 1. This Act may be cited as the Ballot Measure
7 Election Integrity Act of 2021.

8 SECTION 2. Section 52.072, Election Code, is amended by
9 adding Subsection (g) to read as follows:

10 (g) A proposition proposing an amendment to a city charter
11 or a voter-initiated initiative or referendum as requested by a
12 petition must use wording identical to the caption of any
13 corresponding petition as provided by Section 277.0015(b), as
14 applicable.

15 SECTION 3. Chapter 233, Election Code, is amended by adding
16 Section 233.0115 to read as follows:

17 Sec. 233.0115. BALLOT LANGUAGE MANDAMUS ACTION. If a court
18 orders a home-rule city to order a new election under Section
19 233.011, a qualified voter of the home-rule city may seek from the
20 court a writ of mandamus to compel the governing body of the city to
21 comply with Section 52.072(g), as provided by Section 273.101.

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

24 SUBCHAPTER F. BALLOT PROPOSITION LANGUAGE ENFORCEMENT PROVISIONS

1 Sec. 273.101. MANDAMUS ACTIONS. (a) A qualified voter of a
2 home-rule city may seek from the court a writ of mandamus to compel
3 the governing body of the city to comply with the requirement of
4 Section 52.072(g).

5 (b) The court must give absolute priority to a petition for
6 a writ brought under this section and shall make its determination
7 without delay and prior to the deadline for printing ballots.

8 (c) The court may award a petitioner who substantially
9 prevails in an action described by Subsection (a) the party's
10 reasonable attorney's fees, expenses, and court costs.

11 (d) Governmental immunity to suit and liability is waived
12 and abolished only to the extent of the liability created by
13 Subsection (c).

14 Sec. 273.102. REVIEW OF PETITION BY SECRETARY OF STATE. (a)
15 The governing body of a home-rule city or a qualified voter of the
16 home-rule city may file a complaint with the secretary of state
17 alleging that a caption is invalid under Section 277.0015.

18 (b) The secretary of state shall review a caption alleged to
19 be invalid in a complaint under Subsection (a) not later than the
20 seventh day after the date the secretary receives the complaint.

21 (c) If the secretary of state determines that a complaint
22 under Subsection (a) correctly alleges that a caption is invalid
23 under Section 277.0015, the secretary of state shall modify the
24 caption and provide the modified caption to the home-rule city for
25 use as a ballot proposition.

26 (d) In modifying a caption under Subsection (c), the
27 secretary of state shall:

1 (1) seek input from persons who signed or circulated
2 the petition; and

3 (2) modify the caption only to the extent necessary
4 for compliance with Section 277.0015.

5 (e) Action by the secretary of state under this section may
6 not be considered by a court as evidence that a caption does not
7 comply with Section 277.0015.

8 SECTION 5. The heading to Chapter 277, Election Code, is
9 amended to read as follows:

10 CHAPTER 277. PETITION TO CITY UNDER STATE LAW OR CITY CHARTER

11 ~~[PRESCRIBED BY LAW OUTSIDE CODE]~~

12 SECTION 6. Chapter 277, Election Code, is amended by
13 designating Sections 277.001, 277.002, 277.0021, 277.0022,
14 277.0023, and 277.0024 as Subchapter A and adding a subchapter
15 heading to read as follows:

16 SUBCHAPTER A. FORM AND CONTENT OF PETITION

17 SECTION 7. Section 277.001, Election Code, is amended to
18 read as follows:

19 Sec. 277.001. APPLICABILITY OF SUBCHAPTER ~~[CHAPTER]~~. This
20 subchapter ~~[chapter]~~ applies to a petition authorized or required
21 to be filed with a city ~~[under a law outside this code]~~ in
22 connection with an election, regardless of whether the petition is
23 authorized by state law or a city charter.

24 SECTION 8. Subchapter A, Chapter 277, Election Code, as
25 added by this Act, is amended by adding Section 277.0015 to read as
26 follows:

27 Sec. 277.0015. PROPOSED MEASURES. (a) A petition must

1 contain or have attached a caption for the proposed measure.

2 (b) The caption must identify the proposed measure by its
3 chief features, describing its character and purpose with such
4 definiteness and certainty that voters are not misled.

5 (c) Unless the caption is modified under Section 273.102,
6 the governing body of a home-rule city shall proceed with an
7 election requested by a petition despite a complaint that the
8 petition violates Subsection (b) and in doing so shall comply with
9 Section 52.072(g) and all ordinary timelines and requirements for
10 such an election.

11 (d) The secretary of state shall issue guidance to help a
12 person preparing to circulate a petition comply with the
13 requirements of Subsection (b).

14 SECTION 9. Section 277.002, Election Code, is amended by
15 adding Subsection (g) to read as follows:

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

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

24 SECTION 10. Subchapter A, Chapter 277, Election Code, as
25 added by this Act, is amended by adding Section 277.005 to read as
26 follows:

27 Sec. 277.005. STANDARD PETITION FORM; VALIDITY. (a) The

1 secretary of state shall:

2 (1) adopt a standard petition form for
3 petition-initiated elections; and

4 (2) publish the form and instructions for using the
5 form on the secretary's Internet website.

6 (b) The standard petition form must require:

7 (1) the name of the circulator;

8 (2) a caption for the measure as required by Section
9 277.0015;

10 (3) each signer to provide:

11 (A) the signer's printed name;

12 (B) the signer's signature;

13 (C) the signer's:

14 (i) date of birth; or

15 (ii) voter registration number and county
16 of residence;

17 (D) the signer's residence address, including
18 city and, if applicable, zip code; and

19 (E) the date of signing; and

20 (4) an affidavit of the circulator stating that the
21 circulator verifies that the circulator witnessed the signatures,
22 including a space for the affidavit to be signed and notarized.

23 (c) Notwithstanding any other law, including a city
24 charter, a city may not require the submission of information on or
25 with a petition that the standard petition form published by the
26 secretary of state does not provide for or require to be provided.

27 (d) A person who circulates or submits a petition is not

1 required to use the standard petition form. A petition that does not
2 use the standard petition form must contain the substantial
3 elements required to be provided on the standard petition form.

4 SECTION 11. Chapter 277, Election Code, is amended by
5 adding Subchapters B and C to read as follows:

6 SUBCHAPTER B. SUBMISSION OF CERTAIN CITY PETITIONS

7 Sec. 277.031. APPLICABILITY OF SUBCHAPTER. This subchapter
8 applies to a home-rule city that has a procedure requiring the
9 governing body of the city to hold an election on receipt of a
10 petition, including a procedure imposed by statute, requesting the
11 election.

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

15 Sec. 277.033. DETERMINATION OF VALIDITY. (a) The city
16 secretary shall determine the validity of a petition submitted
17 under this subchapter, including by verifying the petition
18 signatures, not later than the 30th day after the date the city
19 receives the petition.

20 (b) The city secretary may not invalidate a petition on
21 grounds of an inadequate caption but may:

22 (1) file a complaint under Section 273.102; and

23 (2) modify the caption as directed by the secretary of
24 state under Section 273.102.

25 Sec. 277.034. COLLECTOR REQUIREMENTS PROHIBITED. A city
26 may not restrict who may collect petition signatures.

1 SUBCHAPTER C. REPEAL OF PETITION-INITIATED CHARTER AMENDMENT

2 Sec. 277.051. APPLICABILITY OF SUBCHAPTER. This subchapter
3 applies to a home-rule city that has a procedure, including a
4 procedure imposed by statute, requiring the governing body of the
5 city to hold an election on receipt of a petition requesting the
6 election.

7 Sec. 277.052. REPEAL OF PETITION-INITIATED CHARTER
8 AMENDMENT. (a) A city may repeal a charter amendment adopted by a
9 petition-initiated election only by a petition-initiated election
10 held for the specific purpose of repealing the amendment. A repeal
11 petition may not include any other measure, including the repeal of
12 multiple charter amendments.

13 (b) A city may not repeal a charter amendment adopted by a
14 petition-initiated election by adopting a new or revised city
15 charter. A new or revised city charter must include each charter
16 amendment adopted by a petition-initiated election unless the
17 charter amendment was repealed in accordance with Subsection (a).

18 SECTION 12. Section 9.004(a), Local Government Code, is
19 amended to read as follows:

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

1 throughout the municipality or 20,000, whichever number is the
2 smaller.

3 SECTION 13. Sections 277.003 and 277.004, Election Code,
4 are repealed.

5 SECTION 14. Not later than January 1, 2022, the secretary of
6 state shall adopt and publish a petition form as required by Section
7 277.005, Election Code, as added by this Act.

8 SECTION 15. The changes in law made by this Act apply only
9 to a petition submitted on or after January 1, 2022.

10 SECTION 16. This Act takes effect on the 91st day after the
11 last day of the legislative session.