

By: Bettencourt

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 that the voters are not misled.

SECTION 2. Section 253.094(b), Election Code, is amended to read as follows:

(b) A corporation or labor organization, other than a religious 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.

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

SUBCHAPTER F. BALLOT PROPOSITION LANGUAGE ENFORCEMENT PROVISIONS

Sec. 273.101. REVIEW BY SECRETARY OF STATE. (a) 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 to another city law as requested by petition, a registered voter eligible to vote in the election may submit the proposition for

1 review by the secretary of state.

2 (b) The secretary of state shall review the proposition not
3 later than the seventh day after the date the secretary receives the
4 submission to determine whether the proposition is misleading or
5 inaccurate.

6 (c) If the secretary of state determines that the
7 proposition is misleading or inaccurate, the city shall draft a
8 proposition to cure the defects and give notice of the new
9 proposition using the method of giving notice prescribed for notice
10 of an election under Section 4.003.

11 Sec. 273.102. MANDAMUS ACTIONS. (a) In an action in a
12 district court seeking a writ of mandamus to compel the city's
13 governing body to comply with the requirement that a ballot
14 proposition must substantially submit the question with such
15 definiteness and certainty that the voters are not misled, the
16 district court shall make its determination without delay and may
17 order the city to use ballot proposition language drafted by the
18 court.

19 (b) The court may award a plaintiff who substantially
20 prevails in a mandamus action described by Subsection (a) the
21 party's reasonable attorney's fees, expenses, and court costs.

22 Sec. 273.103. MANDATORY SUBMISSION TO SECRETARY OF STATE.
23 Following a final nonappealable judgment containing a finding by a
24 court that a ballot proposition drafted by a city failed to
25 substantially submit the question with such definiteness and
26 certainty that the voters are not misled, the city shall submit to
27 the secretary of state for approval any proposition to be voted on

1 at an election held by the city before the fourth anniversary of the
2 court's finding.

3 Sec. 273.104. CITY REQUIRED TO PAY FOR LEGAL SERVICES.
4 Notwithstanding a home-rule city charter provision to the contrary,
5 a city may not accept legal services relating to a proceeding under
6 this subchapter without paying fair market value for those
7 services.

8 SECTION 4. Sections 277.001, 277.002, 277.0021, 277.0022,
9 277.0023, 277.0024, and 277.003, Election Code, are redesignated as
10 Subchapter A, Chapter 277, Election Code, and a heading for
11 Subchapter A is added to read as follows:

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

14 SECTION 5. Section 277.001, Election Code, is amended to
15 read as follows:

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

20 SECTION 6. Section 277.002, Election Code, is amended by
21 adding Subsection (f) to read as follows:

22 (f) A signature on a petition submitted to a home-rule city
23 is valid if the information provided with the signature as required
24 by this section and other applicable law legibly provides enough
25 information to demonstrate that the signer:

- 26 (1) is eligible to have signed the petition; and
27 (2) signed the petition on or after the 180th day

1 before the date the petition was filed.

2 SECTION 7. Subchapter A, Chapter 277, Election Code, is
3 amended by adding Section 277.005 to read as follows:

4 Sec. 277.005. PETITION FORM; USE BY CITY. (a) The
5 secretary of state shall prescribe a form, content, and procedure
6 for a petition.

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

12 SECTION 8. Chapter 277, Election Code, is amended by adding
13 Subchapter B to read as follows:

14 SUBCHAPTER B. SUBMISSION OF CERTAIN CITY PETITIONS

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

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

23 Sec. 277.033. DETERMINATION OF VALIDITY; REQUIRED ACTION.

24 (a) The city secretary shall determine the validity of a petition
25 submitted under this subchapter, including by verifying the
26 petition signatures, not later than the 30th day after the date the
27 city receives the petition.

1 (b) If the city secretary determines that a petition
2 submitted under this subchapter meets the applicable requirements
3 or fails to make a determination within the time prescribed by
4 Subsection (a), the city shall hold the election on the next uniform
5 election date that allows sufficient time to comply with applicable
6 provisions of law, including Section 3.005.

7 Sec. 277.034. COLLECTOR REQUIREMENTS PROHIBITED. A city
8 may not restrict who may collect petition signatures.

9 SECTION 9. Sections 9.004(a) and (c), Local Government
10 Code, are amended to read as follows:

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

21 (c) Notice of the election shall be published in a newspaper
22 of general circulation published in the municipality. The notice
23 must:

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

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

4 (3) be published on the same day in each of two
5 successive weeks, with the first publication occurring before the
6 14th day before the date of the election.

7 SECTION 10. Section 277.004, Election Code, is repealed.

8 SECTION 11. Not later than January 1, 2018, the secretary of
9 state shall adopt a petition form as required by Section 277.005,
10 Election Code, as added by this Act.

11 SECTION 12. The changes in law made by this Act apply only
12 to a petition submitted on or after January 1, 2018.

13 SECTION 13. This Act takes effect September 1, 2017.