

SUBJECT: Modifying requirements for ballot propositions and petitions

COMMITTEE: Elections — favorable, without amendment

VOTE: 7 ayes — Cain, Beckley, Clardy, Fierro, Jetton, Schofield, Swanson
2 nays — J. González, Bucy

WITNESSES: For — Alan Vera, Harris County Republican Party Ballot Security Committee; Shelby Sterling, Texas Public Policy Foundation; Faith Bussey; Tom Glass; (*Registered, but did not testify*: Molly White, Conservative Republicans of Texas; Gerald Welty, Convention of States; Chad Ennis, Texas Public Policy Foundation; Robert L. Green, Travis County Republican Party Election Integrity Committee; Marcia Strickler, Wilco We Thee People; and 17 individuals)

Against — (*Registered, but did not testify*: Heather Hurlbert, City of Corpus Christi; Guadalupe Cuellar, City of El Paso; Sally Bakko, City of Galveston; Jon Weist, City of Irving; Christine Wright, City of San Antonio; Stephanie Gomez, Common Cause Texas; Joanne Richards, Common Ground for Texans; Susan Schultz, League of Women Voters of Texas; Leonard Aguilar, Texas AFL-CIO; Glen Maxey and Jen Ramos, Texas Democratic Party; Carisa Lopez, Texas Freedom Network; Monty Wynn, Texas Municipal League; Stephanie Gharakhanian, Workers Defense Action Fund; and 30 individuals)

On — (*Registered, but did not testify*: Scott O’Grady, Texans for Election Integrity; Beth Biesel, Texas Eagle Forum; Keith Ingram, Texas Secretary of State)

BACKGROUND: Concerns have been raised about the lack of uniformity in the process for home-rule municipalities to place initiatives before voters. Some have called for the Legislature to standardize the requirements for certain petitions in order to avoid the costly resubmission of a referendum to voters in multiple elections.

DIGEST:

HB 782 would create certain requirements for the wording of ballot propositions, exempt religious organizations from the prohibition on circulating or submitting a recall election petition, specify procedures for review of ballot proposition language by the secretary of state, modify requirements for petitions, and specify requirements for mandamus actions, among other provisions.

Proposition wording. A ballot proposition prescribed by an authority ordering an election would have to substantially submit the question with such definiteness and certainty that the voters would not be misled.

If a court ordered a new election due to a contested election being declared void, a person could 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.

Religious organizations. The bill would specify that the statute prohibiting a corporation or labor organization making a political contribution in connection with a recall election would not prohibit a religious organization from circulating or submitting a petition in connection with a recall election.

Proposition review. By the seventh day after the date on which a home-rule city published 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, a registered voter eligible to vote in the election could submit the proposition for review by the secretary of state.

The secretary of state would have to review the proposition by the seventh day after the date the secretary received the submission to determine whether the proposition was misleading or inaccurate. If the secretary of state determined that the proposition was misleading or inaccurate, the city would have 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.

A proposition drafted by a city to cure the defects could be submitted to the secretary of state. If the secretary determined that the city had on its third attempt drafted a misleading or inaccurate proposition, the secretary would draft the ballot proposition.

Mandamus. In an action in a court of competent jurisdiction seeking a writ of mandamus to compel a city's governing body to comply with the definiteness and certainty requirement for ballot propositions, the court would have to make its determination without delay and could order the city to use ballot proposition language drafted by the court.

The court could award a plaintiff or relator who substantially prevailed in a mandamus action the party's reasonable attorney's fees, expenses, and court costs. Governmental immunity to suit would be waived and abolished only to the extent of the liability created by this provision.

Following a nonappealable judgment containing a finding by a court that a ballot proposition drafted by a city did not meet the definiteness and certainty requirements, the city would have to submit to the secretary of state for approval any proposition to be voted on at an election held by the city before the fourth anniversary of the court's finding. A city could not accept legal services relating to a proceeding without paying fair market value for those services.

Petitions. The illegibility of a signature on a petition submitted to a home-rule city would not be a valid basis for invalidating the signature if the required information provided with the signature legibly provided enough information to demonstrate that the signer was eligible to have signed the petition and signed the petition on or after the 180th day before the date the petition was filed.

The secretary of state would have to prescribe a form, content, and procedure for a petition. The secretary of state would have to adopt the required petition form by January 1, 2022.

A home-rule city that used a form different from the official form could not invalidate a petition because it did not contain information that the petition form failed to provide for or to require to be provided.

A person who circulated or submitted a petition would not have to use a form prescribed by the secretary of state or a home-rule city. A petition that did not use an officially prescribed form would have to contain the substantial elements required to be provided on the official form.

The bill would repeal the statute specifying that any requirements for the validity or verification of petition signatures prescribed by a home-rule city charter provision or a city ordinance would be effective only if the charter provision or ordinance was in effect September 1, 1985.

Submission of certain petitions. Home-rule cities with procedures requiring the governing body of the city to hold an election on receipt of a petition requesting the election that complied with the applicable requirements would have to determine the validity of a submitted petition, including by verifying the petition signatures, by the 30th day after the city received the petition. A city could not restrict who could collect petition signatures. These provisions would apply notwithstanding any city charter provision or other law.

The bill would specify that for a proposed charter amendment to be put to voters at an election, the number of registered voters of the municipality that would have to support the petition must be equal to at least 5 percent of the number of registered voters of the municipality on the date of the most recent election held throughout the municipality or 20,000, whichever number was the smaller.

The notice of the election for a proposed charter amendment in a newspaper of general circulation in the municipality would have to include a substantial copy of the proposed amendment in which language sought to be deleted by the amendment was bracketed and stricken through and language sought to be added by the amendment was

underlined.

The bill would take effect September 1, 2021, and would apply only to a petition submitted on or after January 1, 2022.