

1-1 By: Bettencourt, et al. S.B. No. 488  
 1-2 (In the Senate - Filed January 13, 2017; February 6, 2017,  
 1-3 read first time and referred to Committee on Intergovernmental  
 1-4 Relations; March 30, 2017, reported adversely, with favorable  
 1-5 Committee Substitute by the following vote: Yeas 5, Nays 1;  
 1-6 March 30, 2017, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12		X		
1-13	X			
1-14			X	
1-15	X			

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 488 By: Bettencourt

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to requirements for certain petitions requesting an  
 1-20 election and ballot propositions.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 52.072, Election Code, is amended by  
 1-23 adding Subsection (f) to read as follows:

1-24 (f) A proposition must substantially submit the question  
 1-25 with such definiteness and certainty that the voters are not  
 1-26 misled.

1-27 SECTION 2. Chapter 233, Election Code, is amended by adding  
 1-28 Section 233.0115 to read as follows:

1-29 Sec. 233.0115. BALLOT LANGUAGE MANDAMUS ACTION. If a court  
 1-30 orders a new election under Section 233.011, a person may seek from  
 1-31 the court a writ of mandamus to compel the governing body of a city  
 1-32 to comply with the requirement that a ballot proposition must  
 1-33 substantially submit the question with such definiteness and  
 1-34 certainty that the voters are not misled, as provided by Section  
 1-35 273.102.

1-36 SECTION 3. Section 253.094(b), Election Code, is amended to  
 1-37 read as follows:

1-38 (b) A corporation or labor organization may not make a  
 1-39 political contribution in connection with a recall election,  
 1-40 including the circulation and submission of a petition to call an  
 1-41 election. This subsection does not prohibit a religious  
 1-42 organization from circulating or submitting a petition in  
 1-43 connection with a recall election.

1-44 SECTION 4. Chapter 273, Election Code, is amended by adding  
 1-45 Subchapter F to read as follows:

1-46 SUBCHAPTER F. BALLOT PROPOSITION LANGUAGE ENFORCEMENT PROVISIONS

1-47 Sec. 273.101. REVIEW BY SECRETARY OF STATE. (a) Not later  
 1-48 than the seventh day after the date on which a home-rule city  
 1-49 publishes in the election order or by other means ballot  
 1-50 proposition language proposing an amendment to the city charter or  
 1-51 a voter-initiated initiative or referendum as requested by  
 1-52 petition, a registered voter eligible to vote in the election may  
 1-53 submit the proposition for review by the secretary of state.

1-54 (b) The secretary of state shall review the proposition not  
 1-55 later than the seventh day after the date the secretary receives the  
 1-56 submission to determine whether the proposition is misleading or  
 1-57 inaccurate.

1-58 (c) If the secretary of state determines that the  
 1-59 proposition is misleading or inaccurate, the city shall draft a  
 1-60 proposition to cure the defects and give notice of the new

2-1 proposition using the method of giving notice prescribed for notice  
2-2 of an election under Section 4.003.

2-3 (d) A proposition drafted by a city under Subsection (c) to  
2-4 cure the defects may be submitted to the secretary of state under  
2-5 Subsection (a). If the secretary of state determines that the city  
2-6 has on its third attempt drafted a proposition that is misleading or  
2-7 inaccurate, the secretary of state shall draft the ballot  
2-8 proposition.

2-9 Sec. 273.102. MANDAMUS ACTIONS. (a) In an action in a  
2-10 court of competent jurisdiction seeking a writ of mandamus to  
2-11 compel the city's governing body to comply with the requirement  
2-12 that a ballot proposition must substantially submit the question  
2-13 with such definiteness and certainty that the voters are not  
2-14 misled, the court shall make its determination without delay and  
2-15 may order the city to use ballot proposition language drafted by the  
2-16 court.

2-17 (b) The court may award a plaintiff or relator who  
2-18 substantially prevails in a mandamus action described by Subsection  
2-19 (a) the party's reasonable attorney's fees, expenses, and court  
2-20 costs.

2-21 (c) Governmental immunity to suit is waived and abolished  
2-22 only to the extent of the liability created by Subsection (b).

2-23 Sec. 273.103. MANDATORY SUBMISSION TO SECRETARY OF STATE.  
2-24 Following a final nonappealable judgment containing a finding by a  
2-25 court that a ballot proposition drafted by a city failed to  
2-26 substantially submit the question with such definiteness and  
2-27 certainty that the voters are not misled, the city shall submit to  
2-28 the secretary of state for approval any proposition to be voted on  
2-29 at an election held by the city before the fourth anniversary of the  
2-30 court's finding.

2-31 Sec. 273.104. CITY REQUIRED TO PAY FOR LEGAL SERVICES.  
2-32 Notwithstanding a home-rule city charter provision to the contrary,  
2-33 a city may not accept legal services relating to a proceeding under  
2-34 this subchapter without paying fair market value for those  
2-35 services.

2-36 SECTION 5. Sections 277.001, 277.002, 277.0021, 277.0022,  
2-37 277.0023, 277.0024, and 277.003, Election Code, are designated as  
2-38 Subchapter A, Chapter 277, Election Code, and a heading is added to  
2-39 Subchapter A to read as follows:

2-40 SUBCHAPTER A. PROVISIONS RELATING TO SIGNATURES, VALIDITY, AND  
2-41 VERIFICATION OF PETITIONS

2-42 SECTION 6. Section 277.001, Election Code, is amended to  
2-43 read as follows:

2-44 Sec. 277.001. APPLICABILITY OF SUBCHAPTER [~~CHAPTER~~]. This  
2-45 subchapter [~~chapter~~] applies to a petition authorized or required  
2-46 to be filed under a law outside this code in connection with an  
2-47 election.

2-48 SECTION 7. Section 277.002, Election Code, is amended by  
2-49 adding Subsection (f) to read as follows:

2-50 (f) The illegibility of a signature on a petition submitted  
2-51 to a home-rule city is not a valid basis for invalidating the  
2-52 signature if the information provided with the signature as  
2-53 required by this section and other applicable law legibly provides  
2-54 enough information to demonstrate that the signer:

- 2-55 (1) is eligible to have signed the petition; and
- 2-56 (2) signed the petition on or after the 180th day  
2-57 before the date the petition was filed.

2-58 SECTION 8. Subchapter A, Chapter 277, Election Code, as  
2-59 added by this Act, is amended by adding Section 277.005 to read as  
2-60 follows:

2-61 Sec. 277.005. PETITION FORM; USE BY CITY AND OTHER PERSONS.  
2-62 (a) The secretary of state shall prescribe a form, content, and  
2-63 procedure for a petition.

2-64 (b) A home-rule city that uses a form that is different from  
2-65 the official form prescribed under Subsection (a) may not  
2-66 invalidate a petition because the petition does not contain  
2-67 information that the petition form failed to provide for or to  
2-68 require to be provided.

2-69 (c) A person who circulates or submits a petition is not

3-1 required to use a petition form prescribed by the secretary of state  
3-2 or a home-rule city. A petition that does not use an officially  
3-3 prescribed form must contain the substantial elements required to  
3-4 be provided on the officially prescribed form.

3-5 SECTION 9. Chapter 277, Election Code, is amended by adding  
3-6 Subchapter B to read as follows:

3-7 SUBCHAPTER B. SUBMISSION OF CERTAIN CITY PETITIONS

3-8 Sec. 277.031. APPLICABILITY OF SUBCHAPTER. This subchapter  
3-9 applies to a home-rule city that has a procedure requiring the  
3-10 governing body of the city to hold an election on receipt of a  
3-11 petition requesting the election that complies with the applicable  
3-12 requirements.

3-13 Sec. 277.032. CONFLICTS WITH CITY CHARTER OR OTHER LAW. The  
3-14 provisions of this subchapter apply notwithstanding any city  
3-15 charter provision or other law.

3-16 Sec. 277.033. DETERMINATION OF VALIDITY. The city  
3-17 secretary shall determine the validity of a petition submitted  
3-18 under this subchapter, including by verifying the petition  
3-19 signatures, not later than the 30th day after the date the city  
3-20 receives the petition.

3-21 Sec. 277.034. COLLECTOR REQUIREMENTS PROHIBITED.  
3-22 (a) Except as provided by Subsection (b), a city may not restrict  
3-23 who may collect petition signatures.

3-24 (b) A city may require a person who collects petition  
3-25 signatures to be a resident of the city. This subsection does not  
3-26 authorize a city to require a person who collects petition  
3-27 signatures to be a registered voter.

3-28 SECTION 10. Sections 9.004(a) and (c), Local Government  
3-29 Code, are amended to read as follows:

3-30 (a) The governing body of a municipality on its own motion  
3-31 may submit a proposed charter amendment to the municipality's  
3-32 qualified voters for their approval at an election. The governing  
3-33 body shall submit a proposed charter amendment to the voters for  
3-34 their approval at an election if the submission is supported by a  
3-35 petition signed by a number of registered ~~qualified~~ voters of the  
3-36 municipality equal to at least five percent of the number of  
3-37 registered ~~qualified~~ voters of the municipality on the date of  
3-38 the most recent election held throughout the municipality or  
3-39 20,000, whichever number is the smaller.

3-40 (c) Notice of the election shall be published in a newspaper  
3-41 of general circulation published in the municipality. The notice  
3-42 must:

3-43 (1) include a substantial copy of the proposed  
3-44 amendment in which language sought to be deleted by the amendment is  
3-45 bracketed and stricken through and language sought to be added by  
3-46 the amendment is underlined;

3-47 (2) include an estimate of the anticipated fiscal  
3-48 impact to the municipality if the proposed amendment is approved at  
3-49 the election; and

3-50 (3) be published on the same day in each of two  
3-51 successive weeks, with the first publication occurring before the  
3-52 14th day before the date of the election.

3-53 SECTION 11. Section 277.004, Election Code, is repealed.

3-54 SECTION 12. Not later than January 1, 2018, the secretary of  
3-55 state shall adopt a petition form as required by Section 277.005,  
3-56 Election Code, as added by this Act.

3-57 SECTION 13. The changes in law made by this Act apply only  
3-58 to a petition submitted on or after January 1, 2018.

3-59 SECTION 14. This Act takes effect September 1, 2017.

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