

1-1 By: Bettencourt S.B. No. 1430
 1-2 (In the Senate - Filed March 10, 2021; March 18, 2021, read
 1-3 first time and referred to Committee on State Affairs;
 1-4 May 20, 2021, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 7, Nays 1; May 20, 2021,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15		X		
1-16	X			
1-17			X	

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1430 By: Lucio

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to requirements for certain petitions requesting an
 1-22 election and ballot propositions and to related procedures and
 1-23 provisions.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 52.072, Election Code, is amended by
 1-26 adding Subsection (g) to read as follows:

1-27 (g) A proposition must substantially submit the question
 1-28 with such definiteness, certainty, and facial neutrality that the
 1-29 voters are not misled.

1-30 SECTION 2. Chapter 233, Election Code, is amended by adding
 1-31 Section 233.0115 to read as follows:

1-32 Sec. 233.0115. BALLOT LANGUAGE MANDAMUS ACTION. If a court
 1-33 orders a new election under Section 233.011, a person may seek from
 1-34 the court a writ of mandamus to compel the governing body of a city
 1-35 to comply with the requirement that a ballot proposition must
 1-36 substantially submit the question with such definiteness,
 1-37 certainty, and facial neutrality that the voters are not misled, as
 1-38 provided by Section 273.102.

1-39 SECTION 3. Section 253.094(b), Election Code, is amended to
 1-40 read as follows:

1-41 (b) A corporation or labor organization may not make a
 1-42 political contribution in connection with a recall election,
 1-43 including the circulation and submission of a petition to call an
 1-44 election. This subsection does not prohibit a religious
 1-45 organization from circulating or submitting a petition in
 1-46 connection with a recall election.

1-47 SECTION 4. Chapter 273, Election Code, is amended by adding
 1-48 Subchapter F to read as follows:

1-49 SUBCHAPTER F. BALLOT PROPOSITION LANGUAGE ENFORCEMENT PROVISIONS

1-50 Sec. 273.101. REVIEW BY SECRETARY OF STATE. (a) Not later
 1-51 than the seventh day after the date on which a home-rule city
 1-52 publishes in the election order or by other means ballot
 1-53 proposition language proposing an amendment to the city charter or
 1-54 a voter-initiated initiative or referendum as requested by
 1-55 petition, a registered voter eligible to vote in the election may
 1-56 submit the proposition for review by the secretary of state.

1-57 (b) The secretary of state shall review the proposition not
 1-58 later than the seventh day after the date the secretary receives the
 1-59 submission to determine whether the proposition is misleading,
 1-60 inaccurate, or prejudicial.

2-1 (c) If the secretary of state determines that the
 2-2 proposition is misleading, inaccurate, or prejudicial, the city
 2-3 shall draft a proposition to cure the defects and give notice of the
 2-4 new proposition using the method of giving notice prescribed for
 2-5 notice of an election under Section 4.003.

2-6 (d) A proposition drafted by a city under Subsection (c) to
 2-7 cure the defects may be submitted to the secretary of state under
 2-8 Subsection (a). If the secretary of state determines that the city
 2-9 has on its third attempt drafted a proposition that is misleading,
 2-10 inaccurate, or prejudicial, the secretary of state shall draft the
 2-11 ballot proposition.

2-12 Sec. 273.102. MANDAMUS ACTIONS. (a) In an action in a
 2-13 court of competent jurisdiction seeking a writ of mandamus to
 2-14 compel the city's governing body to comply with the requirement
 2-15 that a ballot proposition must substantially submit the question
 2-16 with such definiteness, certainty, and facial neutrality that the
 2-17 voters are not misled, the court shall make its determination
 2-18 without delay and may order the city to use ballot proposition
 2-19 language drafted by the court.

2-20 (b) The court may award a plaintiff or relator who
 2-21 substantially prevails in a mandamus action described by Subsection
 2-22 (a) the party's reasonable attorney's fees, expenses, and court
 2-23 costs.

2-24 (c) Governmental immunity to suit is waived and abolished
 2-25 only to the extent of the liability created by Subsection (b).

2-26 Sec. 273.103. MANDATORY SUBMISSION TO SECRETARY OF STATE.
 2-27 Following a final nonappealable judgment containing a finding by a
 2-28 court that a ballot proposition drafted by a city failed to
 2-29 substantially submit the question with such definiteness,
 2-30 certainty, and facial neutrality that the voters are not misled,
 2-31 the city shall submit to the secretary of state for approval any
 2-32 proposition to be voted on at an election held by the city before
 2-33 the fourth anniversary of the court's finding.

2-34 Sec. 273.104. CITY REQUIRED TO PAY FOR LEGAL SERVICES.
 2-35 Notwithstanding a home-rule city charter provision to the contrary,
 2-36 a city may not accept legal services relating to a proceeding under
 2-37 this subchapter without paying fair market value for those
 2-38 services.

2-39 SECTION 5. Chapter 277, Election Code, is amended by
 2-40 designating Sections 277.001, 277.002, 277.0021, 277.0022,
 2-41 277.0023, 277.0024, and 277.003 as Subchapter A and adding a
 2-42 subchapter heading to read as follows:

2-43 SUBCHAPTER A. PROVISIONS RELATING TO SIGNATURES, VALIDITY, AND
 2-44 VERIFICATION OF PETITIONS

2-45 SECTION 6. Section 277.001, Election Code, is amended to
 2-46 read as follows:

2-47 Sec. 277.001. APPLICABILITY OF SUBCHAPTER [~~CHAPTER~~]. This
 2-48 subchapter [~~chapter~~] applies to a petition authorized or required
 2-49 to be filed under a law outside this code in connection with an
 2-50 election.

2-51 SECTION 7. Section 277.002, Election Code, is amended by
 2-52 adding Subsection (f) to read as follows:

2-53 (f) The illegibility of a signature on a petition submitted
 2-54 to a home-rule city is not a valid basis for invalidating the
 2-55 signature if the information provided with the signature as
 2-56 required by this section and other applicable law legibly provides
 2-57 enough information to demonstrate that the signer:

2-58 (1) is eligible to have signed the petition; and
 2-59 (2) signed the petition on or after the 180th day
 2-60 before the date the petition was filed.

2-61 SECTION 8. Subchapter A, Chapter 277, Election Code, as
 2-62 added by this Act, is amended by adding Section 277.005 to read as
 2-63 follows:

2-64 Sec. 277.005. PETITION FORM; USE BY CITY AND OTHER PERSONS.
 2-65 (a) The secretary of state shall prescribe a form, content, and
 2-66 procedure for a petition.

2-67 (b) A home-rule city that uses a form that is different from
 2-68 the official form prescribed under Subsection (a) may not
 2-69 invalidate a petition because the petition does not contain

3-1 information that the petition form failed to provide for or to
3-2 require to be provided.

3-3 (c) A person who circulates or submits a petition is not
3-4 required to use a petition form prescribed by the secretary of state
3-5 or a home-rule city. A petition that does not use an officially
3-6 prescribed form must contain the substantial elements required to
3-7 be provided on the officially prescribed form.

3-8 SECTION 9. Chapter 277, Election Code, is amended by adding
3-9 Subchapter B to read as follows:

SUBCHAPTER B. SUBMISSION OF CERTAIN CITY PETITIONS

3-10 Sec. 277.031. APPLICABILITY OF SUBCHAPTER. This subchapter
3-11 applies to a home-rule city that has a procedure requiring the
3-12 governing body of the city to hold an election on receipt of a
3-13 petition requesting the election that complies with the applicable
3-14 requirements.

3-15 Sec. 277.032. CONFLICTS WITH CITY CHARTER OR OTHER LAW. The
3-16 provisions of this subchapter apply notwithstanding any city
3-17 charter provision or other law.

3-18 Sec. 277.033. DETERMINATION OF VALIDITY. The city
3-19 secretary shall determine the validity of a petition submitted
3-20 under this subchapter, including by verifying the petition
3-21 signatures, not later than the 30th day after the date the city
3-22 receives the petition.

3-23 Sec. 277.034. COLLECTOR REQUIREMENTS PROHIBITED. A city
3-24 may not restrict who may collect petition signatures.

3-25 SECTION 10. Sections 9.004(a) and (c), Local Government
3-26 Code, are amended to read as follows:

3-27 (a) The governing body of a municipality on its own motion
3-28 may submit a proposed charter amendment to the municipality's
3-29 qualified voters for their approval at an election. The governing
3-30 body shall submit a proposed charter amendment to the voters for
3-31 their approval at an election if the submission is supported by a
3-32 petition signed by a number of registered [qualified] voters of the
3-33 municipality equal to at least five percent of the number of
3-34 registered [qualified] voters of the municipality on the date of
3-35 the most recent election held throughout the municipality or
3-36 20,000, whichever number is the smaller.

3-37 (c) Notice of the election shall be published in a newspaper
3-38 of general circulation published in the municipality. The notice
3-39 must:

3-40 (1) include a substantial copy of the proposed
3-41 amendment in which language sought to be deleted by the amendment is
3-42 bracketed and stricken through and language sought to be added by
3-43 the amendment is underlined;

3-44 (2) include an estimate of the anticipated fiscal
3-45 impact to the municipality if the proposed amendment is approved at
3-46 the election; and

3-47 (3) be published on the same day in each of two
3-48 successive weeks, with the first publication occurring before the
3-49 14th day before the date of the election.

3-50 SECTION 11. Section 277.004, Election Code, is repealed.

3-51 SECTION 12. Not later than January 1, 2022, the secretary of
3-52 state shall adopt a petition form as required by Section 277.005,
3-53 Election Code, as added by this Act.

3-54 SECTION 13. The changes in law made by this Act apply only
3-55 to a petition submitted on or after January 1, 2022.

3-56 SECTION 14. This Act takes effect September 1, 2021.

3-57 * * * * *