

1-1 By: Bettencourt S.B. No. 221  
 1-2 (In the Senate - Filed November 14, 2022; February 15, 2023,  
 1-3 read first time and referred to Committee on State Affairs;  
 1-4 March 21, 2023, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 8, Nays 3; March 21, 2023,  
 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	X			
1-19		X		

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 221 By: Bettencourt

1-21 A BILL TO BE ENTITLED  
 1-22 AN ACT

1-23 relating to requirements for certain petitions requesting an  
 1-24 election and ballot propositions.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Section 52.072, Election Code, is amended by  
 1-27 adding Subsection (g) to read as follows:

1-28 (g) A proposition must substantially submit the question  
 1-29 with such definiteness, certainty, and facial neutrality that the  
 1-30 voters are not misled.

1-31 SECTION 2. Chapter 233, Election Code, is amended by adding  
 1-32 Section 233.0115 to read as follows:

1-33 Sec. 233.0115. BALLOT LANGUAGE MANDAMUS ACTION. If a court  
 1-34 orders a new election under Section 233.011, a person may seek from  
 1-35 the court a writ of mandamus to compel the governing body of a city  
 1-36 to comply with the requirement that a ballot proposition must  
 1-37 substantially submit the question with such definiteness,  
 1-38 certainty, and facial neutrality that the voters are not misled, as  
 1-39 provided by Section 273.102.

1-40 SECTION 3. Section 253.094(b), Election Code, is amended to  
 1-41 read as follows:

1-42 (b) A corporation or labor organization may not make a  
 1-43 political contribution in connection with a recall election,  
 1-44 including the circulation and submission of a petition to call an  
 1-45 election. This subsection does not prohibit a religious  
 1-46 organization from circulating or submitting a petition in  
 1-47 connection with a recall election.

1-48 SECTION 4. Chapter 273, Election Code, is amended by adding  
 1-49 Subchapter F to read as follows:

1-50 SUBCHAPTER F. BALLOT PROPOSITION LANGUAGE ENFORCEMENT PROVISIONS

1-51 Sec. 273.101. REVIEW BY SECRETARY OF STATE. (a) Not later  
 1-52 than the seventh day after the date on which a home-rule city  
 1-53 publishes in the election order or by other means ballot  
 1-54 proposition language proposing an amendment to the city charter or  
 1-55 a voter-initiated initiative or referendum as requested by  
 1-56 petition, a registered voter eligible to vote in the election may  
 1-57 submit the proposition for review by the secretary of state.

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

2-1 inaccurate, or prejudicial.

2-2 (c) If the secretary of state determines that the  
 2-3 proposition is misleading, inaccurate, or prejudicial, the city  
 2-4 shall draft a proposition to cure the defects and give notice of the  
 2-5 new proposition using the method of giving notice prescribed for  
 2-6 notice of an election under Section 4.003.

2-7 (d) A proposition drafted by a city under Subsection (c) to  
 2-8 cure the defects may be submitted to the secretary of state under  
 2-9 Subsection (a). If the secretary of state determines that the city  
 2-10 has on its third attempt drafted a proposition that is misleading,  
 2-11 inaccurate, or prejudicial, the secretary of state shall draft the  
 2-12 ballot proposition.

2-13 Sec. 273.102. MANDAMUS ACTIONS. (a) In an action in a  
 2-14 court of competent jurisdiction seeking a writ of mandamus to  
 2-15 compel the city's governing body to comply with the requirement  
 2-16 that a ballot proposition must substantially submit the question  
 2-17 with such definiteness, certainty, and facial neutrality that the  
 2-18 voters are not misled, the court shall make its determination  
 2-19 without delay and may order the city to use ballot proposition  
 2-20 language drafted by the court.

2-21 (b) The court may award a plaintiff or relator who  
 2-22 substantially prevails in a mandamus action described by Subsection  
 2-23 (a) the party's reasonable attorney's fees, expenses, and court  
 2-24 costs.

2-25 (c) Governmental immunity to suit is waived and abolished  
 2-26 only to the extent of the liability created by Subsection (b).

2-27 Sec. 273.103. MANDATORY SUBMISSION TO SECRETARY OF STATE.  
 2-28 Following a final nonappealable judgment containing a finding by a  
 2-29 court that a ballot proposition drafted by a city failed to  
 2-30 substantially submit the question with such definiteness,  
 2-31 certainty, and facial neutrality that the voters are not misled,  
 2-32 the city shall submit to the secretary of state for approval any  
 2-33 proposition to be voted on at an election held by the city before  
 2-34 the fourth anniversary of the court's finding.

2-35 Sec. 273.104. CITY REQUIRED TO PAY FOR LEGAL SERVICES.  
 2-36 Notwithstanding a home-rule city charter provision to the contrary,  
 2-37 a city may not accept legal services relating to a proceeding under  
 2-38 this subchapter without paying fair market value for those  
 2-39 services.

2-40 SECTION 5. Chapter 277, Election Code, is amended by  
 2-41 designating Sections 277.001, 277.002, 277.0021, 277.0022,  
 2-42 277.0023, 277.0024, and 277.003 as Subchapter A and adding a  
 2-43 subchapter heading to read as follows:

2-44 SUBCHAPTER A. PROVISIONS RELATING TO SIGNATURES, VALIDITY, AND  
 2-45 VERIFICATION OF PETITIONS

2-46 SECTION 6. Section 277.001, Election Code, is amended to  
 2-47 read as follows:

2-48 Sec. 277.001. APPLICABILITY OF SUBCHAPTER [~~CHAPTER~~]. This  
 2-49 subchapter [~~chapter~~] applies to a petition authorized or required  
 2-50 to be filed under a law outside this code in connection with an  
 2-51 election.

2-52 SECTION 7. Section 277.002, Election Code, is amended by  
 2-53 adding Subsection (g) to read as follows:

2-54 (g) The illegibility of a signature on a petition submitted  
 2-55 to a home-rule city is not a valid basis for invalidating the  
 2-56 signature if the information provided with the signature as  
 2-57 required by this section and other applicable law legibly provides  
 2-58 enough information to demonstrate that the signer:

2-59 (1) is eligible to have signed the petition; and  
 2-60 (2) signed the petition on or after the 180th day  
 2-61 before the date the petition was filed.

2-62 SECTION 8. Subchapter A, Chapter 277, Election Code, as  
 2-63 added by this Act, is amended by adding Section 277.005 to read as  
 2-64 follows:

2-65 Sec. 277.005. PETITION FORM; USE BY CITY AND OTHER PERSONS.  
 2-66 (a) The secretary of state shall prescribe a form, content, and  
 2-67 procedure for a petition.

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

3-1 invalidate a petition because the petition does not contain  
3-2 information that the petition form failed to provide for or to  
3-3 require to be provided.

3-4 (c) A person who circulates or submits a petition is not  
3-5 required to use a petition form prescribed by the secretary of state  
3-6 or a home-rule city. A petition that does not use an officially  
3-7 prescribed form must contain the substantial elements required to  
3-8 be provided on the officially prescribed form.

3-9 SECTION 9. Chapter 277, Election Code, is amended by adding  
3-10 Subchapter B to read as follows:

3-11 SUBCHAPTER B. SUBMISSION OF CERTAIN CITY PETITIONS

3-12 Sec. 277.031. APPLICABILITY OF SUBCHAPTER. This subchapter  
3-13 applies to a home-rule city that has a procedure requiring the  
3-14 governing body of the city to hold an election on receipt of a  
3-15 petition requesting the election that complies with the applicable  
3-16 requirements.

3-17 Sec. 277.032. CONFLICTS WITH CITY CHARTER OR OTHER LAW. The  
3-18 provisions of this subchapter apply notwithstanding any city  
3-19 charter provision or other law.

3-20 Sec. 277.033. DETERMINATION OF VALIDITY. The city  
3-21 secretary shall determine the validity of a petition submitted  
3-22 under this subchapter, including by verifying the petition  
3-23 signatures, not later than the 30th day after the date the city  
3-24 receives the petition.

3-25 Sec. 277.034. COLLECTOR REQUIREMENTS PROHIBITED. A city  
3-26 may not restrict who may collect petition signatures.

3-27 SECTION 10. Sections 9.004(a) and (c), Local Government  
3-28 Code, are amended to read as follows:

3-29 (a) The governing body of a municipality on its own motion  
3-30 may submit a proposed charter amendment to the municipality's  
3-31 qualified voters for their approval at an election. The governing  
3-32 body shall submit a proposed charter amendment to the voters for  
3-33 their approval at an election if the submission is supported by a  
3-34 petition signed by a number of registered [qualified] voters of the  
3-35 municipality equal to at least five percent of the number of  
3-36 registered [qualified] voters of the municipality on the date of  
3-37 the most recent election held throughout the municipality or  
3-38 20,000, whichever number is the smaller.

3-39 (c) Notice of the election shall be published in a newspaper  
3-40 of general circulation published in the municipality. The notice  
3-41 must:

3-42 (1) include a substantial copy of the proposed  
3-43 amendment in which language sought to be deleted by the amendment is  
3-44 bracketed and stricken through and language sought to be added by  
3-45 the amendment is underlined;

3-46 (2) include an estimate of the anticipated fiscal  
3-47 impact to the municipality if the proposed amendment is approved at  
3-48 the election; and

3-49 (3) be published on the same day in each of two  
3-50 successive weeks, with the first publication occurring before the  
3-51 14th day before the date of the election.

3-52 SECTION 11. Section 277.004, Election Code, is repealed.

3-53 SECTION 12. Not later than January 1, 2024, the secretary of  
3-54 state shall adopt a petition form as required by Section 277.005,  
3-55 Election Code, as added by this Act.

3-56 SECTION 13. The changes in law made by this Act apply only  
3-57 to a petition submitted on or after January 1, 2024.

3-58 SECTION 14. This Act takes effect September 1, 2023.

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