

BILL ANALYSIS

Senate Research Center
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H.B. 3015
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under the current statutory framework, Texas municipalities with a population below 5,000 are governed by the "general law." The general law provides no direct mechanism for removing elected officials except through lawsuit. Because these municipalities do not meet the population threshold necessary to create their own charters, they cannot develop additional means of removing elected officials on their own. However, concerned citizens have pointed to situations they claim call for immediate action to remove an elected official. Lawsuits, they say, are an inadequate remedy because they are too costly and too slow to resolve before the terms of many local elected officials expire.

H.B. 3015 provides another means for voters in general law municipalities in El Paso County to remove their elected officials. It would allow voters to file a notice of recall and circulate a petition for recall that meets certain requirements set out in the bill. If the petitioners meet those requirements and related deadlines and the municipality's clerk certifies that they have done so, a recall election may be initiated. The official whose recall is sought then has the option of resigning within a specified timeframe; otherwise, a recall election will be held. On a majority vote in favor of recall, the official's position immediately becomes vacant, to be filled as prescribed by existing law. The bill goes on to make a clerical change to the title of a related subchapter to avoid confusion.

H.B. 3015 amends current law relating to a recall election for officials of certain general-law municipalities.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 21, Local Government Code, by adding Subchapter C, as follows:

SUBCHAPTER C. REMOVAL OF MEMBER OF GOVERNING BODY OF CERTAIN GENERAL-LAW MUNICIPALITIES FOLLOWING ELECTION

Sec. 21.101. **REMOVAL BY RECALL ELECTION AUTHORIZED.** Authorizes a member of the governing body of a general-law municipality with a population of less than 5,000 located in a county that borders the United Mexican States and has a population of more than 800,000 to be removed from office through a recall election initiated by petition as provided by this subchapter.

Sec. 21.102. **PETITION.** (a) Requires a notice of intent to circulate a petition, before circulating a petition, to be filed with the municipal clerk. Prohibits a notice of intent to circulate a petition from being filed before the 180th day after the date the officer whose removal is sought was elected or was subject to an unsuccessful recall election.

(b) Authorizes a petition, after notice is filed under Subsection (a), to be circulated. Requires that each page of the petition legibly and conspicuously be titled "Recall Petition," state that the petition seeks to initiate a recall election to remove a member of the governing body, state the full name and title of the member whose removal is sought, and state the reasons for seeking removal.

(c) Requires that a signature, for it to be valid, comply with the requirements of Section 277.002 (Validity of Petition Signatures), Election Code, and is the signature of a registered voter in the territory that elected the member whose removal is sought.

(d) Requires at least one signer of the petition to swear before a notary public or other person authorized to administer oaths that each signature on the petition was made by the person whose signature it purports to be, and requires that the oath be memorialized on the petition.

(e) Provides that a petition is valid if the petition complies with the requirements of Subsections (a), (b), (c), and (d) of this section and Chapter 277 (Petition Prescribed by Law Outside Code), Election Code; the total number of valid signatures on the petition equals at least 50 percent of the total number of votes cast in the most recent election of the member whose removal is sought that was not a runoff election; and the petition is filed with the municipal clerk not later than the 30th day after the date of the filing of notice under Subsection (a).

Sec. 21.103. REVIEW OF PETITION. (a) Requires the municipal clerk, not later than the 10th day after the date a petition is filed, to review the petition and determine whether the petition is valid.

(b) Requires the municipal clerk, if the clerk determines the petition is valid, to attach a certificate to the petition stating that the petition is valid and submit the petition and certificate to the governing body of the municipality as soon as practicable. Provides that, if the clerk determines that the petition is not valid:

(1) the clerk is required to attach a certificate to the petition stating the facts supporting the determination that the petition is not valid;

(2) the clerk is required to notify the person who filed the petition of the clerk's determination;

(3) the petition is authorized to be amended or supplemented and resubmitted not later than the 10th day after the date of the certification under Subdivision (1); and

(4) the clerk is required to return the petition to the person who filed it.

(c) Requires the municipal clerk to determine the validity of a petition resubmitted under Subsection (b)(3) in the same manner as the original submission except that if the clerk determines the petition is not valid the petition is prohibited from being further amended or supplemented and the recall election is not held.

Sec. 21.104. ELECTION. (a) Requires the governing body, unless the member who is the target of the petition resigns before the sixth day after the date a petition and certificate are delivered to the governing body of the municipality, to order that a recall election be held on the first uniform election date that occurs 78 days after the date of the order.

(b) Requires that the ballot for a recall election be printed to permit voting for or against the proposition. Sets forth required language for the ballot.

(c) Provides that, if less than a majority of the votes received at the recall election are in favor of removal of the member of the governing body named on the ballot, the member remains in office. Requires the governing body, if a majority of the votes received are in favor of the removal of the member, to immediately declare the member's office vacant and requires the vacancy to be filled in the manner prescribed by law for filling a vacancy on the governing body. Prohibits a member removed by recall from being appointed to fill the vacancy and from being a candidate in any election called to fill the vacancy.

Sec. 21.105. CLERK. Provides that, in this subchapter, a municipal clerk includes a municipal secretary or any other officer of the municipality who performs the duties of a municipal clerk or secretary.

SECTION 2. Amends the heading to Subchapter B, Chapter 21, Local Government Code, to read as follows:

SUBCHAPTER B. JUDICIAL REMOVAL OF MEMBER OF GOVERNING BODY OF
GENERAL-LAW MUNICIPALITY

SECTION 3. Effective date: upon passage or September 1, 2013.