



# Testimony

## HB 782

### *Testimony Before the House Committee on Elections*

by Shelby Sterling, Policy Analyst

Mr. Chairman and Members of the Committee:

My name is Shelby Sterling, and I am a policy analyst at the Texas Public Policy Foundation. Thank you for the opportunity to address the committee today. I am here in support of House Bill 782.

Home-rule municipalities in Texas have fairly broad discretion to place initiatives before voters; however, the system for local elections lacks uniformity across the state because each municipality's charter governs its local elections. Change in the legal requirements of local election processes are long overdue. House Bill 782 proposes reforms that are needed.

In fact, the bill outlines the process that must be followed by home-rule municipalities to propose charter amendments and citizen-driven petition referendums and establishes safeguards to ensure that ballot language accurately describes the proposition being placed before voters. Specifically, the bill:

1. Standardizes forms and removes overly broad restrictions when submitting petitions,
2. Removes ambiguous statutory language and establishes a uniform process for citizen-driven referendums, and
3. Allows an objective review of ballot language before being put to voters.

HB 782 offers a chance for Texas to do a much better job of guaranteeing citizens access to a uniform and fair election system. In some cases, this appears to be missing. Too often, voters have been misled by ambiguous and confusing ballot language, leading to an outcome they did not expect. The following are just four examples to help shine a light on this issue.

#### **City of Austin: Efficiency Audits**

In 2018, more than 30,000 people signed a petition triggering an initiative election that asked voters to approve an independent audit of the city of Austin's budget and operations. In a veiled attempt to dissuade voters from approving the idea, however, the city of Austin crafted the following biased language:

*Without using the existing internal City Auditor or existing independent external auditor [emphasis added], shall the City Code be amended to require an efficiency audit of the City's operational and fiscal performance performed by a third-party audit consultant, at an estimated cost of \$1-\$5 million? [emphasis added]*

*Outcome:* Prior to this particular proposition being submitted for voter approval, the city of Austin was sued by Austin resident Ed English. English asked the Texas Supreme Court to force the city to rewrite the ballot language. Unfortunately, the court sided against English and the proposition was allowed to go forward as offered. *The proposition was defeated 58% to 42%.*

#### **City of Austin: Ridesharing**

In 2015, the city of Austin sought to subject ridesharing companies, like Uber and Lyft, to onerous new regulations. After much back-and-forth—that included an appeal to the Texas Supreme Court—this was the language that was submitted to Austin voters:

*Shall the City Code be amended to repeal City Ordinance No. 202151217-075 relating to Transportation Network Companies; and replace with an ordinance that would repeal and prohibit required fingerprinting, repeal the requirement*

*to identify the vehicle with a distinctive emblem, repeal the prohibition against loading and unloading passengers in a travel lane, and require other regulations for Transportation Network Companies?*

A spokesman for Uber stated: "The city council's ballot language is confusing, inaccurate and only tells voters one side of the story. Voters are asking for clarity, not confusion, so they can decide what types of transportation options they want in Austin."

*Outcome: The proposition failed 56% to 44%.*

### **City of Houston: Term Limits**

In 2015, the city of Houston put forward a proposition offering to amend term limits for local officials. However, the language submitted was inarticulate and confusing. Many voters went to the polls and voted in favor of the proposition without realizing that they were giving city council members more time in office. According to Rice University political scientist Bob Stein, when voters were informed that the proposition would benefit incumbent city council members, "[the] support swung the other way and it was a deficit of 17 points against the bill":

*(Relating to Term Limits for City Elective Office) Shall the City Charter of the City of Houston be amended to reduce the number of terms of elective offices to no more than two terms in the same office and limit the length for all terms of elective office to four years, beginning in January 2016; and provide for transition?*

*Outcome: Voters approved the proposition 64% to 36%. A lawsuit was filed, but the judge sided with the city of Houston, finding that the ballot language was sufficient.*

### **City of Houston: "Rain Tax"**

In 2010, the city of Houston submitted a proposition to voters asking to approve a new pay-as-you-go fee dedicated to streets and drainage. Missing from the ballot language, however, was language specifying that approval of the proposition would create a new tax, that is, the rain tax:

*Relating to the Creation of a Dedicated Funding Source to Enhance, Improve and Renew Drainage Systems and Streets. Shall the City Charter of the City of Houston be amended to provide for the enhancement, improvement and ongoing renewal of Houston's drainage and streets by creating a Dedicated Pay-As-You-Go Fund for Drainage and Streets?*

*Outcome: The voters approved the proposition in 2010, but the Texas Supreme Court invalidated the proposition stating that the city used misleading ballot information. The proposition was placed on the ballot again in the November 2018 election after the language was tweaked and was passed with more than [74% of the voters approving it](#).*

While these only offer a glimpse into this issue, they demonstrate the need for the proposed changes provided by HB 782. By providing oversight of and safeguards in the local election process, HB 782 offers protections that are currently lacking, as well as a front-end check to ensure that ballot language accurately describes the proposition being placed before voters.

For these reasons, we support HB 782. Thank you for your time and consideration. I'd be happy to answer any questions you may have. ★

## **ABOUT THE AUTHOR**

**Shelby Sterling, JD**, is a policy analyst for the Government for the People campaign at the Texas Public Policy Foundation.

Sterling is a licensed attorney in the state of Texas with a JD from Texas A&M University School of Law in Fort Worth. She participated in the law school's residency externship program and graduated with a concentration in public policy. Sterling received her BA in Letters from the University of Oklahoma, a combination study of philosophy, history, and literature on the U.S. Constitution and the Founding Fathers.

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