



TEXAS MUNICIPAL LEAGUE
Empowering Texas cities to serve their citizens

President **David Rutledge**, Mayor, Bridge City
Executive Director **Bennett Sandlin**

March 13, 2023

The Honorable Bryan Hughes
Chairman, State Affairs Committee
Texas State Senate
PO Box 12068
Austin, Texas 78711-2068

Dear Chairman Hughes:

The purpose of this letter is to inform you of the Texas Municipal League's opposition to **Senate Bill 221** by **Bettencourt**. S.B. 221 would, among other things: (1) set up a process for the Secretary of State's office to review ballot language used by cities in initiative, referendum, and charter elections held by home rule cities; (2) waive governmental immunity and subject local taxpayers to paying attorney's fees, expenses, and court costs when defending mandamus challenges to ballot language; and (3) preempt voter-approved city charter provisions on election petition requirements.

To put this legislation in context, home rule cities are the only level of government in Texas—state included—where direct democracy exists. In accordance with local home rule charters that were written and approved by city voters, residents regularly shape local policy in cities across the state. It is often said that citizen elections are the ultimate form of local control. That makes it all the more perplexing why the legislature would entertain the idea of preempting the petition procedures that voters in 382 home rule cities have approved at an election.

Under current law, the city council in conjunction with the city attorney is responsible for crafting ballot language that submits the question to the voters with definiteness and certainty in a way that does not mislead. S.B. 221 would require the Secretary of State's office to review and approve language if requested by a registered voter. With the new ballot language review procedure proposed under S.B. 221, one would reasonably expect that city liability to ballot language challenges would be limited, especially if the language is approved or even drafted by the Secretary of State's office. However, the bill would actually expand city exposure to legal challenges by waiving governmental immunity and requiring the payment of attorney's fees and court costs, even if the city uses language approved by the Secretary of State's office.

This legislation opens the door to increased and frivolous litigation against Texas cities based on ballot language and forces taxpayers to pick up the tab. It also preempts city charter provisions that were put into place by the voters in individual communities across the state.

For these reasons, the League is opposed to S.B. 221.

Sincerely,

A handwritten signature in black ink, appearing to read 'Monty Wynn', with a stylized flourish at the end.

Monty Wynn
Director, Grassroots and Legislative Services
Texas Municipal League