

Bond Case Briefs

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BALLOT INITIATIVE - TEXAS

In re Petricek

Supreme Court of Texas - September 1, 2021 - S.W.3d - 2021 WL 3909908 - 64 Tex. Sup. Ct. J. 1769

Voter, who signed petition to city council for proposed ordinance that, according to petition, would establish minimum standards for city police department to enhance public safety and police oversight, transparency, and accountability, petitioned for writ of mandamus, challenging city council's chosen ballot language, after city council chose to place proposed ordinance before the voters for approval, using its own description of the ordinance to be used on the ballot, rather than using the caption set forth in the petition as the ballot language.

The Supreme Court held that:

- City charter required city to place caption for petition-initiated ordinance on ballot verbatim if caption complied with applicable law, including the common-law standard for ballot language, but if petitioned caption fell short of that standard, city had limited discretion to revise the caption to the extent necessary to bring it into compliance;
- City charter was a law that otherwise prescribed the wording required to appear on ballot for a petition-initiated ordinance, for purposes of provision of the Election Code requiring the authority ordering an election to prescribe the wording of a proposition that is to appear on the ballot, unless "otherwise provided by law";
- Cost to city of ordinance was a chief feature that reflected ordinance's character and purpose, and thus, ballot language was required to mention cost impact of ordinance; and
- Caption for ordinance was not misleading for failure to mention certain details of ordinance, such as minimum police staffing levels, minimum levels of community engagement, or training mandates required by proposed ordinance, and thus, under city charter, city council had no discretion to adopt its own ballot language to address such details.

City charter was a law that otherwise prescribed the wording required to appear on ballot for a petition-initiated ordinance, for purposes of provision of the Election Code requiring the authority ordering an election to prescribe the wording of a proposition that is to appear on the ballot, unless "otherwise provided by law"; Election Code defined "law" to mean "a constitution, statute, city charter, or city ordinance," city charter article governing petition-initiated ordinances stated that the ballot "shall state the caption of the ordinance," and although Election Code did not define "caption," city acknowledged that the caption was the proposition briefly laying out the measure or initiated ordinance.