

Bond Case Briefs

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BALLOT INITIATIVES - TEXAS

In re Rogers

Supreme Court of Texas - May 24, 2024 - S.W.3d - 2024 WL 2490520

Relators, who were signatories of petition to have local board of an emergency services district place on the ballot a proposition to alter sales tax rates within the district, sought in district court a writ of mandamus compelling the board to determine whether the petition contained the statutorily required number of signatures or, alternatively, ordering the board to call an election on the petition.

During discovery, relators filed a petition for writ of mandamus in the Austin Court of Appeals, which denied relief without substantive opinion. Thereafter, relators filed their mandamus petition in the Supreme Court and then nonsuited their claims in the district court.

The Supreme Court held that:

- The Court had jurisdiction to grant mandamus relief against board;
- As long as the petition had the statutorily required number of signatures, the board had a ministerial, nondiscretionary duty to call an election; and
- Mandamus relief was an appropriate remedy.

The Supreme Court had jurisdiction to grant mandamus relief against the local board of an emergency services district in dispute in which relators, who were signatories of petition to have the board place on the ballot a proposition to alter sales tax rates within the district, were seeking a writ of mandamus compelling the board to determine whether the petition contained the statutorily required number of signatures or, alternatively, ordering the board to call an election on the petition; the Election Code waived any claim to immunity from mandamus relief by authorizing the Supreme Court, or a court of appeals, to compel the performance of a duty in connection with an election, and relators sought to compel performance of such a duty that the Health and Safety Code expressly assigned to the board of an emergency services district.

As a political subdivision of the State, an emergency services district is entitled to governmental immunity, which operates like sovereign immunity, and the district's board, as the governing entity, also retains immunity.

As long as petition had the statutorily required number of signatures, local board of an emergency services district had a ministerial, nondiscretionary duty to call an election on petition's proposition to alter sales tax rates within the district, despite argument that petition was legally defective as to the amount of the proposed change in the tax rate and as to the petition's alleged failure to match the mandatory ballot language to be used in an election to abolish the tax, which the proposition would arguably do in part; there was a strong preference in favor of holding elections on qualified ballot measures even where there was some question about whether the measure, if passed, would be subject to valid legal challenge, and board lacked discretion to conduct its own unauthorized legal analysis to keep an otherwise qualified petition off the ballot entirely.

Mandamus relief was an appropriate remedy for refusal of local board of an emergency services district to perform its ministerial, nondiscretionary duty to call an election on petition's proposition to alter sales tax rates within the district; the only factual question that could possibly be in dispute was the validity of the signatures, but the board had never challenged the qualifications or validity of any of the signatures, and the Election Code authorized appellate courts to grant mandamus relief to compel the performance of an election-related duty.