

A BILL TO BE ENTITLED

AN ACT

relating to processes to address election irregularities;  
providing a civil penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 16, Election Code, is amended by adding Chapters 280 and 281 to read as follows:

CHAPTER 280. REQUEST TO ADDRESS ELECTION IRREGULARITY

Sec. 280.001. REQUEST FOR EXPLANATION. (a) A person described by Subsection (f) may issue a written request to the county clerk for an explanation and supporting documentation for:

(1) an action taken by an election officer that appears to violate this code;

(2) irregularities in precinct results; or

(3) inadequacy or irregularity of documentation required to be maintained under this code.

(b) Not later than the 20th day after the date a request is received under Subsection (a), a county clerk shall provide the requested explanation and any supporting documentation.

(c) A requestor who is not satisfied with the explanation and supporting documentation provided under Subsection (b) may issue a request for further explanation and supporting documentation to the county clerk.

(d) Not later than the 10th day after the date a request is received under Subsection (c), the county clerk shall provide the

1 requested explanation and any supporting documentation.

2 (e) A requestor who is not satisfied with the explanation  
3 and supporting documentation provided under Subsection (d) may  
4 issue a request to the secretary of state for an audit of the issue  
5 described by Subsection (a), as provided by Section 280.002.

6 (f) A person may make a request under this section if the  
7 person participated in the relevant election as:

8 (1) a candidate;

9 (2) a county chair of a political party;

10 (3) a presiding judge;

11 (4) an alternate presiding judge; or

12 (5) the head of a specific-purpose political committee  
13 that supports or opposes a ballot measure.

14 Sec. 280.002. AUDIT BY SECRETARY OF STATE. (a) A person to  
15 whom Section 280.001(e) applies may submit a request for an audit to  
16 the secretary of state for investigation. A request for an audit  
17 must include copies of:

18 (1) the requests made by the person to the person's  
19 county clerk under Sections 280.001(a) and (c);

20 (2) the explanations provided by the county clerk to  
21 the person under Sections 280.001(b) and (d); and

22 (3) any supporting documentation provided by the  
23 county clerk to the person under Sections 280.001(b) and (d).

24 (b) Not later than the 30th day after the date the secretary  
25 of state receives a request for an audit under this section, the  
26 secretary must determine whether the information submitted under  
27 Subsection (a) sufficiently explains the irregularity identified

1 under Section 280.001(a). If the information is insufficient, the  
2 secretary shall immediately begin an audit of the identified  
3 irregularity at the expense of the county.

4 (c) The county clerk shall cooperate with the office of the  
5 secretary of state and may not interfere with or obstruct the audit.

6 (d) On conclusion of the audit, the secretary of state shall  
7 provide notice of the findings of the audit to the person who  
8 submitted the request for the audit and the county clerk.

9 Sec. 280.003. FINDING OF VIOLATION. (a) In addition to  
10 the notice required under Section 280.002(d), the secretary of  
11 state shall provide special notice to a county clerk detailing any  
12 violation of this code found during the conduct of an audit under  
13 Section 280.002.

14 (b) If the county clerk does not remedy a violation detailed  
15 in a notice under Subsection (a) by the 30th day after the date the  
16 clerk receives the notice, the secretary of state shall assess a  
17 civil penalty of \$500 for each violation not remedied and, if  
18 possible, remedy the violation on behalf of the county clerk. The  
19 remedy provided under this subsection is in addition to any other  
20 remedy available under law for a violation of this code.

21 (c) If the secretary of state is not able to remedy the  
22 violation on behalf of the county clerk, the secretary shall assess  
23 an additional penalty under Subsection (b) for each day the county  
24 clerk does not remedy the violation until the violation is  
25 remedied.

26 (d) The secretary of state shall maintain a record of county  
27 clerks who have been assessed a civil penalty under Subsection (b).

1 The secretary of state shall publish the record on the secretary of  
2 state's Internet website.

3 (e) The attorney general may bring an action under this  
4 section to recover a civil penalty that has not been paid.

5 (f) A civil penalty collected under this section shall be  
6 deposited in the state treasury to the credit of the general revenue  
7 fund.

8 CHAPTER 281. REVIEW OF 2020 GENERAL ELECTION RESULTS

9 Sec. 281.001. REVIEW OF RESULTS OF 2020 GENERAL ELECTION  
10 FOR STATE AND COUNTY OFFICERS. (a) In this section, "committee"  
11 means an election review advisory committee.

12 (b) A state or county chair of a political party that made  
13 nominations by primary election for the last general election for  
14 state and county officers may request a review of the results of the  
15 2020 general election for state and county officers by submitting a  
16 written request to a county clerk. A county chair may only request  
17 a review from the county clerk of the county served by the party  
18 chair.

19 (c) A county clerk that receives a request under this  
20 section shall appoint an election review advisory committee to  
21 conduct a review under this chapter. The county clerk shall  
22 supervise the committee.

23 (d) The county clerk shall appoint members of the committee  
24 from lists of names of persons eligible for appointment submitted  
25 to the county clerk by the party chair of each political party that  
26 made nominations by primary election for the last general election  
27 for state and county officers. The county clerk shall determine the

1 number of members necessary to conduct the review and appoint an  
2 equal number of members from each list.

3 (e) The committee members must be qualified voters of the  
4 county.

5 (f) A review under this section shall include:

6 (1) all ballots voted in-person during early voting  
7 and on election day from each precinct in the county where the  
8 number of ballots cast exceeded the total number of voters who were  
9 accepted for voting at an early voting location or polling place in  
10 the precinct;

11 (2) all ballots voted by mail and on election day from  
12 an additional number of randomly selected precincts in the county  
13 that includes the greater of:

14 (A) three precincts; or

15 (B) 20 percent of the remaining number of  
16 precincts in the county; and

17 (3) the greater of 1,000 voted ballots or 10 percent of  
18 all ballots voted at an early voting location from a number of  
19 locations equal to:

20 (A) not fewer than three randomly selected early  
21 voting locations; or

22 (B) if the county has fewer than three early  
23 voting locations, all early voting locations in the county.

24 (g) A review under this section shall be limited to not  
25 fewer than three and not more than five contested races or ballot  
26 measures. If there are more than five contested races or ballot  
27 measures identified in the request under Subsection (b), the county

1 clerk shall randomly select five races or measures for review. The  
2 contested races must include at least one of each of the following  
3 types of races, regardless of whether the type was identified in the  
4 request under Subsection (b):

- 5 (1) a federal office;
- 6 (2) a statewide office; and
- 7 (3) a county office.

8 (h) The committee shall begin the review not later than the  
9 20th day after the date the county clerk receives the request under  
10 Subsection (b). The committee shall have access to ballots in the  
11 custody of the county clerk for the purpose of review under  
12 Subsection (f).

13 (i) Before the committee begins the review, the secretary of  
14 state shall determine an acceptable margin of error appropriate for  
15 the county based on mathematical and statistical analyses  
16 appropriate to the voting system used by the county.

17 (j) If, for any contested race or ballot measure in the  
18 review, the results of the review differ from canvassed results  
19 from the 2020 general election for state and county officers by an  
20 amount outside the margin of error determined under Subsection (i)  
21 for the county, the committee shall conduct another review. A  
22 review under this subsection shall be conducted in the same manner  
23 as the initial review, except that the committee shall randomly  
24 select different precincts for review.

25 (k) If, for any contested race or ballot measure in the  
26 review under Subsection (j), the results of the review differ from  
27 canvassed results from the 2020 general election for state and

1 county officers by an amount outside the margin of error determined  
2 under Subsection (i) for the county, the committee shall conduct a  
3 final review. A review under this subsection shall be conducted in  
4 the same manner as the initial review, except that:

5 (1) for a contested race or ballot measure under  
6 Subsection (g), the review shall include the entire county; and

7 (2) for any other contested race, the review shall  
8 include the entire district.

9 (1) The committee shall provide the full results of the  
10 review to:

11 (1) the county clerk;

12 (2) the secretary of state; and

13 (3) the county chair of each political party in the  
14 county.

15 (m) The secretary of state shall issue a notice of the  
16 results of the review to:

17 (1) the governor;

18 (2) the lieutenant governor;

19 (3) the speaker of the house of representatives; and

20 (4) each member of the legislature.

21 (n) The notice under Subsection (m) must include an  
22 indication whether the result of the review:

23 (1) confirmed the final canvass of the 2020 general  
24 election for state and county officers;

25 (2) differed from the final canvass of the 2020  
26 general election for state and county officers, but by an amount  
27 within the margin of error identified under Subsection (i); or

1           (3) differed from the final canvass of the 2020  
2 general election for state and county officers by an amount outside  
3 the margin of error identified under Subsection (i).

4           (o) If the notice under Subsection (m) indicates a  
5 difference greater than the margin of error under Subsection (i),  
6 the secretary of state shall prepare a report to accompany the  
7 notice. The report must include:

8           (1) an analysis of the difference from the results of  
9 the final canvass of the 2020 general election for state and county  
10 officers;

11           (2) the likely causes of the difference from the  
12 results of the final canvass of the 2020 general election for state  
13 and county officers; and

14           (3) recommended measures to avoid similar differences  
15 in future elections.

16           (p) A notice under Subsection (m) and any accompanying  
17 report shall be posted on:

18           (1) the secretary of state's Internet website; and

19           (2) the county's Internet website, if the county  
20 maintains an Internet website.

21           (q) This chapter expires on September 1, 2024.

22           SECTION 2. A person may make a request under Section  
23 280.001, Election Code, as added by this Act, only for an election  
24 held on or after the effective date of this Act.

25           SECTION 3. This Act takes effect on the 91st day after the  
26 last day of the legislative session.