

By: Bettencourt

S.B. No. 1589

A BILL TO BE ENTITLED

AN ACT

relating to the enforcement of laws relating to elections.

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

SECTION 1. The heading to Chapter 34, Election Code, is amended to read as follows:

CHAPTER 34. STATE INSPECTORS AND ELECTION MARSHALS

SECTION 2. Chapter 34, Election Code, is amended by adding Sections 34.006 and 34.007 to read as follows:

Sec. 34.006. ELECTION MARSHALS. (a) The secretary of state shall appoint a state election marshal. The state election marshal reports to the secretary of state.

(b) The state election marshal shall appoint election marshals for each Department of Public Safety region such that there is one election marshal for each 250,000 people who reside in the region. The number of marshals appointed for a region under this section shall be updated following every decennial census. Appointments made after an update following a decennial census must be made not later than the 60th day before the date early voting is scheduled to begin in the first election occurring after the release of the census data.

(c) The state election marshal shall designate an election marshal in each Department of Public Safety region as the chief election marshal for the region. The chief election marshal for a region shall assign election marshals to each alleged violation of

1 this code occurring in the region as described by Section 34.007.

2 (d) To be qualified as a state election marshal or an
3 election marshal, a person must:

4 (1) be licensed as a peace officer by the Texas
5 Commission on Law Enforcement; and

6 (2) have received training in election law from the
7 secretary of state.

8 (e) An election marshal has the powers and duties of a state
9 inspector under this chapter and other powers and duties as
10 assigned by law.

11 (f) The name, county of residence, and contact information
12 for the purpose of official business of each election marshal and
13 the state election marshal are public information.

14 Sec. 34.007. INVESTIGATION BY STATE INSPECTORS AND ELECTION
15 MARSHALS. (a) In this section:

16 (1) "Chief election marshal" means the election
17 marshal appointed by the secretary of state for a Department of
18 Public Safety region.

19 (2) "Election marshal" means an election marshal
20 appointed under Section 34.006.

21 (3) "State inspector" means a state inspector
22 appointed under this chapter.

23 (b) A state inspector or election marshal shall promptly
24 investigate an alleged violation of this code that is:

25 (1) supported by an affidavit or unsworn declaration;
26 and

27 (2) submitted to the state inspector or chief election

1 marshal, and if submitted to the chief election marshal, assigned
2 to the election marshal.

3 (c) If an election marshal investigates an alleged
4 violation of this code and finds probable cause exists that a
5 violation of this code is occurring or is likely to occur, the
6 election marshal:

7 (1) shall exercise all lawful means to prevent the
8 violation from continuing or occurring;

9 (2) may seek such orders, processes, or warrants from
10 a court that the election marshal finds necessary to prevent the
11 violation from continuing or occurring; and

12 (3) may also file appropriate criminal charges.

13 (d) Nothing in this section shall be interpreted to affect
14 the right of a candidate or political party to file a civil action
15 under other law.

16 SECTION 3. Section 273.001(a), Election Code, is amended to
17 read as follows:

18 (a) If two or more registered voters of the territory
19 covered by an election or an election marshal assigned to the
20 Department of Public Safety region that includes the territory
21 covered by an election presents [~~present~~] affidavits alleging
22 criminal conduct in connection with the election to the county or
23 district attorney having jurisdiction in that territory, the county
24 or district attorney shall investigate the allegations. [~~If the~~
25 ~~election covers territory in more than one county, the voters may~~
26 ~~present the affidavits to the attorney general, and the attorney~~
27 ~~general shall investigate the allegations.~~]

1 SECTION 4. The heading to Section 273.003, Election Code,
2 is amended to read as follows:

3 Sec. 273.003. IMPOUNDING ELECTION RECORDS AND EQUIPMENT.

4 SECTION 5. Section 273.003(a), Election Code, is amended to
5 read as follows:

6 (a) In the investigation of an election, a county or
7 district attorney, ~~or~~ the attorney general, the secretary of
8 state, or an election marshal may have impounded for the
9 investigation the election returns, voted ballots, signature
10 roster, and other election records or equipment.

11 SECTION 6. The heading of Subchapter E, Chapter 273,
12 Election Code, is amended to read as follows:

13 SUBCHAPTER E. INJUNCTIVE RELIEF AND EMERGENCY REVIEW [~~INJUNCTION~~]

14 SECTION 7. Section 273.081, Election Code, is amended to
15 read as follows:

16 Sec. 273.081. INJUNCTION. (a) A person, including a
17 candidate, a political party, or a state, county, or precinct chair
18 of a political party, who is being harmed or is in danger of being
19 harmed by a violation or threatened violation of this code is
20 entitled to appropriate injunctive relief to prevent the violation
21 from continuing or occurring and may bring an action to obtain
22 injunctive relief to prevent the violation from continuing or
23 occurring.

24 (b) In connection with an action for injunctive relief filed
25 under Subsection (a), a court may issue subpoenas of persons or
26 property and order the inspection or impoundment of election
27 records or equipment.

1 SECTION 8. Subchapter E, Chapter 273, Election Code, is
2 amended by adding Sections 273.082 and 273.083 to read as follows:

3 Sec. 273.082. DISQUALIFICATION OF JUDGE. (a) The judge of
4 a district or county court with jurisdiction over any geographic
5 area served by an election official who is a party in a proceeding
6 for injunctive relief under this subchapter is disqualified to
7 preside over the proceeding, unless the election official serves
8 statewide.

9 (b) If a petition is filed in a proceeding in which a judge
10 may be disqualified under Subsection (a), the clerk of the court
11 shall promptly call the filing to the attention of the judge. If
12 the judge determines that the judge is disqualified under
13 Subsection (a), the judge shall promptly request the presiding
14 judge of the administrative judicial region to assign an alternate
15 judge to preside over the proceeding.

16 (c) A judge who resides in the geographic area served by the
17 election official who is a party under Subsection (a) is not
18 eligible for assignment as an alternate judge for the proceeding.

19 (d) In a proceeding in which a judge is disqualified under
20 Subsection (a), until an alternate judge is assigned to preside
21 over the proceeding, the presiding judge of the administrative
22 judicial region may take any action in the proceeding otherwise
23 authorized by law, including the issuance of temporary relief.

24 Sec. 273.083. EMERGENCY REVIEW OF ELECTION ACTIVITY. (a)
25 Not later than the 60th day before the date of a regular or special
26 election, the presiding judge of each administrative judicial
27 region shall appoint a sufficient number of visiting judges to

1 serve as emergency election review judges to preside in actions
2 under this section, in accordance with Chapter 74, Government Code.

3 (b) A judge appointed to serve as an emergency election
4 review judge shall receive training as specified by the secretary
5 of state at least once a year.

6 (c) An action filed by a candidate in an election or a
7 political party or state, county, or precinct chair of a political
8 party that has a candidate in an election that alleges a violation
9 of this code in that election and requests emergency injunctive
10 relief to prevent the alleged violation from continuing or
11 occurring shall be assigned to an emergency election review judge.
12 An action under this section arising in the district or county in
13 which the court served by an active judge appointed as an emergency
14 election review judge has jurisdiction may not be assigned to that
15 judge.

16 (d) A request for hearing in an action heard by an emergency
17 election review judge shall be delivered to the assigned judge who
18 shall promptly conduct a hearing, by electronic means or otherwise,
19 to begin no later than:

20 (1) three hours after the judge receives a written
21 hearing request filed not earlier than the 45th day before the date
22 of the election and not later than the last day of in-person early
23 voting; or

24 (2) one hour after the judge receives a written
25 hearing request filed not earlier than the last day of in-person
26 early voting and not later than the final canvass of an election.

27 (e) A hearing conducted by an emergency election review

1 judge shall be recorded or transcribed and is subject to appellate
2 review.

3 SECTION 9. This Act takes effect September 1, 2021.