

By: Toth

H.B. No. 589

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to processes to address election irregularities;  
3 providing a civil penalty.

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

5 SECTION 1. Title 16, Election Code, is amended by adding  
6 Chapter 280 to read as follows:

7 CHAPTER 280. REQUEST TO ADDRESS ELECTION IRREGULARITY

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

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

13 (2) irregularities in precinct results; or

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

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

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

23 (d) Not later than the 10th day after the date a request is  
24 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 the  
10 notice required under Section 280.002(d), the secretary of state  
11 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 SECTION 2. A person may make a request under Section  
9 280.001, Election Code, as added by this Act, only for an election  
10 held on or after the effective date of this Act.

11 SECTION 3. This Act takes effect September 1, 2023.