

By: Toth

H.B. No. 2536

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 or other authority conducting an election for an  
11 explanation and supporting documentation for:

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

14 (2) irregularities in results in a precinct or at a  
15 polling place or early voting polling place;

16 (3) inadequacy or irregularity of documentation  
17 required to be maintained under this code; or

18 (4) irregularity of reconciliation results identified  
19 in reconciliation reports regarding voters and votes cast.

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

24 (c) A requestor who is not satisfied with the explanation

1 and supporting documentation provided under Subsection (b) may  
2 issue a request for further explanation and supporting  
3 documentation to the county clerk or other authority.

4 (d) Not later than the 10th day after the date a request is  
5 received under Subsection (c), the county clerk or other authority  
6 shall provide the requested explanation and any supporting  
7 documentation.

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

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

- 14 (1) a candidate;  
15 (2) a county chair or state chair of a political party;  
16 (3) a presiding judge;  
17 (4) an alternate presiding judge; or  
18 (5) the head of a specific-purpose political committee  
19 that supports or opposes a ballot measure.

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

24 (1) the requests made by the person to the county clerk  
25 or other authority conducting the election under Sections  
26 280.001(a) and (c); and

27 (2) the explanations and any supporting documentation

1 provided by the county clerk or other authority to the person under  
2 Sections 280.001(b) and (d).

3 (b) Not later than the 30th day after the date the secretary  
4 of state receives a request for an audit under this section, the  
5 secretary must determine whether the information submitted under  
6 Subsection (a) sufficiently explains the irregularity identified  
7 under Section 280.001(a). If the information is insufficient, the  
8 secretary of state shall immediately begin an audit of the  
9 identified irregularity at the expense of the county or other  
10 authority conducting the election.

11 (c) The county clerk or other authority conducting the  
12 election shall cooperate with the office of the secretary of state  
13 and may not interfere with or obstruct the audit.

14 (d) On conclusion of the audit, the secretary of state shall  
15 provide notice of the findings of the audit to the person who  
16 submitted the request for the audit and the county clerk or other  
17 authority conducting the election.

18 (e) The secretary of state may, in the secretary's  
19 discretion, make a determination that a violation of this code has  
20 occurred solely on the basis of evidence submitted under Subsection  
21 (a) without conducting an audit. The secretary of state shall send  
22 notice of the determination to the person who submitted the request  
23 for the audit and to the county clerk or other authority conducting  
24 the election.

25 (f) If, following an audit, the secretary of state  
26 determines that a violation of this code has occurred, the  
27 secretary shall appoint a conservator to oversee elections in the

1 county election precinct where the violation occurred. The  
2 conservator shall serve for two federal election cycles.

3 Sec. 280.003. FINDING OF VIOLATION. (a) In addition to the  
4 notice required under Section 280.002(d), the secretary of state  
5 shall provide special notice to the county clerk or other authority  
6 conducting an election detailing any violation of this code found  
7 by the secretary under Section 280.002.

8 (b) If the county clerk or other authority conducting an  
9 election does not remedy a violation detailed in a notice under  
10 Subsection (a) by the 30th day after the date the clerk or other  
11 authority receives the notice, the secretary of state shall assess  
12 a civil penalty of \$500 for each violation not remedied and, if  
13 possible, remedy the violation on behalf of the county clerk or  
14 other authority. The remedy provided under this subsection is in  
15 addition to any other remedy available under law for a violation of  
16 this code.

17 (c) If the secretary of state is not able to remedy the  
18 violation on behalf of the county clerk or other authority, the  
19 secretary shall assess an additional penalty under Subsection (b)  
20 for each day the county clerk or other authority does not remedy the  
21 violation until the violation is remedied.

22 (d) The secretary of state shall maintain a record of county  
23 clerks or other authorities that conduct elections who have been  
24 assessed a civil penalty under Subsection (b). The secretary of  
25 state shall publish the record on the secretary of state's Internet  
26 website.

27 (e) The attorney general may bring an action under this

1 section to recover a civil penalty that has not been paid.

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

5 SECTION 2. A person may make a request under Section  
6 280.001, Election Code, as added by this Act, only for an election  
7 held on or after the effective date of this Act.

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