

By: Middleton

S.B. No. 2495

A BILL TO BE ENTITLED

AN ACT

relating to establishing election marshals and enforcing violations of elections law.

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

SECTION 1. Chapter 273, Election Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. ELECTION MARSHALS AND VIOLATION REPORTING

Sec. 273.101. APPOINTMENT OF ELECTION MARSHALS. (a) The Department of Public Safety shall appoint election marshals to be located throughout the state for an election held in this state for an office of the state or federal government.

(b) To be qualified as an election marshal, a person must:

(1) be a commissioned officer of the Texas Rangers, or a Department of Public Safety officer if the Department of Public Safety determines that additional election marshals are necessary; and

(2) have received training in election law from the secretary of state's office.

(c) An election marshal serves a term no shorter than 90 days, ending on election day.

(d) Notwithstanding Subsection (c), an election marshal for a runoff primary election serves a term beginning not earlier than the date the election is ordered and ending on runoff primary election day.

1 (e) Notwithstanding Subsection (c), if a special election
2 is ordered after the 90th day before election day, including an
3 emergency election to fill a vacancy under Section 203.004, an
4 election marshal serves a term beginning not earlier than the date
5 the election is ordered and ending on election day.

6 Sec. 273.102. ESTABLISHMENT OF SECRETARY OF STATE
7 CLEARINGHOUSE. (a) The secretary of state shall maintain a staff
8 to serve as a clearinghouse for election officials and the public to
9 report alleged violations of this code.

10 (b) On receipt of a report of an alleged violation of this
11 code, the secretary of state's clearinghouse staff shall:

12 (1) determine whether the alleged violation is
13 credible; and

14 (2) refer each credible alleged violation to an
15 appropriate election marshal for investigation.

16 Sec. 273.103. ELECTION MARSHAL DUTIES. (a) Election
17 marshals established under Section 273.101 shall perform their
18 election marshal duties in addition to their regular employment.

19 (b) An election marshal shall promptly investigate an
20 alleged violation of this code that is referred by the
21 clearinghouse under Section 273.102(b).

22 (c) If an election marshal investigates an alleged
23 violation of this code and finds probable cause exists that a
24 violation of this code is occurring or is likely to occur, the
25 marshal shall:

26 (1) complete a probable cause affidavit;

27 (2) file the affidavit with the attorney general and a

1 county or district attorney with jurisdiction over the violation;
2 and

3 (3) provide a copy to the elections division of the
4 secretary of state's office.

5 (d) Each election marshal may receive and act upon requests
6 directly from the secretary of state's office during early voting
7 by personal appearance and on election day, and shall respond to a
8 request not later than:

9 (1) three hours after receiving the request during
10 early voting by personal appearance; and

11 (2) one hour after receiving the request on election
12 day.

13 (e) In order to ensure compliance with this code, election
14 marshals may:

15 (1) exercise all lawful means to enforce the
16 provisions of this code; and

17 (2) make arrests necessary to prevent the violation
18 from occurring or continuing.

19 (f) Election marshals may request clarification of this
20 code from the secretary of state's office.

21 Sec. 273.104. INVESTIGATION AND PROSECUTION OF ALLEGATION.

22 (a) On receipt of a probable cause affidavit from an election
23 marshal:

24 (1) the county or district attorney having
25 jurisdiction shall investigate the violation; and

26 (2) the attorney general may investigate the
27 violation.

1 (b) If the investigation provides sufficient evidence to
2 prosecute, the county or district attorney shall be responsible for
3 prosecuting the case.

4 (c) The attorney general, if requested to do so by the
5 prosecuting attorney, may assist in the investigation or
6 prosecution of an offense under this section.

7 Sec. 273.105. REPORTING OF ALLEGED VIOLATIONS BY
8 CANDIDATES, POLITICAL PARTIES, OR ELECTION OFFICIALS. A candidate,
9 a political party, or an election official may bring an alleged
10 violation of this code to the clearinghouse, the attorney general,
11 or a local county or district attorney with jurisdiction.

12 Sec. 273.106. JUDICIAL REMEDIES. This subchapter may not
13 be construed to limit the ability of any interested party from
14 seeking judicial remedies for alleged violations of this code.

15 SECTION 2. This Act takes effect September 1, 2023.