

1-1 By: Bettencourt S.B. No. 97
 1-2 (In the Senate - Filed August 31, 2021; August 31, 2021,
 1-3 read first time and referred to Committee on State Affairs;
 1-4 September 1, 2021, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 5, Nays 2;
 1-6 September 1, 2021, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11			X	
1-12	X			
1-13			X	
1-14	X			
1-15		X		
1-16	X			
1-17		X		

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 97 By: Hall

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to processes to address election irregularities;
 1-22 providing a civil penalty.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Title 16, Election Code, is amended by adding
 1-25 Chapters 280 and 281 to read as follows:

1-26 CHAPTER 280. REQUEST TO ADDRESS ELECTION IRREGULARITY

1-27 Sec. 280.001. REQUEST FOR EXPLANATION. (a) A person
 1-28 described by Subsection (f) may issue a written request to the
 1-29 county clerk for an explanation and supporting documentation for:

1-30 (1) an action taken by an election officer that
 1-31 appears to violate this code;

1-32 (2) irregularities in precinct results; or

1-33 (3) inadequacy or irregularity of documentation
 1-34 required to be maintained under this code.

1-35 (b) Not later than the 20th day after the date a request is
 1-36 received under Subsection (a), a county clerk shall provide the
 1-37 requested explanation and any supporting documentation.

1-38 (c) A requestor who is not satisfied with the explanation
 1-39 and supporting documentation provided under Subsection (b) may
 1-40 issue a request for further explanation and supporting
 1-41 documentation to the county clerk.

1-42 (d) Not later than the 10th day after the date a request is
 1-43 received under Subsection (c), the county clerk shall provide the
 1-44 requested explanation and any supporting documentation.

1-45 (e) A requestor who is not satisfied with the explanation
 1-46 and supporting documentation provided under Subsection (d) may
 1-47 issue a request to the secretary of state for an audit of the issue
 1-48 described by Subsection (a), as provided by Section 280.002.

1-49 (f) A person may make a request under this section if the
 1-50 person participated in the relevant election as:

1-51 (1) a candidate;

1-52 (2) a county chair of a political party;

1-53 (3) a presiding judge;

1-54 (4) an alternate presiding judge; or

1-55 (5) the head of a specific-purpose political committee
 1-56 that supports or opposes a ballot measure.

1-57 Sec. 280.002. AUDIT BY SECRETARY OF STATE. (a) A person to
 1-58 whom Section 280.001(e) applies may submit a request for an audit to
 1-59 the secretary of state for investigation. A request for an audit
 1-60 must include copies of:

2-1 (1) the requests made by the person to the person's
 2-2 county clerk under Sections 280.001(a) and (c);

2-3 (2) the explanations provided by the county clerk to
 2-4 the person under Sections 280.001(b) and (d); and

2-5 (3) any supporting documentation provided by the
 2-6 county clerk to the person under Sections 280.001(b) and (d).

2-7 (b) Not later than the 30th day after the date the secretary
 2-8 of state receives a request for an audit under this section, the
 2-9 secretary must determine whether the information submitted under
 2-10 Subsection (a) sufficiently explains the irregularity identified
 2-11 under Section 280.001(a). If the information is insufficient, the
 2-12 secretary shall immediately begin an audit of the identified
 2-13 irregularity at the expense of the county.

2-14 (c) The county clerk shall cooperate with the office of the
 2-15 secretary of state and may not interfere with or obstruct the audit.

2-16 (d) On conclusion of the audit, the secretary of state shall
 2-17 provide notice of the findings of the audit to the person who
 2-18 submitted the request for the audit and the county clerk.

2-19 Sec. 280.003. FINDING OF VIOLATION. (a) In addition to
 2-20 the notice required under Section 280.002(d), the secretary of
 2-21 state shall provide special notice to a county clerk detailing any
 2-22 violation of this code found during the conduct of an audit under
 2-23 Section 280.002.

2-24 (b) If the county clerk does not remedy a violation detailed
 2-25 in a notice under Subsection (a) by the 30th day after the date the
 2-26 clerk receives the notice, the secretary of state shall assess a
 2-27 civil penalty of \$500 for each violation not remedied and, if
 2-28 possible, remedy the violation on behalf of the county clerk. The
 2-29 remedy provided under this subsection is in addition to any other
 2-30 remedy available under law for a violation of this code.

2-31 (c) If the secretary of state is not able to remedy the
 2-32 violation on behalf of the county clerk, the secretary shall assess
 2-33 an additional penalty under Subsection (b) for each day the county
 2-34 clerk does not remedy the violation until the violation is
 2-35 remedied.

2-36 (d) The secretary of state shall maintain a record of county
 2-37 clerks who have been assessed a civil penalty under Subsection (b).
 2-38 The secretary of state shall publish the record on the secretary of
 2-39 state's Internet website.

2-40 (e) The attorney general may bring an action under this
 2-41 section to recover a civil penalty that has not been paid.

2-42 (f) A civil penalty collected under this section shall be
 2-43 deposited in the state treasury to the credit of the general revenue
 2-44 fund.

2-45 CHAPTER 281. REVIEW OF 2020 GENERAL ELECTION RESULTS

2-46 Sec. 281.001. REVIEW OF RESULTS OF 2020 GENERAL ELECTION
 2-47 FOR STATE AND COUNTY OFFICERS. (a) In this section, "committee"
 2-48 means an election review advisory committee.

2-49 (b) A state or county chair of a political party that made
 2-50 nominations by primary election for the last general election for
 2-51 state and county officers may request a review of the results of the
 2-52 2020 general election for state and county officers by submitting a
 2-53 written request to a county clerk. A county chair may only request
 2-54 a review from the county clerk of the county served by the party
 2-55 chair.

2-56 (c) A county clerk that receives a request under this
 2-57 section shall appoint an election review advisory committee to
 2-58 conduct a review under this chapter. The county clerk shall
 2-59 supervise the committee.

2-60 (d) The county clerk shall appoint members of the committee
 2-61 from lists of names of persons eligible for appointment submitted
 2-62 to the county clerk by the party chair of each political party that
 2-63 made nominations by primary election for the last general election
 2-64 for state and county officers. The county clerk shall appoint an
 2-65 equal number of members from each list.

2-66 (e) The committee members must be qualified voters of the
 2-67 county.

2-68 (f) A review under this section shall include:

2-69 (1) all ballots voted by mail and on election day from

3-1 a number of randomly selected precincts in the county that
3-2 includes:
3-3 (A) not fewer than three precincts; and
3-4 (B) not more than 20 percent of the total number
3-5 of precincts in the county; and
3-6 (2) the greater of 1,000 voted ballots or 10 percent of
3-7 all ballots voted at an early voting location from a number of
3-8 locations equal to:
3-9 (A) not fewer than three randomly selected early
3-10 voting locations; or
3-11 (B) if the county has fewer than three early
3-12 voting locations, all early voting locations in the county.
3-13 (g) A review under this section shall be limited to not more
3-14 than five contested races or ballot measures. If there are more
3-15 than five contested races or ballot measures identified in the
3-16 request under Subsection (b), the county clerk shall randomly
3-17 select five races or measures for review. At least one of the
3-18 contested races must be a race for:
3-19 (1) electors for president and vice president of the
3-20 United States;
3-21 (2) a federal office;
3-22 (3) a statewide office;
3-23 (4) state senator; or
3-24 (5) state representative.
3-25 (h) The committee shall begin the review not later than the
3-26 20th day after the date the county clerk receives the request under
3-27 Subsection (b). The committee shall have access to ballots in the
3-28 custody of the county clerk for the purpose of review under
3-29 Subsection (f).
3-30 (i) Before the committee begins the review, the secretary of
3-31 state shall determine an acceptable margin of error appropriate for
3-32 the county based on mathematical and statistical analyses
3-33 appropriate to the voting system used by the county.
3-34 (j) If, for any contested race or ballot measure in the
3-35 review, the results of the review differ from canvassed results
3-36 from the 2020 general election for state and county officers by an
3-37 amount outside the margin of error determined under Subsection (i)
3-38 for the county, the committee shall conduct another review. A
3-39 review under this subsection shall be conducted in the same manner
3-40 as the initial review, except that the committee shall randomly
3-41 select different precincts for review.
3-42 (k) If, for any contested race or ballot measure in the
3-43 review under Subsection (j), the results of the review differ from
3-44 canvassed results from the 2020 general election for state and
3-45 county officers by an amount outside the margin of error determined
3-46 under Subsection (i) for the county, the committee shall conduct a
3-47 final review. A review under this subsection shall be conducted in
3-48 the same manner as the initial review, except that:
3-49 (1) for a contested race under Subsections (g)(1)
3-50 through (3), the review shall include the entire county; and
3-51 (2) for any other contested race, the review shall
3-52 include the entire district.
3-53 (l) The committee shall provide the full results of the
3-54 review to:
3-55 (1) the county clerk;
3-56 (2) the secretary of state; and
3-57 (3) the county chair of each political party in the
3-58 county.
3-59 (m) The secretary of state shall issue a notice of the
3-60 results of the review to:
3-61 (1) the governor;
3-62 (2) the lieutenant governor;
3-63 (3) the speaker of the house of representatives; and
3-64 (4) each member of the legislature.
3-65 (n) The notice under Subsection (m) must include an
3-66 indication whether the result of the review:
3-67 (1) confirmed the final canvass of the 2020 general
3-68 election for state and county officers;
3-69 (2) differed from the final canvass of the 2020

4-1 general election for state and county officers, but by an amount
4-2 within the margin of error identified under Subsection (i); or
4-3 (3) differed from the final canvass of the 2020
4-4 general election for state and county officers by an amount outside
4-5 the margin of error identified under Subsection (i).

4-6 (o) If the notice under Subsection (m) indicates a
4-7 difference greater than the margin of error under Subsection (i),
4-8 the secretary of state shall prepare a report to accompany the
4-9 notice. The report must include:

4-10 (1) an analysis of the difference from the results of
4-11 the final canvass of the 2020 general election for state and county
4-12 officers;

4-13 (2) the likely causes of the difference from the
4-14 results of the final canvass of the 2020 general election for state
4-15 and county officers; and

4-16 (3) recommended measures to avoid similar differences
4-17 in future elections.

4-18 (p) A notice under Subsection (m) and any accompanying
4-19 report shall be posted on:

4-20 (1) the secretary of state's Internet website; and

4-21 (2) the county's Internet website, if the county
4-22 maintains an Internet website.

4-23 (q) This chapter expires on September 1, 2024.

4-24 SECTION 2. A person may make a request under Section
4-25 280.001, Election Code, as added by this Act, only for an election
4-26 held on or after the effective date of this Act.

4-27 SECTION 3. This Act takes effect on the 91st day after the
4-28 last day of the legislative session.

4-29 * * * * *