

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATURE 2nd CALLED SESSION 2021**

**August 30, 2021**

**TO:** Honorable Dan Patrick, Lieutenant Governor, Senate  
Honorable Dade Phelan, Speaker of the House, House of Representatives

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: SB1** by Hughes (relating to election integrity and security, including by preventing fraud in the conduct of elections in this state; increasing criminal penalties; creating criminal offenses.),  
**Conference Committee Report**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB1, Conference Committee Report : an impact of \$0 through the biennium ending August 31, 2023.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five- Year Impact:**

| <i>Fiscal Year</i> | <i>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</i> |
|--------------------|---|
| 2022               | \$0   |
| 2023               | \$0   |
| 2024               | \$0   |
| 2025               | \$0   |
| 2026               | (\$154,179,370)   |

**All Funds, Five-Year Impact:**

| <i>Fiscal Year</i> | <i>Probable Savings/(Cost) from General Revenue Fund 1</i> | <i>Change in Number of State Employees from FY 2021</i> |
|--------------------|--|---|
| 2022               | \$0  | 0.0   |
| 2023               | \$0  | 0.0   |
| 2024               | \$0  | 0.0   |
| 2025               | \$0  | 0.0   |
| 2026               | (\$154,179,370)  | 0.0   |

**Fiscal Analysis**

This bill would amend the Election Code relating to voter registration, poll watchers, procedural requirements for state and county election officers, modifications of Election Day procedures, and voting by mail. It would increase criminal penalties for certain election offenses. It would require a voter registrar to provide notice of unlawful voting or registration to the Office of the Attorney General (OAG) and the Secretary of State (SOS).

According to the SOS, the agency would be required: 1) to develop a training course for voter registrars not in

compliance with certain requirements and, in certain instances, inform the OAG of failure to achieve substantial compliance following attendance at these courses; 2) to conduct periodic audits of elections in certain counties; 3) to develop and maintain a poll watcher training program; and 4) to make certain modifications to the Texas Election Administration Management (TEAM) mail ballot tracking system in order to allow voters to correct certain defects related to those ballots. It is anticipated that the cost of these provisions could be absorbed within existing resources of the agency. Additionally, the bill would require the SOS to reimburse certain changes to county voting counting systems that would be eligible for 100 percent reimbursement by the state.

According to the Office of Court Administration, the bill would impose criminal penalties upon conduct which is not currently illegal and would enhance penalties on preexisting crimes which could increase criminal caseloads before the courts. However, due to the deterrent effect of the new laws, it is not anticipated caseloads will increase significantly and no significant fiscal impact to the state court system is anticipated. This analysis assumes any increase in costs related to new civil penalties could be addressed with existing resources. It is assumed that any additional costs imposed on the Court of Criminal Appeals related to an authorization to issue a writ of mandamus in certain situations could be addressed with existing resources.

According to the OAG, the office anticipates an increase in cases as a result of the passage of this bill; however, the office assumes that any legal work resulting from the passage of this bill could be reasonably absorbed with current resources.

According to the Comptroller of Public Accounts, the extent to which creating a new offense or expanding an existing offense would impact state revenue cannot be estimated.

This analysis assumes implementing the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies.

## **Methodology**

To address the provision of the bill related to reimbursement of local jurisdiction costs to convert scanners and central count computers to a configuration that utilizes write-once media, the SOS anticipates that all existing devices subject to the provisions of the bill would be required to be replaced. The cost of replacing hardware components, including new write-once media for every device in every election, is estimated by currently certified voting system vendors to be \$116,209,750. In addition, these vendors have estimated that the cost of replacing write-once removable media for all elections occurring in a biennium would result in a reimbursable cost of \$37,969,620. This cost would reoccur in each biennium thereafter. Because the write-only requirement would be required as of September 1, 2026, it is assumed that these costs would be incurred in fiscal year 2026.

## **Local Government Impact**

According to the Texas Association of Counties, the bill would have a significant fiscal impact on counties.

According to the Fort Bend County Election Administrator, the estimated fiscal impact of the bill would be between \$200,000 and \$12.0 million. The county states that the most significant component of this cost would be the replacement of voting systems to comply with the requirements of the bill at an estimated \$9.0 to \$12.0 million.

According to the Bexar County Election Administrator, the bill would result in an estimated fiscal impact of \$350,000 to \$13.0 million. The most significant component of this estimate would be due to the required replacement of voting systems. The county states that the provisions of the bill related to video surveillance, live streaming, and records retention would have significant costs that would vary by the number of elections held over the course of a year. According to the county, there would also be additional costs for reprinting new forms and envelopes, outreach for new mail ballot requirements, and providing processing for rejected voter applications.

According to the Cameron County Election Administrator, the bill would have an estimated annual fiscal impact

of at least \$250,000 and an additional cost of over \$5.0 million for new equipment, the acquisition of surveillance equipment, and streaming and data storage

According to the Williamson County Election Administrator, the bill would have an estimated annual financial impact of between \$500,000 and \$5.0 million. The most significant component of this estimate would be due to the required replacement of voting systems. In addition, provisions of the bill related to video surveillance, live streaming, and records retention would have significant costs that would vary by the number of elections held over the course of a year. There would also be additional costs for reprinting new forms and envelopes, outreach for new mail ballot requirements, and providing processing for rejected voter applications.

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

**Source Agencies:** 212 Office of Court Admin, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 307 Secretary of State, 405 Department of Public Safety

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