

1-1 By: Bettencourt S.B. No. 1589
 1-2 (In the Senate - Filed March 11, 2021; March 24, 2021, read
 1-3 first time and referred to Committee on State Affairs;
 1-4 April 22, 2021, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 6, Nays 3; April 22, 2021,
 1-6 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. 1589 By: Hall

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

1-21 relating to the enforcement of laws relating to elections.
 1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-23 SECTION 1. Section 31.005, Election Code, is amended to
 1-24 read as follows:
 1-25 Sec. 31.005. ENFORCEMENT; PROTECTION OF VOTING RIGHTS. (a)
 1-26 The secretary of state may take appropriate action to protect
 1-27 against violations of this code and to protect the voting rights of
 1-28 the citizens of this state from abuse by the authorities
 1-29 administering the state's electoral processes.
 1-30 (b) If the secretary determines that a person performing
 1-31 official functions in the administration of any part of the
 1-32 electoral processes is exercising the powers vested in that person
 1-33 in a manner that impedes the free exercise of a citizen's voting
 1-34 rights or otherwise violates a provision of this code, the
 1-35 secretary may order the person to correct the offending conduct. If
 1-36 the person fails to comply, the secretary may seek enforcement of
 1-37 the order by a temporary restraining order or a writ of injunction
 1-38 or mandamus obtained through the attorney general.
 1-39 SECTION 2. The heading to Chapter 34, Election Code, is
 1-40 amended to read as follows:
 1-41 CHAPTER 34. STATE INSPECTORS AND ELECTION MARSHALS
 1-42 SECTION 3. Chapter 34, Election Code, is amended by adding
 1-43 Sections 34.006 and 34.007 to read as follows:
 1-44 Sec. 34.006. ELECTION MARSHALS. (a) The secretary of state
 1-45 shall appoint a state election marshal. The state election marshal
 1-46 reports to the secretary of state.
 1-47 (b) The state election marshal shall appoint election
 1-48 marshals for each Department of Public Safety region such that
 1-49 there is one election marshal for each 1,000,000 people who reside
 1-50 in the region. Appointments must be made not later than the 60th
 1-51 day before the date early voting is scheduled to begin in an
 1-52 election held on a uniform election date in November or a primary
 1-53 election. An appointment made under this section is in effect for
 1-54 90 days, and may be extended by the state election marshal if the
 1-55 election marshal is conducting an investigation.
 1-56 (c) The state election marshal shall designate an election

2-1 marshal in each Department of Public Safety region as the chief
2-2 election marshal for the region. The chief election marshal for a
2-3 region shall assign election marshals to each alleged violation of
2-4 this code occurring in the region as described by Section 34.007.

2-5 (d) To be qualified as a state election marshal or an
2-6 election marshal, a person must:

2-7 (1) be licensed as a peace officer by the Texas
2-8 Commission on Law Enforcement;

2-9 (2) be commissioned by the Department of Public
2-10 Safety; and

2-11 (3) have received training in election law from the
2-12 secretary of state.

2-13 (e) An election marshal has the powers and duties of a state
2-14 inspector under this chapter and other powers and duties as
2-15 assigned by law.

2-16 (f) The name, county of residence, and contact information
2-17 for the purpose of official business of each election marshal and
2-18 the state election marshal are public information.

2-19 Sec. 34.007. INVESTIGATION BY STATE INSPECTORS AND ELECTION
2-20 MARSHALS. (a) In this section:

2-21 (1) "Chief election marshal" means the election
2-22 marshal appointed by the secretary of state for a Department of
2-23 Public Safety region.

2-24 (2) "Election marshal" means an election marshal
2-25 appointed under Section 34.006.

2-26 (3) "State inspector" means a state inspector
2-27 appointed under this chapter.

2-28 (b) A state inspector or election marshal shall promptly
2-29 investigate an alleged violation of this code that is:

2-30 (1) supported by an affidavit or unsworn declaration;
2-31 and

2-32 (2) submitted to the state inspector or chief election
2-33 marshal, and if submitted to the chief election marshal, assigned
2-34 to the election marshal.

2-35 (c) If an election marshal investigates an alleged
2-36 violation of this code and finds probable cause exists that a
2-37 violation of this code is occurring or is likely to occur, the
2-38 election marshal:

2-39 (1) shall exercise all lawful means to prevent the
2-40 violation from continuing or occurring;

2-41 (2) may seek such orders, processes, or warrants from
2-42 a court that the election marshal finds necessary to prevent the
2-43 violation from continuing or occurring; and

2-44 (3) may also file appropriate criminal charges.

2-45 (d) Nothing in this section shall be interpreted to affect
2-46 the right of a candidate or political party to file a civil action
2-47 under other law.

2-48 SECTION 4. Section 273.001(a), Election Code, is amended to
2-49 read as follows:

2-50 (a) If two or more registered voters of the territory
2-51 covered by an election or an election marshal assigned to the
2-52 Department of Public Safety region that includes the territory
2-53 covered by an election presents ~~present~~ affidavits alleging
2-54 criminal conduct in connection with the election to the county or
2-55 district attorney having jurisdiction in that territory, the county
2-56 or district attorney shall investigate the allegations. ~~[If the~~
2-57 ~~election covers territory in more than one county, the voters may~~
2-58 ~~present the affidavits to the attorney general, and the attorney~~
2-59 ~~general shall investigate the allegations.]~~

2-60 SECTION 5. The heading to Section 273.003, Election Code,
2-61 is amended to read as follows:

2-62 Sec. 273.003. IMPOUNDING ELECTION RECORDS AND EQUIPMENT.

2-63 SECTION 6. Section 273.003(a), Election Code, is amended to
2-64 read as follows:

2-65 (a) In the investigation of an election, a county or
2-66 district attorney, ~~or~~ the attorney general, the secretary of
2-67 state, or an election marshal may have impounded for the
2-68 investigation the election returns, voted ballots, signature
2-69 roster, and other election records or equipment.

3-1 SECTION 7. The heading of Subchapter E, Chapter 273,
3-2 Election Code, is amended to read as follows:

3-3 SUBCHAPTER E. INJUNCTIVE RELIEF AND EMERGENCY REVIEW [~~INJUNCTION~~]

3-4 SECTION 8. Section 273.081, Election Code, is amended to
3-5 read as follows:

3-6 Sec. 273.081. INJUNCTION. (a) A person, including a
3-7 candidate, a political party, or a state, county, or precinct chair
3-8 of a political party, who is being harmed or is in danger of being
3-9 harmed by a violation or threatened violation of this code is
3-10 entitled to appropriate injunctive relief to prevent the violation
3-11 from continuing or occurring and may bring an action to obtain
3-12 injunctive relief to prevent the violation from continuing or
3-13 occurring.

3-14 (b) In connection with an action for injunctive relief filed
3-15 under Subsection (a), a court may issue subpoenas of persons or
3-16 property and order the inspection or impoundment of election
3-17 records or equipment.

3-18 SECTION 9. Subchapter E, Chapter 273, Election Code, is
3-19 amended by adding Sections 273.082 and 273.083 to read as follows:

3-20 Sec. 273.082. DISQUALIFICATION OF JUDGE. (a) The judge of
3-21 a district or county court with jurisdiction over any geographic
3-22 area served by an election official who is a party in a proceeding
3-23 for injunctive relief under this subchapter is disqualified to
3-24 preside over the proceeding, unless the election official serves
3-25 statewide.

3-26 (b) If a petition is filed in a proceeding in which a judge
3-27 may be disqualified under Subsection (a), the clerk of the court
3-28 shall promptly call the filing to the attention of the judge. If
3-29 the judge determines that the judge is disqualified under
3-30 Subsection (a), the judge shall promptly request the presiding
3-31 judge of the administrative judicial region to assign an alternate
3-32 judge to preside over the proceeding.

3-33 (c) A judge who resides in the geographic area served by the
3-34 election official who is a party under Subsection (a) is not
3-35 eligible for assignment as an alternate judge for the proceeding.

3-36 (d) In a proceeding in which a judge is disqualified under
3-37 Subsection (a), until an alternate judge is assigned to preside
3-38 over the proceeding, the presiding judge of the administrative
3-39 judicial region may take any action in the proceeding otherwise
3-40 authorized by law, including the issuance of temporary relief.

3-41 Sec. 273.083. EMERGENCY REVIEW OF ELECTION ACTIVITY. (a)
3-42 Not later than the 60th day before the date of a regular or special
3-43 election, the presiding judge of each administrative judicial
3-44 region shall appoint a sufficient number of visiting judges to
3-45 serve as emergency election review judges to preside in actions
3-46 under this section, in accordance with Chapter 74, Government Code.

3-47 (b) A judge appointed to serve as an emergency election
3-48 review judge shall receive training as specified by the secretary
3-49 of state at least once a year.

3-50 (c) An action filed by a candidate in an election or a
3-51 political party or state, county, or precinct chair of a political
3-52 party that has a candidate in an election that alleges a violation
3-53 of this code in that election and requests emergency injunctive
3-54 relief to prevent the alleged violation from continuing or
3-55 occurring shall be assigned to an emergency election review judge.
3-56 An action under this section arising in the district or county in
3-57 which the court served by an active judge appointed as an emergency
3-58 election review judge has jurisdiction may not be assigned to that
3-59 judge.

3-60 (d) A request for hearing in an action heard by an emergency
3-61 election review judge shall be delivered to the assigned judge who
3-62 shall promptly conduct a hearing, by electronic means or otherwise,
3-63 to begin no later than:

3-64 (1) three hours after the judge receives a written
3-65 hearing request filed not earlier than the 45th day before the date
3-66 of the election and not later than the last day of in-person early
3-67 voting; or

3-68 (2) one hour after the judge receives a written
3-69 hearing request filed not earlier than the last day of in-person

4-1 early voting and not later than the final canvass of an election.
4-2 (e) A hearing conducted by an emergency election review
4-3 judge shall be recorded or transcribed and is subject to appellate
4-4 review.

4-5 SECTION 10. This Act takes effect September 1, 2021.

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