

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION
Revision 1

May 29, 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: SB7 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; providing civil penalties.), **Conference Committee Report**

Estimated Two-year Net Impact to General Revenue Related Funds for SB7, Conference Committee Report : a negative impact of (\$35,896,476) 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	(\$35,211,159)
2023	(\$685,317)
2024	(\$685,745)
2025	(\$686,181)
2026	(\$686,626)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	<i>Probable (Cost) from General Revenue Fund 1</i>	<i>Change in Number of State Employees from FY 2021</i>
2022	(\$35,211,159)	9.0
2023	(\$685,317)	9.0
2024	(\$685,745)	9.0
2025	(\$686,181)	9.0
2026	(\$686,626)	9.0

Fiscal Analysis

The bill would amend various codes as they relate to election integrity and the prevention of fraud in the conduct of an election. Under the provisions of the bill, several new election fraud-related criminal offenses would be created punishable at the felony and misdemeanor level with the level and degree based on the

specific circumstances of the offense.

The bill would impose certain limits on polling place procedures and prohibit the use of direct recording electronic machines unless the system contains an auditable voting system. The bill would allow certain entities to seek reimbursement of the costs of retrofitting or replacing non-auditable voting systems.

This bill would require the Secretary of State (SOS) to maintain a publicly accessible database containing certain specified election information. Local election authorities would be required to provide the required information to the SOS in an electronic format prescribed by the agency. The bill would also require the SOS to maintain a database containing certain specified information about each office holder of, and candidate for, any elected office in the State.

The bill would require the SOS to audit voter roll maintenance activities conducted at the county level and would direct the agency to correct identified violations.

The bill would provide for civil penalties for certain election violations.

Methodology

Provisions of the Bill Related to Voting Machine Reimbursement

The SOS assumes that 47 counties that have purchased direct-recording electronic voting systems would be subject to reimbursement under the provisions of the bill. In counties using these systems, 9,492 voting machines would have to be retrofitted at a total cost of \$21,635,000. Another 628 machines would have to be replaced at a total cost of \$2,584,100. The total cost for replacement or retrofitting of these machines would be \$24,219,100.

In addition to upgrading or replacing voting machines, counties would also be able to seek reimbursement for tabulation machines compliant with the upgraded systems. At least one scanning device would be required for each polling place. The SOS assumes that there would be one polling place for each of 1,425 precincts. In addition, scanners would also be required for an estimated 220 early voting locations. At a list cost of approximately \$6,100 per scanner, the SOS estimates these reimbursements would result in an additional potential reimbursement to counties of \$10,028,400.

Provisions of the Bill Related to an Election Information Database and Auditing Voter Rolls

The bill would require the SOS to collect information from approximately 1,400 school districts, over 1,200 cities, and more than 5,000 water districts as well as an unknown number of library districts, hospital districts, special utility districts, and various other special purpose districts. The SOS does not currently have an inventory of these districts nor a way of monitoring them to maintain a list of current entities.

The SOS anticipates that it would require six additional Program Specialist I FTEs in the Elections Division to assist local election officials with submitting the specified information, supplying technical assistance, and providing training about the new reporting process.

The SOS estimates it would require 3 additional Program Specialist II FTEs to monitor county voter registration numbers on a continual basis as well as to establish and to implement a training program for counties in need of remediation.

The SOS estimates that the total salaries for these nine new positions would be \$405,000 per fiscal year with an additional \$137,781 in related benefits.

Other Provisions of the Bill

According to the Office of the Attorney General, the bill could result in an increase in cases; however, the agency assumes that any legal work resulting from the passage of this bill could be reasonably absorbed with current resources.

According to the Office of Court Administration, although the bill would add new felony-level offenses, any additional case volume driven by the bill should be absorbed by existing resources and no significant fiscal impact is anticipated.

According to the Comptroller of Public Accounts, the fiscal impact on the state 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.

Technology

The SOS estimates that complying with the requirements of the bill would require 1,894 hours for configuration, implementation and testing of changes in Texas Elections Administration Management (TEAM) system. The agency assumes a contractor cost of \$132 per hour and estimates the total cost of these modifications would be \$250,000. The SOS also indicates there would be an increase in bandwidth and storage costs of \$10,000 per month for the new database and this would also represent an increase in operational costs for the TEAM system in subsequent years.

Additional technology costs associated with the total additional 9 FTEs would be required to support hardware and software costs. There would be an initial cost of \$40,878 in fiscal year 2022 with an recurring cost of \$22,536 beginning in fiscal year 2023 that would increase with inflation.

Increased processing costs for reimbursements related to voting machines would be \$10,000.

Local Government Impact

The fiscal impact on local jurisdictions of provisions of the legislation related to changes in voting procedures cannot be estimated at this time.

According to the SOS, in addition to reimbursable equipment costs, counties would also have to secure additional software updates, perform acceptance testing of new equipment, and receive training from the vendor on the new equipment. The agency estimates the average cost to the counties for the additional training would be approximately \$4,000 for a week of on-site training.

According to Hidalgo County, the cost for upgrading its existing voting system to meet the requirements of the bill would be \$4.0 million for 1,419 conversions and 250 scanning machines. Of this amount, \$48,515 would either not be eligible for reimbursement or would represent an ongoing operational expense.

According to Brazos County, the cost for upgrading its existing voting system to meet the requirements of the bill would be \$1.7 million for 480 conversions and 60 scanning machines. Of this amount, \$15,728 would either not be eligible for reimbursement or would represent an ongoing operational expense.

According to Randall County, it would cost the county \$750,000 to retrofit the current system to a system that could provide a paper audit trail. The county also adds that the current system was purchased in 2017.

According to Brazoria County, the cost to retrofit the current system would be \$2.6 million.

According to El Paso County, the county anticipates the fiscal impact of the bill would be between \$400,000 to \$600,000 per election.

According to Chambers County, the county anticipates the fiscal impact of the bill would be approximately \$1.1 million.

According to Fort Bend County, the cost to the county would range from \$246,000 to \$350,000 per year.

The bill creates or expands 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.

The bill creates or expands a Class B misdemeanor is punishable by a fine of not more than \$2,000, confinement in jail for a term not to exceed 180 days, 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, 356 Texas Ethics Commission, 403 Veterans Commission

LBB Staff: JMc, CMA, GP, LBO, LCO, SLE, LM, MP, AF, SMAT