

BILL ANALYSIS

S.B. 1807
By: Springer
Elections
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Election law, rules, and procedures should be consistent across the state. Enacted during the 87th Legislature, 2nd Called Session, S.B. 1 sought to address this by prohibiting any elected or election official from altering election laws, rules, or procedures in a manner not explicitly authorized by the Texas Election Code. However, because there is no penalty attached to this prohibition, there are still those who continue to violate this provision. S.B. 1807 seeks to address this issue by establishing civil penalties for public or election officials who violate that prohibition and fail to correct the violation.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 1807 amends the Election Code to require the secretary of state, after receiving or discovering information indicating that a public official or election official has unlawfully altered an election procedure, to investigate the standard, practice, or procedure appearing to have been unlawfully altered. The bill requires the secretary of state, if the secretary determines that an unlawful alteration has occurred, to send the following to the public official or election official determined to have unlawfully altered the applicable election procedure:

- notification of the secretary of state's determination;
- a demand that the official immediately cease the implementation or enforcement of the standard, practice, or procedure determined to have been unlawful; and
- instructions for the specific actions necessary for compliance with the prohibition against unlawfully altering election procedures.

S.B. 1807 requires the secretary of state, if more than two days after receiving such notification, a public official or election official does not comply with the secretary of state's instructions, to notify the attorney general that the official may be subject to a civil penalty and forward to the attorney general any documents or information received, discovered, or created during the secretary of state's investigation. The bill sets out the following with respect to such a civil penalty:

- a public official or election official is liable to the state for a civil penalty for each day that the official fails or refuses to take an affirmative action to comply with the prohibition;
- the amount of the civil penalty is capped at the following amounts:

- \$1,000 per day for each day after the second day and on or before the seventh day after receiving a notice that the secretary of state has determined an unlawful alteration of an election procedure has occurred; or
 - \$5,000 per day for each day after the seventh day after receiving such a notice; and
- authorizes the attorney general to bring an action to recover an imposed civil penalty and requires a civil penalty collected by the attorney general to be deposited in the state treasury to the credit of the general revenue fund.

S.B. 1807 specifies documents or information received, discovered, or created during the secretary of state's investigation are confidential and not subject to disclosure under state public information law, unless the secretary of state or attorney general has determined that such a complaint submitted to the secretary of state will not be further investigated or the subject of any further proceedings or actions.

EFFECTIVE DATE

September 1, 2023.