

BILL ANALYSIS

Senate Research Center
88R20379 TSS-F

C.S.S.B. 1807
By: Springer
State Affairs
4/4/2023
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Author's Background and Purpose

Election law, rules, and procedures should be consistent across the state, which is why, during the 87th Legislature, there was a statute passed that prohibited any elected or election official from being able to alter election laws, rules, or procedures not explicitly allowed 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. This bill seeks to establish civil penalties for election or elected officials who fail to conduct their elections according to the Texas Election Code after being advised by the secretary of state on how to correct the violation.

Rulemaking Authority

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

Fiscal Note

It is the author's opinion that no significant fiscal implication to the State is anticipated.

Author's Summary Analysis

The bill amends the Election Code to require the secretary of state to order a public official or election official to correct their election violations through written notice. The notice will include a description of the violation, an explanation of the actions necessary for compliance, and the consequences for noncompliance.

The bill requires the secretary of state to inform the attorney general that the official may be subject to a civil penalty and deliver all pertinent documents and information to the attorney general. The bill establishes a civil penalty of \$1,000 for each day after the second day following the receipt of the written notice in which the official fails to take action to comply with the secretary of state's corrective actions. The civil penalty established by the bill must increase to \$5,000 for each day following the seventh day the official fails to comply with corrective actions identified by the secretary of state.

The bill further authorizes the attorney general to bring action to recover a civil penalty imposed by the bill. Finally, the bill requires any civil penalties collected under this section to be deposited in the state treasury to the credit of the general revenue fund.

How the Substitute Compares to the Original

The substitute is a Legislative Council version of the original bill as filed and substantively the same.

Effective Date: September 1, 2023

C.S.S.B. 1807 amends current law relating to the unlawful altering of election procedures and provides a civil penalty.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 276.019, Election Code, as follows:

Sec. 276.019. New heading: UNLAWFUL ALTERING OF ELECTION PROCEDURES; CIVIL PENALTY. (a) Creates this subsection from existing text. Prohibits a public official or election official from creating, altering, modifying, waiving, or suspending any election standard, practice, or procedure mandated by law or rule in a manner not expressly authorized by this code.

(b) Requires the secretary of state (SOS), after SOS receives or discovers information indicating that a public official or election official has violated Subsection (a), to investigate the standard, practice, or procedure appearing to have violated Subsection (a). Requires SOS, if SOS determines that a violation of Subsection (a) has occurred, to send to the public official or election official determined to have violated that subsection:

(1) notification of SOS's determination;

(2) a demand that the official immediately cease the implementation or enforcement of the standard, practice, or procedure determined to have violated Subsection (a); and

(3) instructions for the specific actions necessary for compliance with Subsection (a).

(c) Requires SOS, if more than two days after receiving notification under Subsection (b), a public official or election official does not comply with Subsection (a) as instructed under Subsection (b)(3), to:

(1) notify the attorney general that the official may be subject to a civil penalty under Subsection (d); and

(2) forward to the attorney general any documents or information received, discovered, or created during SOS's investigation under Subsection (b).

(d) Provides that a public official or election official is liable to this state for a civil penalty for each day that the official fails or refuses to take an affirmative action to comply with Subsection (a) in an amount not to exceed:

(1) \$1,000 per day for each day after the second day and on or before the seventh day after receiving a notice under Subsection (b); or

(2) \$5,000 per day for each day after the seventh day after receiving a notice under Subsection (b).

(e) Authorizes the attorney general to bring an action to recover a civil penalty imposed under Subsection (d).

(f) Requires that a civil penalty collected by the attorney general under this section be deposited in the state treasury to the credit of the general revenue fund.

(g) Provides that documents or information received, discovered, or created during SOS's investigation under Subsection (b) are confidential and not subject to disclosure under Chapter 552 (Public Information), Government Code, unless SOS or the attorney general has determined that a complaint submitted to SOS under this section will not be further investigated or the subject of any further proceedings or actions.

SECTION 2. Effective date: September 1, 2023.