

## **BILL ANALYSIS**

Senate Research Center

S.B. 1933  
By: Bettencourt  
State Affairs  
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Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Under current law, the secretary of state is required to conduct an audit of elections held in four counties during the previous two years. Two large counties and two smaller counties. The vast majority of the counties are under a population of 300,000 and it will take a very long time to audit every single county at this pace. The audits of the smaller counties are usually faster than the large counties.

S.B. 1933 would define the elections to be audited as those conducted on uniform election dates. Additionally, S.B. 1933 would allow that if the secretary of state finishes a small county before the end of the two-year period, they may randomly select another small county and perform the audit on that new county. This will allow the secretary of state to be able to review more counties if time and resources permit.

(Original Author's/Sponsor's Statement of Intent)

S.B. 1933 amends current law relating to certain oversight procedures of the state over county elections.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the secretary of state in SECTION 2 (Section 31.022, Election Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Authorizes this Act to be cited as the Alan Vera Election Accountability Act of 2023.

SECTION 2. Amends Subchapter A, Chapter 31, Election Code, by adding Sections 31.017, 31.018, 31.019, 31.020, 31.021, and 31.022, as follows:

Sec. 31.017. IMPLEMENTATION OF ADMINISTRATIVE OVERSIGHT OF COUNTY ELECTION. (a) Authorizes the secretary of state's (SOS) office, in a county with a population of more than 4 million, to order administrative oversight of a county office administering elections or voter registration in the county if:

(1) an administrative election complaint is filed with SOS by a person who participated in the relevant election as:

- (A) a candidate;
- (B) a county chair or state chair of a political party;
- (C) a presiding judge;
- (D) an alternate presiding judge; or

(E) the head of a specific-purpose political committee that supports or opposes a measure;

(2) SOS has provided notice to the county election official with authority over election administration or voter registration under Section 31.018; and

(3) SOS, after conducting an investigation under Section 31.019, has good cause to believe that a recurring pattern of problems with election administration or voter registration exists in the county, including any recurring:

(A) malfunction of voting system equipment that prevents a voter from casting a vote;

(B) carelessness or official misconduct in the distribution of election supplies;

(C) errors in the tabulation of results that would have affected the outcome of an election;

(D) violations of Section 66.053 (Time For Delivering Election Records);

(E) discovery or properly executed voted ballots after the canvass of an election that were not counted; or

(F) failure to conduct maintenance activities on the lists of registered voters as required under this code.

(b) Requires SOS to make a determination on whether to implement administrative oversight under Subsection (a) not later than the 30th day after the earliest of:

(1) the day a response by the county election official with authority over election administration or voter registration is received by SOS under Section 31.018;

(2) the last day the county election official with authority over election administration or voter registration could provide a response to SOS under Section 31.018; or

(3) the day the report on the findings of an investigation is provided to the county election official with authority over the election administration or voter registration under Section 31.019.

Sec. 31.018. NOTICE OF COMPLAINT. (a) Requires SOS, in a county with a population of more than 4 million and not later than the 30th day after receiving an administrative election complaint under Section 31.017(a)(1), to provide notice of the complaint to the applicable county election official with authority over election administration or voter registration, including the specific allegations against the election official in the complaint.

(b) Authorizes the county election official with authority over election administration or voter registration, subject to Subsection (c), to provide a response with any supporting documentation relating to the complaint or the allegations in the complaint to SOS, not later than the 30th day after receiving notice of the administrative election complaint under Subsection (a).

(c) Requires the county election official with authority over election administration or voter registration to provide a response under Subsection (b) not later than 72 hours after receiving notice of the complaint under Subsection (a) if the administrative election complaint filed under Section 31.017(a)(1) concerns an election for which voting by appearance has begun and the final canvass has not been completed.

Sec. 31.019. INVESTIGATION OF COMPLAINT. (a) Provides that SOS, in a county with a population of more than 4 million, is authorized to direct personnel in the SOS's office to conduct an investigation on an administration election complaint received under Section 31.017(a)(1) and is required to consider any response or supporting documentation provided by the county election official with authority over election administration or voter registration under Section 31.018, if applicable.

(b) Requires SOS to provide the county election official with authority over election administration or voter registration notice of the determination to conduct the investigation if SOS decides to conduct an investigation under Subsection (a).

(c) Requires SOS, after completing an investigation under this section, to provide a report on the findings of the investigation to the county election official with authority over election administration or voter registration and to the individual who filed the administrative election complaint under Section 31.017(a)(1).

Sec. 31.020. COUNTY ELECTION OFFICE OVERSIGHT BY SECRETARY. (a) Requires SOS, if SOS implements administrative oversight under Section 31.017, to provide written notice to the county election official with authority over election administration or voter registration and the county judge of the determination by SOS to implement administrative oversight in the county. Requires that the notice include the specific recurring pattern of problems with election administration or voter registration identified by SOS under Section 31.017(a)(3).

(b) Requires that the authority of administrative oversight over a county granted to SOS under Subchapter A (Secretary of State) include:

(1) requiring the approval and review by SOS of any policies or procedures regarding the administration of elections issued by the county; and

(2) authorizing all appropriate personnel in SOS's office to conduct in-person observations of the county election office's activities, including any activities related to election preparation, early voting, election day, and post-election day procedures.

(c) Requires the county election office being overseen by SOS to provide sufficient access to the appropriate personnel in SOS's office to perform their duties under Subsection (b).

(d) Requires SOS to submit a report regarding the activities of the oversight personnel to the members of the county election commission and the county attorney once each quarter during the period when SOS is overseeing elections in a county under Subsection (a).

(e) Requires SOS to deliver the report required by Subsection (d) in person to the county commissioners court if requested by the commissioners court.

(f) Requires SOS to conduct the administrative oversight of a county until the earlier of:

(1) December 31 of the even-numbered year following the first anniversary of the date the complaint was received under Section 31.017(a)(1); or

(2) the date on which SOS determines that the recurring pattern of problems with election administration or voter registration is rectified.

Sec. 31.021. REMOVAL OR TERMINATION OF COUNTY ELECTION OFFICIAL AFTER ADMINISTRATIVE OVERSIGHT. (a) Authorizes SOS to file a petition for the removal under Section 87.015 (Petition for Removal), Local Government Code, of the applicable county officer with authority over election administration or voter registration if, at the conclusion of administrative oversight under this subchapter, the recurring pattern of problems with election administration or voter registration is not rectified or continues to impede the free exercise of a citizen's voting rights in the county.

(b) Authorizes SOS to enter a written order to terminate the employment of a county elections administrator, in a county that has the position, at the conclusion of administrative oversight under this subchapter under Section 31.037(b).

Sec. 31.022. RULES. Authorizes SOS to adopt rules necessary to implement the administrative oversight of a county as provided under this subchapter.

SECTION 3. Amends Section 31.037, Election Code, as follows:

Sec. 31.037. SUSPENSION OR TERMINATION OF EMPLOYMENT. (a) Creates this subsection from existing text.

(b) Authorizes SOS, for a county with a population of more than 4 million, to enter a written order to terminate the employment of a county elections administrator at the conclusion of administrative oversight of the county elections administrator's office under Subchapter A if the recurring pattern of problems with election administration or voter registration is not rectified or continues to impede the free exercise of a citizen's voting rights in the county.

SECTION 4. Amends Section 127.351, Election Code, by amending Subsections (a) and (d) and adding Subsections (e) and (f), as follows:

(a) Requires SOS to conduct an audit of the elections held on the uniform election date in four counties during the previous two years immediately after the uniform election date in November of an even-numbered year.

(d) Authorizes SOS to randomly select another county with a total population of less than 300,000 to be audited if SOS completes the audit of a county under Subsection (b)(1) (relating to requiring SOS to select the counties to be audited under Subsection (a) at random, except that two of the counties selected to be audited are required to have a total population of less than 300,000) before the end of a two-year period.

(e) Provides that if not later than July 31 of the first odd-numbered year following the commencement of an audit under this Section 127.351 (Randomized County Audits), the audit findings demonstrate to SOS that a recurring pattern of problems with election administration or voter registration, as described under Section 31.017(a)(3), exists in an audited county and the problems impede the free exercise of a citizen's voting rights, SOS:

(1) is required to:

(A) publicly release the preliminary findings of the audit; and

(B) recommend the county for administrative oversight under Subchapter A, Chapter 31; and

(2) is authorized to conduct an audit of other elections held in the county in the previous two years, as determined necessary by SOS.

(f) Creates this subsection from existing text.

SECTION 5. Effective date: September 1, 2023.