

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1933
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State Affairs
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Committee Report (Substituted)

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)

C.S.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 1 (Section 31.023, Election Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 31, Election Code, by adding Sections 31.017, 31.018, 31.019, 31.020, 31.021, 31.022, and 31.023, as follows:

Sec. 31.017. IMPLEMENTATION OF ADMINISTRATIVE OVERSIGHT OF COUNTY ELECTION. Authorizes the secretary of state's office (SOS's) 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; and
- (2) SOS has good cause to believe that a recurring pattern of problems with election administration or voter registration exists in the county, including any:
 - (A) malfunction of voting system equipment;
 - (B) unfair distribution of election supplies;
 - (C) errors in tabulation of results;
 - (D) delays in reporting election returns;
 - (E) discovery of voted ballots after the polls close; and

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

Sec. 31.018. NOTICE OF IMPLEMENTATION OF ADMINISTRATIVE OVERSIGHT. (a) Requires SOS, if SOS determines administrative oversight is necessary under Section 31.017, to provide written notice to the county judge and the county election official with authority over election administration or voter registration in the county of:

(1) the decision by SOS to require administrative oversight of the election administration or voter registration activities in the county; and

(2) the designated period during which the oversight will take place.

(b) Requires that the administrative oversight authority under Subchapter A (Secretary of State) continue until at least December 31 of the first even-numbered year following the year in which SOS provides notice under Subsection (a).

Sec. 31.019. ADMINISTRATIVE OVERSIGHT ACTIVITIES. (a) Requires that the authority of administrative oversight over a county granted to SOS under this subchapter:

(1) require the approval and review of any policies or procedures adopted by the county election office subject to the oversight by SOS; and

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

(b) Requires the county election office subject to the administrative oversight to provide sufficient access to the appropriate personnel in the SOS's office to perform their duties under Subsection (a).

Sec. 31.020. QUARTERLY REPORT ON OVERSIGHT ACTIVITIES. (a) Requires SOS, once each quarter during the period designated by SOS for administrative oversight under Section 31.018, to submit a report regarding the activities of the administrative oversight personnel to the county election official with authority over election administration or voter registration in the county, the county judge, the county attorney, and the chairs of political parties holding primary elections in the county.

(b) Requires SOS to deliver the report required by Subsection (a) in person to the county election commission or to the county commissioners court if requested by the commissioners court.

Sec. 31.021. TERMINATION OR EXTENSION OF OVERSIGHT. (a) Requires SOS, at the conclusion of the period designated by SOS for administrative oversight under Section 31.018, to issue a report to the county commissioners court regarding:

(1) any remediation actions taken by SOS during the designated period; and

(2) SOS's recommendation on whether further administrative oversight of the county is necessary to ensure proper election administration and voter registration in the county.

(b) Requires that the report submitted under Subsection (a) include a detailed plan for the additional oversight activities if SOS determines that additional oversight of the county is necessary.

(c) Requires SOS to issue an order terminating the administrative oversight over the county under this subchapter if SOS determines that no additional oversight of the county is necessary.

Sec. 31.022. APPOINTMENT OF CONSERVATOR. (a) Requires SOS to appoint a conservator to oversee elections in the county if at the conclusion of the period designated by SOS for administrative oversight under Section 31.018, SOS determines that:

(1) the recurring pattern of problems with election administration or voter registration, as described under Section 31.017(2), have not been properly remediated or continue to impede the free exercise of a citizen's voting rights in the county; and

(2) an extension of administrative oversight under Section 31.020(b) will not properly remediate the problems.

(b) Authorizes SOS to provide a written recommendation to the county election commission for the suspension or termination of the elections administrator if the county for which a conservator is appointed under Subsection (a) has an appointed elections administrator under Section 31.032 (Appointment of Administrator; County Election Commission).

(c) Authorizes SOS, notwithstanding any other provision of this subchapter, to immediately appoint a conservator to oversee elections in a county, regardless of whether administrative oversight of the county has been previously conducted under this subchapter, if SOS has good cause to determine that:

(1) a recurring pattern of problems with election administration or voter registration, as described under Section 31.017(2), exists and substantially impedes the free exercise of a citizen's voting rights within the preceding two years; and

(2) the immediate appointment of a conservator is necessary to properly remediate the problems.

(d) Authorizes SOS to simultaneously authorize the administrative oversight of the county to be conducted in the manner provided by this subchapter if a conservator is immediately appointed under Subsection (c).

(e) Provides that a conservator appointed under this section serves until the first uniform election date after SOS determines that the recurring pattern of problems with election administration or voter registration, as described under Section 31.017(2), is rectified.

Sec. 31.023. RULES. Authorizes SOS to adopt rules necessary to implement the administrative oversight of a county as provided under this subchapter.

SECTION 2. Amends Section 127.351, Election Code, by amending Subsection (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(2), 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) Requires SOS to adopt rules as necessary to implement this section.

SECTION 3. Effective date: September 1, 2023.