88R396 MLH-D

By:  Toth H.B. No. 589

A BILL TO BE ENTITLED

AN ACT

relating to processes to address election irregularities; providing a civil penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Title 16, Election Code, is amended by adding Chapter 280 to read as follows:

CHAPTER 280. REQUEST TO ADDRESS ELECTION IRREGULARITY

Sec. 280.001.  REQUEST FOR EXPLANATION. (a) A person described by Subsection (f) may issue a written request to the county clerk for an explanation and supporting documentation for:

(1)  an action taken by an election officer that appears to violate this code;

(2)  irregularities in precinct results; or

(3)  inadequacy or irregularity of documentation required to be maintained under this code.

(b)  Not later than the 20th day after the date a request is received under Subsection (a), a county clerk shall provide the requested explanation and any supporting documentation.

(c)  A requestor who is not satisfied with the explanation and supporting documentation provided under Subsection (b) may issue a request for further explanation and supporting documentation to the county clerk.

(d)  Not later than the 10th day after the date a request is received under Subsection (c), the county clerk shall provide the requested explanation and any supporting documentation.

(e)  A requestor who is not satisfied with the explanation and supporting documentation provided under Subsection (d) may issue a request to the secretary of state for an audit of the issue described by Subsection (a), as provided by Section 280.002.

(f)  A person may make a request under this section if the person participated in the relevant election as:

(1)  a candidate;

(2)  a county chair of a political party;

(3)  a presiding judge;

(4)  an alternate presiding judge; or

(5)  the head of a specific-purpose political committee that supports or opposes a ballot measure.

Sec. 280.002.  AUDIT BY SECRETARY OF STATE. (a) A person to whom Section 280.001(e) applies may submit a request for an audit to the secretary of state for investigation. A request for an audit must include copies of:

(1)  the requests made by the person to the person's county clerk under Sections 280.001(a) and (c);

(2)  the explanations provided by the county clerk to the person under Sections 280.001(b) and (d); and

(3)  any supporting documentation provided by the county clerk to the person under Sections 280.001(b) and (d).

(b)  Not later than the 30th day after the date the secretary of state receives a request for an audit under this section, the secretary must determine whether the information submitted under Subsection (a) sufficiently explains the irregularity identified under Section 280.001(a). If the information is insufficient, the secretary shall immediately begin an audit of the identified irregularity at the expense of the county.

(c)  The county clerk shall cooperate with the office of the secretary of state and may not interfere with or obstruct the audit.

(d)  On conclusion of the audit, the secretary of state shall provide notice of the findings of the audit to the person who submitted the request for the audit and the county clerk.

Sec. 280.003.  FINDING OF VIOLATION. (a) In addition to the notice required under Section 280.002(d), the secretary of state shall provide special notice to a county clerk detailing any violation of this code found during the conduct of an audit under Section 280.002.

(b)  If the county clerk does not remedy a violation detailed in a notice under Subsection (a) by the 30th day after the date the clerk receives the notice, the secretary of state shall assess a civil penalty of $500 for each violation not remedied and, if possible, remedy the violation on behalf of the county clerk. The remedy provided under this subsection is in addition to any other remedy available under law for a violation of this code.

(c)  If the secretary of state is not able to remedy the violation on behalf of the county clerk, the secretary shall assess an additional penalty under Subsection (b) for each day the county clerk does not remedy the violation until the violation is remedied.

(d)  The secretary of state shall maintain a record of county clerks who have been assessed a civil penalty under Subsection (b). The secretary of state shall publish the record on the secretary of state's Internet website.

(e)  The attorney general may bring an action under this section to recover a civil penalty that has not been paid.

(f)  A civil penalty collected under this section shall be deposited in the state treasury to the credit of the general revenue fund.

SECTION 2.  A person may make a request under Section 280.001, Election Code, as added by this Act, only for an election held on or after the effective date of this Act.

SECTION 3.  This Act takes effect September 1, 2023.