By:  Bettencourt S.B. No. 1933

(In the Senate - Filed March 8, 2023; March 20, 2023, read first time and referred to Committee on State Affairs; April 6, 2023, reported adversely, with favorable Committee Substitute by the following vote: Yeas 8, Nays 2; April 6, 2023, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Hughes          X

Paxton          X

Bettencourt     X

Birdwell        X

LaMantia            X

Menéndez            X

Middleton       X

Parker          X

Perry           X

Schwertner      X

Zaffirini                 X

COMMITTEE SUBSTITUTE FOR S.B. No. 1933 By:  Hughes

A BILL TO BE ENTITLED

AN ACT

relating to certain oversight procedures of the state over county elections.

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

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

Sec. 31.017.  IMPLEMENTATION OF ADMINISTRATIVE OVERSIGHT OF COUNTY ELECTION. The secretary of state's office may order administrative oversight of a county office administering elections or voter registration in the county if:

(1)  an administrative election complaint is filed with the secretary of state; and

(2)  the secretary of state 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 lists of registered voters as required under this code.

Sec. 31.018.  NOTICE OF IMPLEMENTATION OF ADMINISTRATIVE OVERSIGHT. (a) If the secretary of state determines administrative oversight is necessary under Section 31.017, the secretary shall 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 the secretary 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)  The administrative oversight authority under this subchapter must continue until at least December 31 of the first even-numbered year following the year in which the secretary provides notice under Subsection (a).

Sec. 31.019.  ADMINISTRATIVE OVERSIGHT ACTIVITIES. (a) The authority of administrative oversight over a county granted to the secretary of state under this subchapter must:

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

(2)  authorize all appropriate personnel in the secretary of state'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)  The county election office subject to the administrative oversight shall provide sufficient access to the appropriate personnel in the secretary of state's office to perform their duties under Subsection (a).

Sec. 31.020.  QUARTERLY REPORT ON OVERSIGHT ACTIVITIES. (a) Once each quarter during the period designated by the secretary of state for administrative oversight under Section 31.018, the secretary of state shall 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)  The secretary of state shall deliver the report required by Subsection (a) in person to the county election commission or the county commissioners court if requested by the commissioners court.

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

(1)  any remediation actions taken by the secretary of state during the designated period; and

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

(b)  If the secretary of state determines that additional oversight of the county is necessary, the report submitted under Subsection (a) must include a detailed plan for the additional oversight activities.

(c)  If the secretary of state determines that no additional oversight of the county is necessary, the secretary shall issue an order terminating the administrative oversight of the county under this subchapter.

Sec. 31.022.  APPOINTMENT OF CONSERVATOR. (a) The secretary of state shall appoint a conservator to oversee elections in the county if at the conclusion of the period designated by the secretary for administrative oversight under Section 31.018, the secretary 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 31.021(b) will not properly remediate the problems.

(b)  If the county for which a conservator is appointed under Subsection (a) has an appointed elections administrator under Section 31.032, the secretary of state may provide a written recommendation to the county election commission for the suspension or termination of the elections administrator.

(c)  Notwithstanding any other provision of this subchapter, the secretary of state may 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 the secretary 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)  If a conservator is immediately appointed under Subsection (c), the secretary of state may simultaneously authorize the administrative oversight of the county to be conducted in the manner provided by this subchapter.

(e)  A conservator appointed under this section serves until the first uniform election date after the secretary of state 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. The secretary of state may adopt rules necessary to implement the administrative oversight of a county as provided under this subchapter.

SECTION 2.  Section 127.351, Election Code, is amended by amending Subsections (a) and (d) and adding Subsections (e) and (f) to read as follows:

(a)  Immediately after the uniform election date in November of an even-numbered year, the secretary of state shall conduct an audit of the elections held on the uniform election date in four counties during the previous two years.

(d)  If the secretary of state completes the audit of a county under Subsection (b)(1) before the end of a two-year period, the secretary may randomly select another county with a total population of less than 300,000 to be audited.

(e)  If not later than July 31 of the first odd-numbered year following the commencement of an audit under this section, the audit findings demonstrate to the secretary of state 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, the secretary:

(1)  shall:

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

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

(2)  may conduct an audit of other elections held in the county in the previous two years, as determined necessary by the secretary.

(f)  The secretary of state shall adopt rules as necessary to implement this section.

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

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