

By: Bettencourt, Creighton
Hughes

S.B. No. 220

A BILL TO BE ENTITLED

AN ACT

relating to the enforcement of laws relating to elections.

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

SECTION 1. Sections 31.005(a) and (b), Election Code, are amended to read as follows:

(a) The secretary of state may take appropriate action to protect against violations of this code and to protect the voting rights of the citizens of this state from abuse by the authorities administering the state's electoral processes.

(b) The secretary of state may order a person performing official functions in the administration of any part of the electoral processes to correct offending conduct if the secretary determines that the person is exercising the powers vested in that person in a manner that:

(1) impedes the free exercise of a citizen's voting rights; ~~or~~

(2) unless acting under an order of a court of competent jurisdiction, delays or cancels an election that the person does not have specific statutory authority to delay or cancel; or

(3) otherwise violates a provision of this code.

SECTION 2. The heading to Chapter 34, Election Code, is amended to read as follows:

CHAPTER 34. STATE INSPECTORS AND ELECTION MARSHALS

1 SECTION 3. Chapter 34, Election Code, is amended by adding
2 Sections 34.006 and 34.007 to read as follows:

3 Sec. 34.006. ELECTION MARSHALS. (a) The secretary of state
4 shall appoint a state election marshal. The state election marshal
5 reports to the secretary of state.

6 (b) The state election marshal shall appoint election
7 marshals for each Department of Public Safety region such that
8 there is one election marshal for each 1,000,000 people who reside
9 in the region. Appointments must be made not later than the 60th
10 day before the date early voting is scheduled to begin in an
11 election held on a uniform election date in November or a primary
12 election. An appointment made under this section is in effect for
13 90 days, and may be extended by the state election marshal if the
14 election marshal is conducting an investigation.

15 (c) The state election marshal shall designate an election
16 marshal in each Department of Public Safety region as the chief
17 election marshal for the region. The chief election marshal for a
18 region shall assign election marshals to each alleged violation of
19 this code occurring in the region as described by Section 34.007.

20 (d) To be qualified as a state election marshal or an
21 election marshal, a person must:

22 (1) be licensed as a peace officer by the Texas
23 Commission on Law Enforcement;

24 (2) be commissioned by the Department of Public
25 Safety; and

26 (3) have received training in election law from the
27 secretary of state.

1 (e) An election marshal has the powers and duties of a state
2 inspector under this chapter and other powers and duties as
3 assigned by law.

4 (f) The name, county of residence, and contact information
5 for the purpose of official business of each election marshal and
6 the state election marshal are public information.

7 Sec. 34.007. INVESTIGATION BY STATE INSPECTORS AND ELECTION
8 MARSHALS. (a) In this section:

9 (1) "Chief election marshal" means the election
10 marshal appointed by the secretary of state for a Department of
11 Public Safety region.

12 (2) "Election marshal" means an election marshal
13 appointed under Section 34.006.

14 (3) "State inspector" means a state inspector
15 appointed under this chapter.

16 (b) A state inspector or election marshal shall promptly
17 investigate an alleged violation of this code that is:

18 (1) supported by an affidavit or unsworn declaration;
19 and

20 (2) submitted to the state inspector or chief election
21 marshal, and if submitted to the chief election marshal, assigned
22 to the election marshal.

23 (c) If an election marshal investigates an alleged
24 violation of this code and finds probable cause exists that a
25 violation of this code is occurring or is likely to occur, the
26 election marshal:

27 (1) shall exercise all lawful means to prevent the

1 violation from continuing or occurring;

2 (2) may seek such orders, processes, or warrants from
3 a court that the election marshal finds necessary to prevent the
4 violation from continuing or occurring; and

5 (3) may also file appropriate criminal charges.

6 (d) Nothing in this section shall be interpreted to affect
7 the right of a candidate or political party to file a civil action
8 under other law.

9 SECTION 4. Section 273.001(a), Election Code, is amended to
10 read as follows:

11 (a) If two or more registered voters of the territory
12 covered by an election or an election marshal assigned to the
13 Department of Public Safety region that includes the territory
14 covered by an election presents [~~present~~] affidavits alleging
15 criminal conduct in connection with the election to the county or
16 district attorney having jurisdiction in that territory, the county
17 or district attorney shall investigate the allegations. [~~If the~~
18 ~~election covers territory in more than one county, the voters may~~
19 ~~present the affidavits to the attorney general, and the attorney~~
20 ~~general shall investigate the allegations.~~]

21 SECTION 5. The heading to Section 273.003, Election Code,
22 is amended to read as follows:

23 Sec. 273.003. IMPOUNDING ELECTION RECORDS AND EQUIPMENT.

24 SECTION 6. Section 273.003(a), Election Code, is amended to
25 read as follows:

26 (a) In the investigation of an election, a county or
27 district attorney, ~~or~~ the attorney general, the secretary of

1 state, or an election marshal may have impounded for the
2 investigation the election returns, voted ballots, signature
3 roster, and other election records or equipment.

4 SECTION 7. The heading of Subchapter E, Chapter 273,
5 Election Code, is amended to read as follows:

6 SUBCHAPTER E. INJUNCTIVE RELIEF AND EMERGENCY REVIEW [~~INJUNCTION~~]

7 SECTION 8. Section 273.081, Election Code, is amended to
8 read as follows:

9 Sec. 273.081. INJUNCTION. (a) A person, including a
10 candidate, a political party, or a state, county, or precinct chair
11 of a political party, who is being harmed or is in danger of being
12 harmed by a violation or threatened violation of this code is
13 entitled to appropriate injunctive relief to prevent the violation
14 from continuing or occurring and may bring an action to obtain
15 injunctive relief to prevent the violation from continuing or
16 occurring.

17 (b) In connection with an action for injunctive relief filed
18 under Subsection (a), a court may issue subpoenas of persons or
19 property and order the inspection or impoundment of election
20 records or equipment.

21 SECTION 9. Subchapter E, Chapter 273, Election Code, is
22 amended by adding Sections 273.082 and 273.083 to read as follows:

23 Sec. 273.082. DISQUALIFICATION OF JUDGE. (a) The judge of
24 a district or county court with jurisdiction over any geographic
25 area served by an election official who is a party in a proceeding
26 for injunctive relief under this subchapter is disqualified to
27 preside over the proceeding, unless the election official serves

1 statewide.

2 (b) If a petition is filed in a proceeding in which a judge
3 may be disqualified under Subsection (a), the clerk of the court
4 shall promptly call the filing to the attention of the judge. If
5 the judge determines that the judge is disqualified under
6 Subsection (a), the judge shall promptly request the presiding
7 judge of the administrative judicial region to assign an alternate
8 judge to preside over the proceeding.

9 (c) A judge who resides in the geographic area served by the
10 election official who is a party under Subsection (a) is not
11 eligible for assignment as an alternate judge for the proceeding.

12 (d) In a proceeding in which a judge is disqualified under
13 Subsection (a), until an alternate judge is assigned to preside
14 over the proceeding, the presiding judge of the administrative
15 judicial region may take any action in the proceeding otherwise
16 authorized by law, including the issuance of temporary relief.

17 Sec. 273.083. EMERGENCY REVIEW OF ELECTION ACTIVITY. (a)
18 Not later than the 60th day before the date of a regular or special
19 election, the presiding judge of each administrative judicial
20 region shall appoint a sufficient number of visiting judges to
21 serve as emergency election review judges to preside in actions
22 under this section, in accordance with Chapter 74, Government Code.

23 (b) A judge appointed to serve as an emergency election
24 review judge shall receive training as specified by the secretary
25 of state at least once a year.

26 (c) An action filed by a candidate in an election or a
27 political party or state, county, or precinct chair of a political

1 party that has a candidate in an election that alleges a violation
2 of this code in that election and requests emergency injunctive
3 relief to prevent the alleged violation from continuing or
4 occurring shall be assigned to an emergency election review judge.
5 An action under this section arising in the district or county in
6 which the court served by an active judge appointed as an emergency
7 election review judge has jurisdiction may not be assigned to that
8 judge.

9 (d) A request for hearing in an action heard by an emergency
10 election review judge shall be delivered to the assigned judge who
11 shall promptly conduct a hearing, by electronic means or otherwise,
12 to begin no later than:

13 (1) three hours after the judge receives a written
14 hearing request filed not earlier than the 45th day before the date
15 of the election and not later than the last day of in-person early
16 voting; or

17 (2) one hour after the judge receives a written
18 hearing request filed not earlier than the last day of in-person
19 early voting and not later than the final canvass of an election.

20 (e) A hearing conducted by an emergency election review
21 judge shall be recorded or transcribed and is subject to appellate
22 review.

23 SECTION 10. This Act takes effect September 1, 2023.