

By: Bettencourt, et al.
(Oliverson)

S.B. No. 1933

Substitute the following for S.B. No. 1933:

By: Smith

C.S.S.B. No. 1933

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, and 31.022 to read as follows:

Sec. 31.017. IMPLEMENTATION OF ADMINISTRATIVE OVERSIGHT OF COUNTY ELECTION. (a) 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;

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

(3) the secretary of state, 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;

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

3 (D) violations of Section 66.053;

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

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

8 (b) The secretary of state shall make a determination on
9 whether to implement administrative oversight under Subsection (a)
10 not later than the 30th day after the earliest of:

11 (1) the day a response by the county election official
12 with authority over election administration or voter registration
13 is received by the secretary of state under Section 31.018;

14 (2) the last day the county election official with
15 authority over election administration or voter registration could
16 provide a response to the secretary of state under Section 31.018;
17 or

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

22 Sec. 31.018. NOTICE OF COMPLAINT. (a) Not later than the
23 30th day after receiving an administrative election complaint under
24 Section 31.017(a)(1), the secretary of state shall provide notice
25 of the complaint to the applicable county election official with
26 authority over election administration or voter registration,
27 including the specific allegations against the election official in

1 the complaint.

2 (b) Subject to Subsection (c), not later than the 30th day
3 after receiving notice of the administrative election complaint
4 under Subsection (a), the county election official with authority
5 over election administration or voter registration may provide a
6 response with any supporting documentation relating to the
7 complaint or the allegations in the complaint to the secretary of
8 state.

9 (c) If the administrative election complaint filed under
10 Section 31.017(a)(1) concerns an election for which voting by
11 personal appearance has begun and the final canvass has not been
12 completed, the county election official with authority over
13 election administration or voter registration must provide a
14 response under Subsection (b) not later than 72 hours after
15 receiving notice of the complaint under Subsection (a).

16 Sec. 31.019. INVESTIGATION OF COMPLAINT. (a) The
17 secretary of state may direct personnel in the secretary of state's
18 office to conduct an investigation on an administrative election
19 complaint received under Section 31.017(a)(1) and must consider any
20 response or supporting documentation provided by the county
21 election official with authority over election administration or
22 voter registration under Section 31.018, if applicable.

23 (b) If the secretary of state decides to conduct an
24 investigation under Subsection (a), the secretary must provide the
25 county election official with authority over election
26 administration or voter registration notice of the determination to
27 conduct the investigation.

1 (c) After completing an investigation under this section,
2 the secretary of state must provide a report on the findings of the
3 investigation to:

4 (1) the county election official with authority over
5 election administration or voter registration; and

6 (2) the individual who filed the administrative
7 election complaint under Section 31.017(a)(1).

8 Sec. 31.020. COUNTY ELECTION OFFICE OVERSIGHT BY SECRETARY.

9 (a) If the secretary of state implements administrative oversight
10 under Section 31.017, the secretary shall provide written notice to
11 the county election official with authority over election
12 administration or voter registration and the county judge of the
13 determination by the secretary to implement administrative
14 oversight in the county.

15 (b) The authority of administrative oversight over a county
16 granted to the secretary of state under this subchapter must
17 include:

18 (1) requiring the approval and review by the secretary
19 of state of any policies or procedures regarding the administration
20 of elections issued by the county; and

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

26 (c) The county election office being overseen by the
27 secretary of state shall provide sufficient access to the

1 appropriate personnel in the secretary of state's office to perform
2 their duties under Subsection (b).

3 (d) Once each quarter during the period when the secretary
4 of state is overseeing elections in a county under Subsection (a),
5 the secretary shall submit a report regarding the activities of the
6 oversight personnel to the members of the county election
7 commission and the county attorney.

8 (e) The secretary of state shall deliver the report required
9 by Subsection (d) in person to the county commissioners court if
10 requested by the commissioners court.

11 (f) The secretary of state shall conduct the administrative
12 oversight of a county until the earlier of:

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

16 (2) the date on which the secretary of state
17 determines that the recurring pattern of problems with election
18 administration or voter registration is rectified.

19 Sec. 31.021. REMOVAL OR TERMINATION OF COUNTY ELECTION
20 OFFICIAL AFTER ADMINISTRATIVE OVERSIGHT. (a) At the conclusion of
21 administrative oversight under this subchapter, if the recurring
22 pattern of problems with election administration or voter
23 registration is not rectified or continues to impede the free
24 exercise of a citizen's voting rights in the county, the secretary
25 of state may file a petition for the removal under Section 87.015,
26 Local Government Code, of the applicable county officer with
27 authority over election administration or voter registration.

1 (b) At the conclusion of administrative oversight under
2 this subchapter, the secretary of state may enter a written order to
3 terminate the employment of a county elections administrator, in a
4 county that has the position, under Section 31.037(b).

5 Sec. 31.022. RULES. The secretary of state may adopt rules
6 necessary to implement the administrative oversight of a county as
7 provided under this subchapter.

8 SECTION 2. Section 31.037, Election Code, is amended to
9 read as follows:

10 Sec. 31.037. SUSPENSION OR TERMINATION OF EMPLOYMENT. (a)
11 The employment of the county elections administrator may be
12 suspended, with or without pay, or terminated at any time for good
13 and sufficient cause on the four-fifths vote of the county election
14 commission and approval of that action by a majority vote of the
15 commissioners court.

16 (b) The secretary of state may enter a written order to
17 terminate the employment of a county elections administrator at the
18 conclusion of administrative oversight of the county elections
19 administrator's office under Subchapter A if the recurring pattern
20 of problems with election administration or voter registration is
21 not rectified or continues to impede the free exercise of a
22 citizen's voting rights in the county.

23 SECTION 3. Section 127.351, Election Code, is amended by
24 amending Subsections (a) and (d) and adding Subsections (e) and (f)
25 to read as follows:

26 (a) Immediately after the uniform election date in November
27 of an even-numbered year, the secretary of state shall conduct an

1 audit of the elections held on the uniform election date in four
2 counties during the previous two years.

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

7 (e) If not later than July 31 of the first odd-numbered year
8 following the commencement of an audit under this section, the
9 audit findings demonstrate to the secretary of state that a
10 recurring pattern of problems with election administration or voter
11 registration, as described under Section 31.017(a)(3), exists in an
12 audited county and the problems impede the free exercise of a
13 citizen's voting rights, the secretary:

14 (1) shall:

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

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

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

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

24 SECTION 4. This Act takes effect September 1, 2023.