

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

April 2, 2023

TO: Honorable Bryan Hughes, Chair, Senate Committee on State Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: SB1039 by Bettencourt (relating to processes to address election irregularities providing a civil penalty.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1039, Committee Report 1st House, Substituted : a negative impact of (\$6,146,296) through the biennium ending August 31, 2025.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to <i>General Revenue Related Funds</i>
2024	(\$3,103,649)
2025	(\$3,042,647)
2026	(\$3,043,232)
2027	(\$3,043,842)
2028	(\$3,044,478)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	<i>Change in Number of State Employees from FY 2023</i>
2024	(\$3,103,649)	6.0
2025	(\$3,042,647)	6.0
2026	(\$3,043,232)	6.0
2027	(\$3,043,842)	6.0
2028	(\$3,044,478)	6.0

Fiscal Analysis

The bill would amend the Election Code to require an audit by the Secretary of State (SOS) of certain election irregularities upon submission of a request for an audit of the conduct of that election by certain interested parties.

Upon the finding of a violation, the SOS would be required to appoint a conservator in the county election precinct where the violation occurred for the next two Federal election cycles. Under certain circumstances, the SOS could levy civil penalties against country clerks or other election authorities. The Office of the Attorney General (OAG) would be authorized to recover civil penalties established by this bill and any such penalties would be deposited to the General Revenue Fund.

Methodology

The SOS anticipates that the bill would require a substantial number of audits of election irregularities. Based on the experience of the agency performing other election audits, the audits required under the provisions of this bill would require substantial document review and analysis, labor-intensive work, and travel to the applicable locations.

The SOS estimates that these new election audit requirements would require a total of six additional FTEs. Four of these positions would be in the Forensic Audits Division (3 Program Specialist V at \$66,000 per year and 1 Program Specialist VI at \$72,789 per year). Two new positions would be required in the Elections Division (Program Specialist II at \$51,985 per year). Associated benefits for these six FTEs would be \$119,285 per year. Setup and other costs, including travel, would be \$34,024 in fiscal year 2024 with recurring costs beginning at \$13,766 in fiscal year 2025 and increasing at the rate of inflation thereafter.

According to the SOS, the agency has received an average of 300 election complaints per year and would anticipate appointing precinct conservators in 20 percent of such cases in the first year of the bill's implementation. Based on conservatorship rates utilized by other state agencies, the SOS estimates each conservator assignment to require twelve weeks of service per year (480 hours) at a rate of \$85 per hour. Therefore, the agency estimates that the total cost of such appointments per year would be \$2,448,000.

The OAG anticipates that any legal work resulting from the passage of this legislation could be reasonably absorbed with current resources.

According to the Office of Court Administration, no significant fiscal impact to the state court system is anticipated.

According to the Comptroller of Public Accounts, based on information provided by the Secretary of State, there would be no fiscal impact on the state.

Technology

The SOS estimates that hardware and software setup costs of \$34,024 would be required in fiscal year 2024, with annual recurring costs beginning at \$13,766 in subsequent years and increasing at the rate of inflation thereafter.

Local Government Impact

Provisions of the bill could require counties and other authorities to reimburse the Secretary of State for certain costs related to the auditing of elections; however, these costs cannot be determined at this time.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 307 Secretary of State

LBB Staff: JMc, SMAT, LCO, GP, NV