

BILL ANALYSIS

C.S.S.B. 505
By: Bettencourt
Elections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill sponsor has informed the committee that although election irregularities may occur in any election cycle, these irregularities are mostly addressed under current law by an election contest, which happens rarely. The bill sponsor has also informed the committee that as a result, irregularities that are identified by election judges, candidates, proponents and opponents of a measure, and party chairs are not always attended to, particularly if they are not the subject of an election contest, which can create a lack of confidence in the system. C.S.S.B. 505 seeks to address this issue by establishing processes by which certain persons participating in an election may request an explanation for identified election irregularities and by providing for the secretary of state to audit and conduct administrative oversight of a county determined to have violated election law.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 505 amends the Election Code to authorize a person participating in a relevant election as a candidate, county chair or state chair of a political party, presiding judge, alternate presiding judge, or head of a specific-purpose political committee that supports or opposes a ballot measure to issue a written request to the county clerk or other authority conducting the relevant election for an explanation and supporting documentation for the following:

- an action taken by an election official that appears to violate the Election Code;
- irregularities in results in a precinct or at a polling place or early voting polling place;
- inadequacy or irregularity of documentation required to be maintained under the Election Code;
- discrepancies in the results of a reconciliation of ballots between the number of voters and the number of votes cast; or
- any other departure from standard election procedures in Texas or the requirements of the Election Code.

The bill authorizes a person to make such request only for an election held on or after the bill's effective date. The bill requires the election authority to provide the requestor the requested explanation and any supporting documentation not later than the 20th day after the date the request is received.

C.S.S.B. 505 authorizes a requestor who is not satisfied with such explanation and supporting documentation to issue a request for further explanation and supporting documentation to the

county clerk or other authority. The bill requires a county clerk or other authority to provide the additional requested explanation and any supporting documentation not later than the 10th day after the date the request is received. If the requestor is not satisfied with the additional explanation and supporting documentation, the requestor may issue a request for an audit of the issue to the secretary of state for investigation. The bill requires the request for an audit to include copies of the following:

- the requests made by the person to the county clerk or other authority conducting the election; and
- the explanations and any supporting documentation provided by the county clerk or other authority to the person.

The bill requires the secretary of state, not later than the 30th day after the date the secretary receives that information, to determine whether the submitted information sufficiently explains the identified irregularity. The bill requires, if the information is insufficient, the secretary of state to immediately begin an audit of the identified irregularity at the expense of the county or other authority conducting the election. The county clerk or other such authority is required to cooperate with the office of the secretary of state and may not interfere with or obstruct the audit.

C.S.S.B. 505 provides that, on the conclusion of the audit:

- the secretary of state must provide notice of the findings of the audit to the requestor and the county clerk or other authority conducting the election; and
- if the secretary determines that a violation has occurred, the secretary may order administrative oversight of the county where the violation occurred under applicable state law.

C.S.S.B. 505 authorizes the secretary of state, at the secretary's discretion, to make a determination without conducting an audit that the evidence submitted with the audit request to the secretary of state sufficiently explains the irregularity identified in a written request issued to the county clerk or other authority conducting an election or that a violation of the Election Code has occurred solely on the basis of the submitted evidence. The bill requires the secretary of state to send notice of the determination to the person who submitted the request for the audit and to the county clerk or other authority conducting the election.

C.S.S.B. 505 requires the secretary of state to provide special notice to the county clerk or other authority conducting an election detailing any violation of the Election Code found by the secretary of state in addition to the notice of the audit findings. The bill requires the secretary of state, if the county clerk or other election authority does not remedy a violation by the 30th day after receiving notice, to assess a civil penalty of \$500 for each violation not remedied and, if possible, remedy the violation on behalf of the county clerk or other authority. If unable to remedy the violation on behalf of the county clerk or other authority, the secretary of state must assess an additional penalty for each day the county clerk or other authority does not remedy the violation until the violation is remedied. The bill specifies that such a remedy is in addition to any other remedy available under law for a violation of the Election Code.

C.S.S.B. 505 authorizes the attorney general to bring an action to recover an unpaid civil penalty and specifies that a civil penalty is to be deposited in the state treasury to the credit of the general revenue fund. The bill requires the secretary of state to maintain a record of county clerks or other authorities that conduct elections who have been assessed a civil penalty and publish the record on the secretary of state's website.

C.S.S.B. 505 requires the secretary of state to conduct the administrative oversight of a county under the bill's provisions until the earlier of December 31 of the even-numbered year following the first anniversary of the secretary of state's decision to administer administrative oversight or the date on which the secretary of state determines that the recurring pattern of problems with election administration or voter registration is rectified.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 505 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

Whereas the engrossed authorized an applicable person to issue a written request to the county clerk or other authority conducting an election for an explanation and supporting documentation for an action taken by an election officer that appears to violate the Election Code, the substitute authorizes an applicable person to do so for such an action taken by an election official. The substitute includes any other departure from standard election procedures in Texas or the requirements of the Election Code among the conduct for which the person may issue such a request, which the engrossed did not include.

Both the engrossed and the substitute authorize the secretary of state to make a determination, in the secretary's discretion, that a violation of the Election Code has occurred solely on the basis of evidence submitted with the audit request submitted to the secretary of state without conducting an audit. However, the substitute includes a clarification absent from the engrossed that the evidence submitted sufficiently explains the irregularity identified in a written request issued to the county clerk or other authority conducting an election.

The substitute does not include the authorization in the engrossed for the secretary of state to appoint a conservator to oversee elections in a county where a violation occurs but instead includes an authorization for the secretary to order administrative oversight of such a county under applicable state law, accordingly revises current law relating to the implementation of administrative oversight of county elections to reflect that change, and does not include the related provisions in the engrossed that related to the appointment of a conservator. The substitute, in provisions absent from the engrossed, requires the secretary of state to conduct the administrative oversight of a county under the bill's provisions until the earlier of December 31 of the even-numbered year following the first anniversary of the secretary of state's decision to administer administrative oversight or the date on which the secretary of state determines that the recurring pattern of problems with election administration or voter registration is rectified.