

## **BILL ANALYSIS**

S.B. 618  
By: Sparks  
Elections  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The bill sponsor has informed the committee that election law, rules, and procedures should be consistent across the state. Public and election officials are currently prohibited from altering election laws, rules, or procedures in a manner not explicitly authorized by the Election Code. However, the bill sponsor has informed the committee that there is no enforcement mechanism to ensure this provision is being followed. S.B. 618 seeks to address this issue by establishing civil penalties for public or election officials who violate that prohibition and fail to correct the violation and by providing for a mechanism for violations of the prohibition to be reported by the secretary of state.

### **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**

S.B. 618 amends the Election Code to require the secretary of state, after receiving a formal complaint indicating that a public official or election official has violated the prohibition against creating, altering, modifying, waiving, or suspending an election standard, practice, or procedure mandated by law or rule in a manner not expressly authorized by the Election Code, to promptly investigate the standard, practice, or procedure appearing to have violated that prohibition. The bill requires the secretary of state, if the secretary determines that a violation has occurred, to promptly send the following to the public official or election official determined to have committed the violation:

- notification of the secretary of state's determination;
- a demand that the official immediately cease the implementation or enforcement of the standard, practice, or procedure determined to have violated the prohibition; and
- instructions for the specific actions necessary for compliance with the prohibition.

S.B. 618 requires the secretary of state, if more than two business days after receiving such notification, a public official or election official does not comply with the secretary of state's instructions, to notify the attorney general that the official may be subject to a civil penalty and forward to the attorney general any documents or information received, discovered, or created during the secretary of state's investigation. The bill sets out the following with respect to such a civil penalty:

- a public official or election official is liable to the state for a civil penalty for each day that the official fails or refuses to take an affirmative action to comply with the prohibition; and
- the amount of the civil penalty is capped at the following amounts:
  - \$1,000 per day for each day after the second day and on or before the seventh day after receiving a notice that the secretary of state has determined a violation occurred; or
  - \$5,000 per day for each day after the seventh day after receiving such a notice.

The bill authorizes the attorney general to bring an action to recover an imposed civil penalty and requires a civil penalty collected by the attorney general to be deposited in the state treasury to the credit of the general revenue fund.

S.B. 618 establishes that a repeated violation of the prohibition by a public official or election official of a political subdivision, other than an elected official, is grounds for removal of the official by the appointing political subdivision. The bill requires the secretary of state to produce and post on the secretary of state's publicly accessible website a monthly report containing information on each reported violation and requires the report to only include the following information:

- the county where the violation allegedly took place;
- the specific election standard, practice, or procedure mandated by law or rule alleged to have been created, altered, modified, waived, or suspended in a manner not expressly authorized by the Election Code;
- the date or dates of the alleged violation; and
- the resolution of the secretary of state's investigation, including the resolution of any further proceedings or actions.

The bill requires the secretary of state to update the website with respect to information on the resolution of the investigation as necessary.

S.B. 618 establishes that documents or information received, discovered, or created during the secretary of state's investigation are confidential and not subject to disclosure under state public information law, unless the secretary of state or attorney general has determined that a formal complaint submitted to the secretary of state does not rise to the level of criminal conduct, or will not be further investigated or the subject of any further proceedings or actions. The bill requires a public official, election official, or registered voter reporting an alleged violation by the secretary of state or any personnel working in the secretary of state's elections division to send a formal complaint containing the details of the alleged violation to the secretary of state and requires the complaint to do the following:

- include the nature of the alleged violation; and
- demand that the secretary of state cease all acts or omissions that constitute the alleged violation and take whatever action necessary to correct the violation.

The bill requires the secretary of state to include information on each formal complaint relating to a violation by the secretary of state or applicable personnel on the secretary of state's website in the manner previously described. The bill requires the secretary of state to promptly notify the complainant in writing of all corrective action taken in response to the alleged violation or a clear explanation to the complainant on the secretary of state's compliance with the prohibition.

### **EFFECTIVE DATE**

September 1, 2025.