

## **BILL ANALYSIS**

Senate Research Center  
89R20926 JDK-F

C.S.S.B. 618  
By: Sparks  
State Affairs  
3/24/2025  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Election law, rules, and procedures should be consistent across the state, which is why, during the 87th Legislature, there was a statute passed that prohibited any elected or election official from being able to alter election laws, rules, or procedures not explicitly allowed by the Texas Election Code. However, because there is no penalty attached to this prohibition, there are still those who continue to violate this provision. S.B. 618 seeks to establish civil penalties for election or elected officials who fail to conduct their elections according to the Texas Election Code after being advised by the secretary of state on how to correct the violation.

(Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 618 amends current law relating to the unlawful altering of election procedures and provides a civil penalty.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 276.019, Election Code, as follows:

Sec. 276.019. New heading: UNLAWFUL ALTERING OF ELECTION PROCEDURES; CIVIL PENALTY. (a) Creates this subsection from existing text and makes no further changes.

(b) Requires the secretary of state (SOS), after SOS receives or discovers information indicating that a public official or election official has violated Subsection (a), to investigate the standard, practice, or procedure appearing to have violated Subsection (a). Requires SOS, if SOS determines that a violation of Subsection (a) has occurred, to send to the public official or election official determined to have violated that subsection:

- (1) notification of SOS's determination;
- (2) a demand that the official immediately cease the implementation or enforcement of the standard, practice, or procedure determined to have violated Subsection (a); and
- (3) instructions for the specific actions necessary for compliance with Subsection (a).

(c) Requires SOS, if, more than two days after receiving notification under Subsection (b), a public official or election official does not comply with Subsection (a) as instructed under Subsection (b)(3), to notify the attorney general that the official may be subject to a civil penalty under Subsection (d) and forward

to the attorney general any documents or information received, discovered, or created during SOS's investigation under Subsection (b).

(d) Provides that a public official or election official is liable to this state for a civil penalty for each day that the official fails or refuses to take an affirmative action to comply with Subsection (a) in an amount not to exceed \$1,000 per day for each day after the second day and on or before the seventh day after receiving a notice under Subsection (b) or \$5,000 per day for each day after the seventh day after receiving a notice under Subsection (b).

(e) Authorizes the attorney general to bring an action to recover a civil penalty imposed under Subsection (d).

(f) Requires that a civil penalty collected by the attorney general under this section be deposited in the state treasury to the credit of the general revenue fund.

(g) Provides that a repeated violation of Subsection (a) by a public official or election official, other than an elected official, is grounds for removal of the official by the appointing political subdivision.

(h) Requires SOS, except as provided by Subsection (i), to produce a monthly report containing information on each reported violation of Subsection (a). Requires that the report only include:

(1) the county where the violation allegedly took place;

(2) 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 this code;

(3) the date or dates of the alleged violation; and

(4) the resolution of SOS's investigation including the resolution of any further proceedings or actions.

(h-1) Requires SOS to update the information required under Subsection (h)(4) as necessary.

(i) Provides that documents or information received, discovered, or created during SOS's investigation under Subsection (b) are confidential and not subject to disclosure under Chapter 552 (Public Information), Government Code, unless SOS or the attorney general has determined that a complaint submitted to SOS under this section does not rise to the level of criminal conduct or will not be further investigated or the subject of any further proceedings or actions.

(j) Requires a public official, election official, or registered voter reporting an alleged violation of Subsection (a) by SOS or any personnel working in SOS's elections division, to send a notice containing the details of the alleged violation to SOS. Requires that the notice include the nature of the alleged violation and demand that SOS cease all acts or omissions that constitute the alleged violation and take whatever action necessary to correct the violation.

(j-1) Requires SOS to include information on each notice received under Subsection (j) in the manner provided by Subsection (h).

(j-2) Requires SOS to promptly notify the complainant in writing of all corrective action taken in response to the alleged violation of Subsection (a) or a clear explanation to the complainant on the SOS's compliance with Subsection (a).

(k) Authorizes the complainant, except as provided by Subsection (l), if SOS has not complied with the demand or demonstrated compliance in their response to a notice provided under Subsection (j) after the second business day after the date SOS receives the notice, to bring an action against SOS for damages incurred by the failure to comply and for appropriate equitable relief.

(l) Authorizes a complainant to immediately bring an action under Subsection (k) if election security is at immediate risk.

(m) Authorizes a complainant to bring an action under Subsection (k) in a district court located in a county impacted by SOS's failure to comply with the demand that is the subject of the action or in the complainant's county of residence.

(n) Provides that a complaint is not required to demonstrate direct or concrete injury to obtain relief in an action brought under Subsection (k).

(o) Provides that a prevailing claimant in an action brought under Subsection (k) is entitled to compensatory damages, a restraining order, injunctive relief, mandamus relief, and court costs and reasonable attorney's fees incurred in bringing the action.

(p) Prohibits SOS from asserting official immunity as a defense to an action brought under Subsection (k).

(q) Requires a district court to expedite an action brought under Subsection (k) if the court determines that the expedition is necessitated by the public interest.

(r) Provides that this section supersedes any other provisions of this code or a law outside this code to the extent of any conflict.

SECTION 2. Effective date: September 1, 2025.