

By: Bettencourt, et al.
(Swanson)

S.B. No. 505

Substitute the following for S.B. No. 505:

By: Shaheen

C.S.S.B. No. 505

A BILL TO BE ENTITLED

AN ACT

relating to processes to address election irregularities;
providing a civil penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 31.017, Election Code, is amended to
read as follows:

Sec. 31.017. IMPLEMENTATION OF ADMINISTRATIVE OVERSIGHT OF
COUNTY ELECTION. (a) The ~~[In a county with a population of more~~
~~than 4 million, the]~~ secretary of state's office may order
administrative oversight of a county office administering
elections or voter registration in the county:

(1) under Section 280.002; or

(2) if, in a county with a population of more than 4
million:

(A) ~~[(1)]~~ an administrative election complaint
is filed with the secretary of state by a person who participated in
the relevant election as:

(i) ~~[(A)]~~ a candidate;

(ii) ~~[(B)]~~ a county chair or state chair of
a political party;

(iii) ~~[(C)]~~ a presiding judge;

(iv) ~~[(D)]~~ an alternate presiding judge; or

(v) ~~[(E)]~~ the head of a specific-purpose
political committee that supports or opposes a measure;

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

4 (C) [~~(3)~~] the secretary of state, after
5 conducting an investigation under Section 31.019, has good cause to
6 believe that a recurring pattern of problems with election
7 administration or voter registration exists in the county,
8 including any recurring:

9 (i) [~~(A)~~] malfunction of voting system
10 equipment that prevents a voter from casting a vote;

11 (ii) [~~(B)~~] carelessness or official
12 misconduct in the distribution of election supplies;

13 (iii) [~~(C)~~] errors in the tabulation of
14 results that would have affected the outcome of an election;

15 (iv) [~~(D)~~] violations of Section 66.053;

16 (v) [~~(E)~~] discovery of properly executed
17 voted ballots after the canvass of an election that were not
18 counted; or

19 (vi) [~~(F)~~] failure to conduct maintenance
20 activities on the lists of registered voters as required under this
21 code.

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

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

1 (2) the last day the county election official with
2 authority over election administration or voter registration could
3 provide a response to the secretary of state under Section 31.018;
4 ~~[or]~~

5 (3) the day the report on the findings of an
6 investigation is provided to the county election official with
7 authority over election administration or voter registration under
8 Section 31.019; or

9 (4) the conclusion of an audit under Section 280.002.

10 SECTION 2. Sections 31.018(a) and (c), Election Code, are
11 amended to read as follows:

12 (a) In a county with a population of more than 4 million and
13 not later than the 30th day after receiving an administrative
14 election complaint under Section 31.017(a)(2)(A) ~~[31.017(a)(1)]~~,
15 the secretary of state shall provide notice of the complaint to the
16 applicable county election official with authority over election
17 administration or voter registration, including the specific
18 allegations against the election official in the complaint.

19 (c) If the administrative election complaint filed under
20 Section 31.017(a)(2)(A) ~~[31.017(a)(1)]~~ concerns an election for
21 which voting by personal appearance has begun and the final canvass
22 has not been completed, the county election official with authority
23 over election administration or voter registration must provide a
24 response under Subsection (b) not later than 72 hours after
25 receiving notice of the complaint under Subsection (a).

26 SECTION 3. Sections 31.019(a) and (c), Election Code, are
27 amended to read as follows:

1 (a) In a county with a population of more than 4 million, the
2 secretary of state may direct personnel in the secretary of state's
3 office to conduct an investigation on an administrative election
4 complaint received under Section 31.017(a)(2)(A) [~~31.017(a)(1)~~]
5 and must consider any response or supporting documentation provided
6 by the county election official with authority over election
7 administration or voter registration under Section 31.018, if
8 applicable.

9 (c) After completing an investigation under this section,
10 the secretary of state must provide a report on the findings of the
11 investigation to:

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

14 (2) the individual who filed the administrative
15 election complaint under Section 31.017(a)(2)(A) [~~31.017(a)(1)~~].

16 SECTION 4. Sections 31.020(a) and (f), Election Code, are
17 amended to read as follows:

18 (a) If the secretary of state implements administrative
19 oversight under Section 31.017, the secretary shall provide written
20 notice to the county election official with authority over election
21 administration or voter registration and the county judge of the
22 determination by the secretary to implement administrative
23 oversight in the county. The notice must include the specific
24 recurring pattern of problems with election administration or voter
25 registration identified by the secretary and as described by
26 [~~under~~] Section 31.017(a)(2)(C) [~~31.017(a)(3)~~].

27 (f) The secretary of state shall conduct the administrative

oversight of a county until the earlier of:

(1) December 31 of the even-numbered year following the first anniversary of the date the complaint was received under Section 31.017(a)(2)(A) [~~31.017(a)(1)~~];

(2) December 31 of the even-numbered year following the first anniversary of the secretary of state's decision to administer administrative oversight under Section 280.002; or

(3) [~~(2)~~] the date on which the secretary of state determines that the recurring pattern of problems with election administration or voter registration is rectified.

SECTION 5. Section 31.037(b), Election Code, is amended to read as follows:

(b) The [~~In a county with a population of more than 4 million, the~~] secretary of state may enter a written order to terminate the employment of a county elections administrator at the conclusion of administrative oversight of the county elections administrator's office under this subchapter [~~Subchapter A~~] if the recurring pattern of problems with election administration or voter registration is not rectified or continues to impede the free exercise of a citizen's voting rights in the county.

SECTION 6. Title 16, Election Code, is amended by adding Chapter 280 to read as follows:

CHAPTER 280. REQUEST TO ADDRESS ELECTION IRREGULARITY

Sec. 280.001. REQUEST FOR EXPLANATION. (a) A person described by Subsection (f) may issue a written request to the county clerk or other authority conducting an election for an explanation and supporting documentation for:

1 (1) an action taken by an election official that
2 appears to violate this code;

3 (2) irregularities in results in a precinct or at a
4 polling place or early voting polling place;

5 (3) inadequacy or irregularity of documentation
6 required to be maintained under this code;

7 (4) discrepancies in the results of a reconciliation
8 of ballots between the number of voters and the number of votes
9 cast; or

10 (5) any other departure from standard election
11 procedures in this state or the requirements of this code.

12 (b) Not later than the 20th day after the date a request is
13 received under Subsection (a), the county clerk or other authority
14 shall provide the requestor the requested explanation and any
15 supporting documentation.

16 (c) A requestor who is not satisfied with the explanation
17 and supporting documentation provided under Subsection (b) may
18 issue a request for further explanation and supporting
19 documentation to the county clerk or other authority.

20 (d) Not later than the 10th day after the date a request is
21 received under Subsection (c), the county clerk or other authority
22 shall provide the requestor the requested explanation and any
23 supporting documentation.

24 (e) A requestor who is not satisfied with the explanation
25 and supporting documentation provided under Subsection (d) may
26 issue a request to the secretary of state for an audit of the issue
27 described by Subsection (a), as provided by Section 280.002.

1 (f) A person may make a request under this section if the
2 person participated in the relevant election as:

- 3 (1) a candidate;
4 (2) a county chair or state chair of a political party;
5 (3) a presiding judge;
6 (4) an alternate presiding judge; or
7 (5) the head of a specific-purpose political committee
8 that supports or opposes a ballot measure.

9 Sec. 280.002. AUDIT BY SECRETARY OF STATE. (a) A person to
10 whom Section 280.001(e) applies may submit a request for an audit to
11 the secretary of state for investigation. A request for an audit
12 must include copies of:

13 (1) the requests made by the person to the county clerk
14 or other authority conducting the election under Sections
15 280.001(a) and (c); and

16 (2) the explanations and any supporting documentation
17 provided by the county clerk or other authority to the person under
18 Sections 280.001(b) and (d).

19 (b) Not later than the 30th day after the date the secretary
20 of state receives a request for an audit under this section, the
21 secretary must determine whether the information submitted under
22 Subsection (a) sufficiently explains the irregularity identified
23 under Section 280.001(a). If the information is insufficient, the
24 secretary of state shall immediately begin an audit of the
25 identified irregularity at the expense of the county or other
26 authority conducting the election.

27 (c) The county clerk or other authority conducting the

1 election shall cooperate with the office of the secretary of state
2 and may not interfere with or obstruct the audit.

3 (d) On conclusion of the audit, the secretary of state shall
4 provide notice of the findings of the audit to the person who
5 submitted the request for the audit and the county clerk or other
6 authority conducting the election.

7 (e) The secretary of state may, in the secretary's
8 discretion, make a determination without conducting an audit that
9 the evidence submitted under Subsection (a) sufficiently explains
10 the irregularity identified under Section 280.001(a) or that a
11 violation of this code has occurred solely on the basis of the
12 evidence submitted under Subsection (a). The secretary of state
13 shall send notice of the determination to the person who submitted
14 the request for the audit and to the county clerk or other authority
15 conducting the election.

16 (f) If, following an audit, the secretary of state
17 determines that a violation of this code has occurred, the
18 secretary may order administrative oversight of the county where
19 the violation occurred under Subchapter A, Chapter 31.

20 Sec. 280.003. FINDING OF VIOLATION. (a) In addition to the
21 notice required under Section 280.002(d), the secretary of state
22 shall provide special notice to the county clerk or other authority
23 conducting an election detailing any violation of this code found
24 by the secretary under Section 280.002.

25 (b) If the county clerk or other authority conducting an
26 election does not remedy a violation detailed in a notice under
27 Subsection (a) by the 30th day after the date the clerk or other

1 authority receives the notice, the secretary of state shall assess
2 a civil penalty of \$500 for each violation not remedied and, if
3 possible, remedy the violation on behalf of the county clerk or
4 other authority. The remedy provided under this subsection is in
5 addition to any other remedy available under law for a violation of
6 this code.

7 (c) If the secretary of state is not able to remedy the
8 violation on behalf of the county clerk or other authority, the
9 secretary shall assess an additional penalty under Subsection (b)
10 for each day the county clerk or other authority does not remedy the
11 violation until the violation is remedied.

12 (d) The secretary of state shall maintain a record of county
13 clerks or other authorities that conduct elections who have been
14 assessed a civil penalty under Subsection (b). The secretary of
15 state shall publish the record on the secretary of state's Internet
16 website.

17 (e) The attorney general may bring an action under this
18 section to recover a civil penalty that has not been paid.

19 (f) A civil penalty collected under this section shall be
20 deposited in the state treasury to the credit of the general revenue
21 fund.

22 SECTION 7. A person may make a request under Section
23 280.001, Election Code, as added by this Act, only for an election
24 held on or after the effective date of this Act.

25 SECTION 8. This Act takes effect September 1, 2025.