

SENATE AMENDMENTS
2nd Printing

By: Shaheen, Metcalf, Leach, Noble, Hull, H.B. No. 5138
et al.

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the duty of the attorney general to prosecute criminal
3 offenses prescribed by the election laws of this state.

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

5 SECTION 1. Chapter 402, Government Code, is amended by
6 adding Subchapter D to read as follows:

7 SUBCHAPTER D. PROSECUTION OF CRIMINAL OFFENSES PRESCRIBED BY STATE
8 ELECTION LAWS

9 Sec. 402.101. APPLICABILITY. This subchapter applies to a
10 criminal offense under the Election Code.

11 Sec. 402.102. PROVISION OF INFORMATION TO ATTORNEY GENERAL.
12 (a) A law enforcement agency that submits to a local prosecuting
13 attorney a report stating there is probable cause to believe an
14 identified person has committed a criminal offense described by
15 Section 402.101 shall simultaneously submit a copy of that report
16 to the attorney general.

17 (b) On request of the attorney general, a local prosecuting
18 attorney or law enforcement agency shall provide all information
19 requested regarding investigations of criminal offenses described
20 by Section 402.101 to assist the attorney general in performing
21 duties required under this subchapter.

22 Sec. 402.103. PROSECUTION. (a) Notwithstanding any other
23 law, the attorney general has jurisdiction to prosecute and shall
24 represent the state in the prosecution of a criminal offense

1 described by Section 402.101 if:

2 (1) a law enforcement agency submits a report
3 described by Section 402.102(a) to the local prosecuting attorney
4 and the attorney general; and

5 (2) six months have elapsed from the date the report
6 was submitted and the local prosecuting attorney has not taken
7 prosecutorial action to prosecute the offense.

8 (b) A local prosecuting attorney may file a motion in a
9 district court objecting to the attorney general's representation
10 of the state under Subsection (a) in the prosecution of a criminal
11 offense described by Section 402.101. In response to a motion filed
12 under this subsection, the court shall:

13 (1) make a finding as to whether the local prosecuting
14 attorney has taken prosecutorial action to prosecute the offense;
15 and

16 (2) if the court finds the local prosecuting attorney
17 has not taken prosecutorial action to prosecute the offense, issue
18 an order stating the attorney general shall represent the state in
19 the prosecution of the offense.

20 SECTION 2. Sections 273.021(a) and (b), Election Code, are
21 amended to read as follows:

22 (a) The attorney general has jurisdiction to ~~[may]~~
23 prosecute and shall represent the state in the prosecution of a
24 criminal offense prescribed by the election laws of this state as
25 provided by Subchapter D, Chapter 402, Government Code.

26 (b) The attorney general may appear before a grand jury in
27 connection with a criminal ~~[an]~~ offense the attorney general is

1 authorized to prosecute under Subsection (a).

2 SECTION 3. Section 273.022, Election Code, is amended to
3 read as follows:

4 Sec. 273.022. COOPERATION WITH LOCAL PROSECUTOR. The
5 attorney general may direct the county or district attorney serving
6 the county in which the offense is to be prosecuted to prosecute a
7 criminal ~~[an]~~ offense that the attorney general is authorized to
8 prosecute under Section 273.021 or to assist the attorney general
9 in the prosecution.

10 SECTION 4. The changes in law made by this Act apply only to
11 an offense committed on or after the effective date of this Act. An
12 offense committed before the effective date of this Act is governed
13 by the law in effect on the date the offense was committed, and the
14 former law is continued in effect for that purpose. For purposes of
15 this section, an offense was committed before the effective date of
16 this Act if any element of the offense occurred before that date.

17 SECTION 5. This Act takes effect September 1, 2026.

ADOPTED

MAY 28 2025

Latey Law
Secretary of the Senate

By:

Bryan Hughes

H.B. No. 5138

Substitute the following for H.B. No. 5138:

By:

Bryan Hughes

C.S. H.B. No. 5138

A BILL TO BE ENTITLED

AN ACT

relating to the duty of the attorney general to prosecute criminal offenses prescribed by the election laws of this state.

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

SECTION 1. Chapter 402, Government Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. PROSECUTION OF CRIMINAL OFFENSES PRESCRIBED BY STATE

ELECTION LAWS

Sec. 402.101. APPLICABILITY. This subchapter applies to a criminal offense under the Election Code.

Sec. 402.102. PROVISION OF INFORMATION TO ATTORNEY GENERAL.

(a) A law enforcement agency shall submit to the attorney general any report stating there is probable cause to believe an identified person has committed a criminal offense described by Section 402.101.

(b) A local prosecuting attorney or law enforcement agency shall provide any information requested by the attorney general regarding investigations of criminal offenses described by Section 402.101 to assist the attorney general in performing duties required under this subchapter.

Sec. 402.103. PROSECUTION. Notwithstanding any other law, the attorney general has jurisdiction to prosecute and shall represent the state in the prosecution of a criminal offense described by Section 402.101.

1 SECTION 2. Sections 273.021(a) and (b), Election Code, are
2 amended to read as follows:

3 (a) The attorney general has jurisdiction to ~~[may]~~
4 prosecute and shall represent the state in the prosecution of a
5 criminal offense prescribed by the election laws of this state as
6 provided by Subchapter D, Chapter 402, Government Code.

7 (b) The attorney general may appear before a grand jury in
8 connection with a criminal ~~[an]~~ offense the attorney general is
9 authorized to prosecute under Subsection (a).

10 SECTION 3. Section 273.022, Election Code, is amended to
11 read as follows:

12 Sec. 273.022. COOPERATION WITH LOCAL PROSECUTOR. The
13 attorney general may direct the county or district attorney serving
14 the county in which the offense is to be prosecuted to prosecute a
15 criminal ~~[an]~~ offense that the attorney general is authorized to
16 prosecute under Section 273.021 or to assist the attorney general
17 in the prosecution.

18 SECTION 4. The changes in law made by this Act apply only to
19 an offense committed on or after the effective date of this Act. An
20 offense committed before the effective date of this Act is governed
21 by the law in effect on the date the offense was committed, and the
22 former law is continued in effect for that purpose. For purposes of
23 this section, an offense was committed before the effective date of
24 this Act if any element of the offense occurred before that date.

25 SECTION 5. This Act takes effect September 1, 2026.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

May 28, 2025

TO: Honorable Dustin Burrows, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB5138 by Shaheen (Relating to the duty of the attorney general to prosecute criminal offenses prescribed by the election laws of this state.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would require local law enforcement agencies and prosecutors to provide information to the Office of the Attorney General (OAG) regarding the investigation of certain criminal offenses under the Election Code. Local prosecuting attorneys would be allowed to object to OAG's representation of the state in persecuting these offenses.

It is assumed that any costs to the state associated with the bill could be absorbed using existing resources.

No significant fiscal impact to the state court system is anticipated.

Local Government Impact

Local law enforcement agencies and prosecuting attorneys would be required to report to the Office of the Attorney General information on certain investigations into violations of the Election Code.

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General

LBB Staff: JMc, SD, WP, LCO, JKe

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

May 22, 2025

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB5138 by Shaheen (relating to the duty of the attorney general to prosecute criminal offenses prescribed by the election laws of this state.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would require local law enforcement agencies and prosecutors to provide information to the Office of the Attorney General (OAG) regarding the investigation of certain criminal offenses under the Election Code. Local prosecuting attorneys would be allowed to object to OAG's representation of the state in persecuting these offenses.

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Local Government Impact

Local law enforcement agencies and prosecuting attorneys would be required to report to the Office of the Attorney General information on certain investigations into violations of the Election Code.

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General

LBB Staff: JMc, WP, LCO, JKe

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

May 14, 2025

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB5138 by Shaheen (Relating to the duty of the attorney general to prosecute criminal offenses prescribed by the election laws of this state.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

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Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General

LBB Staff: JMc, WP, LCO, JKe

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

April 30, 2025

TO: Honorable Ken King, Chair, House Committee on State Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB5138 by Shaheen (relating to the duty of the attorney general to prosecute criminal offenses prescribed by the election laws of this state.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would require local law enforcement agencies and prosecutors to provide information to the Office of the Attorney General regarding the investigation of certain criminal offenses under the Election Code.

It is assumed that any costs to the state associated with the bill could be absorbed using existing resources.

Local Government Impact

Local law enforcement agencies and prosecuting attorneys would be required to report to the Office of the Attorney General information on certain investigations into violations of the Election Code.

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General

LBB Staff: JMc, WP, LCO, JKe

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

April 22, 2025

TO: Honorable Ken King, Chair, House Committee on State Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB5138 by Shaheen (Relating to the duty of the attorney general to prosecute criminal offenses prescribed by the election laws of this state.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would require local law enforcement agencies and prosecutors to provide information to the Office of the Attorney General regarding the investigation of certain criminal offenses under the Election Code.

It is assumed that any costs to the state associated with the bill could be absorbed using existing resources.

Local Government Impact

Local law enforcement agencies and prosecuting attorneys would be required to report to the Office of the Attorney General information on certain investigations into violations of the Election Code.

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General

LBB Staff: JMc, WP, LCO, JKe