

SUBJECT: Establishing a penalty for certain election officials who alter election laws

COMMITTEE: Elections — favorable, without amendment

VOTE: 5 ayes — Smith, Burrows, Capriglione, DeAyala, Swanson

4 nays — Bucy, Manuel, E. Morales, Vo

SENATE VOTE: On final passage (April 19) — 19 - 12

WITNESSES: For — Robert L. Green, Travis County Republican Party Election Integrity Committee for Legislation; Ed Johnson; Ken Moore; Alexie Swirsky (*Registered, but did not testify*: John Beckmeyer, Devvie Duke, Jill Glover, Republican Party of Texas; Andrew Eller, State Republican Executive Committee SD24, Republican Party of Texas; Tisha Crow, Texas GOP; Chuck DeVore, Texas Public Policy Foundation; Michael Belsick; Hilda Duarte; Russell Hayter; Lucy Trainor)

Against — Andrew Hendrickson, ACLU of Texas; Katya Ehresman, Common Cause Texas; Susana Carranza; Valerie DeBill (*Registered, but did not testify*: Joslynn Sanchez, Deeds Not Words; Luis Figueroa, Every Texan; Paul Sugg, Harris County Commissioners Court; Stephanie Swanson, League of Women Voters of Texas; Amber Mills, MOVE Texas Action Fund; Emily Amps, Texas AFL-CIO; Emily Eby French, Texas Civil Rights Project; Brenda Cruz, Texas Democratic Party; Joshua Houston, Texas Impact; Cynthia Van Maanen, Travis County Democratic Party; Naomi Cruz, Young Invincibles; and 23 individuals)

On — Christina Adkins, Texas Secretary of State

BACKGROUND: Under Election Code sec. 276.019(a), a public official or election official may not create, alter, modify, waive, or suspend any election standard, practice, or procedure mandated by law or rule in a manner not expressly authorized.

Some have suggested that a penalty for election officials who alter

election laws without authorization would help to prevent such officials from violating the Election Code.

DIGEST:

SB 1807 would require the secretary of state, after receiving or discovering information indicating that a public official or election official had violated Election Code sec. 276.019(a), to investigate the standard, practice, or procedure appearing to have violated these provisions. If the secretary of state determined that a violation had occurred, the secretary would be required to send 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 in violation of the Election Code; and
- instructions for the specific actions necessary for compliance.

If a public official or election official did not comply within two days, the secretary of state would be required to notify the attorney general that the official could be subject to a civil penalty and forward any documents or information received, discovered, or created during the secretary of state's investigation to the attorney general.

A public official or election official would be liable for a civil penalty for each day that the official failed or refused to take an affirmative action to comply 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; or
- \$5,000 per day for each day after the seventh day after receiving a notice.

The attorney general could bring an action to recover an imposed civil penalty, which would have to be deposited to the general revenue fund. Documents or information received, discovered, or created during the secretary of state's investigation would be confidential and not subject to

disclosure unless the secretary of state or attorney general had determined that a complaint submitted to the secretary of state would not be further investigated or the subject of any further proceedings or actions.

The bill would take effect September 1, 2023.

NOTES:

According to the Legislative Budget Board, SB 1807 would have a negative impact of about \$1.3 million on general revenue related funds during fiscal 2024-25.