

BILL ANALYSIS

Senate Research Center

S.B. 1901
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State Affairs
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, the secretary of state (SOS) may order persons performing official elections administration functions to correct conduct that impedes citizens' voting rights. When SOS takes such an action and local officials refuse to comply, the Election Code states he or she may seek enforcement by a temporary restraining order or a writ of injunction or mandamus obtained through the Office of the Attorney General (OAG). OAG, however, does not interpret this provision to authorize them to compel a city council to hold an election on the date prescribed by statute. Accordingly, local elected officials can stay in office after their terms expire by refusing to schedule a time for citizens to vote.

S.B. 1901 would grant express authority to OAG, at SOS's request, to seek a judicial order or writ compelling a political subdivision to conduct an election on the date mandated by law. This change would ensure OAG can protect Texans' rights to elect local leaders. It also would curtail any future attempts by local elected officials to remain in power after their term expires by postponing or canceling elections without any reasonable justification.

As proposed, S.B. 1901 amends current law relating to ensuring political subdivisions hold elections required by law.

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 31.005, Election Code, as follows:

Sec. 31.005. PROTECTION OF VOTING RIGHTS. (a) Makes no changes to this subsection.

(b) Authorizes the secretary of state (SOS) to order a person to correct the offending conduct if SOS determines that the person performing official functions in the administration of any part of the electoral processes is exercising the powers vested in that person to unduly delay or cancel an election they are legally required to hold without obtaining prior approval from SOS or a court of competent jurisdiction. Makes nonsubstantive changes.

SECTION 2. Effective date: September 1, 2021.