

BILL ANALYSIS

Senate Research Center
87R19581 SGM-F

C.S.S.B. 1901
By: Zaffirini
State Affairs
4/12/2021
Committee Report (Substituted)

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.

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

C.S.S.B. 1901 amends current law relating to the authority of the secretary of state to order the performance of certain election functions.

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 the heading to Section 31.005, Election Code, to read as follows:

Sec. 31.005. PROTECTION OF VOTING RIGHTS; ENFORCEMENT.

SECTION 2. Amends Section 31.005, Election Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Authorizes the secretary of state (SOS) to order a person performing official functions in the administration of any part of the electoral processes to correct offending conduct if SOS determines that the person is exercising the powers vested in that person in a manner that:

- (1) creates this subdivision from existing text and makes no further changes; or
- (2) unless acting under an order of a court of competent jurisdiction, delays or cancels an election that the person does not have specific statutory authority to delay or cancel.

Makes nonsubstantive changes.

(c) Creates this subsection from existing text. Authorizes SOS, if a person described by Subsection (b) fails to comply with an order from SOS under this section, to seek enforcement of the order by a temporary restraining order or a writ of injunction or mandamus obtained through the attorney general. Makes a nonsubstantive change.

SECTION 3. Effective date: September 1, 2021.