

BILL ANALYSIS

Senate Research Center
87R16702 ADM-F

C.S.S.B. 7
By: Hughes et al.
State Affairs
3/26/2021
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

As efforts to identify and prosecute election crimes have intensified, we have gained a better understanding of the ways certain bad actors take advantage of holes in the electoral process to alter the balance of elections, especially at the local level.

At the same time, advances in technology have increased the threat of electronic interference with elections, but also the tools available to prevent that interference.

S.B. 7 seeks to address these issues by strengthening poll watcher protection, bringing about transparency by utilizing technology throughout the electoral process, requiring a voter verifiable paper trail, limiting the most common fraudulent practices and opportunities for fraudulent practices, and providing better and more timely evidence in investigations into alleged voter fraud.

S.B. 7 amends current law relating to election integrity, creates a criminal offense, and creates civil penalties.

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

C.S.S.B. 7 amends current law relating to elections, including election integrity and security, creates a criminal offense, and provides civil penalties.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the secretary of state in SECTION 2.09 (Section 86.015, Election Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. VOTER REGISTRATION

SECTION 1.01. Amends Chapter 42, Code of Criminal Procedure, by adding Article 42.0194, as follows:

Art. 42.0194. FINDING REGARDING FELONY CONVICTION. Requires the court, in the trial of a felony offense, if the defendant is 18 years of age or older and is adjudged guilty of the offense, to make an affirmative finding that the person has been found guilty of a felony and enter the affirmative finding in the judgment of the case, and to instruct the defendant regarding how the felony conviction will impact the defendant's right to vote in this state.

SECTION 1.02. Amends Section 13.002, Election Code, by adding Subsection (c-1), to require that a voter registration application require the applicant to affirmatively indicate all information provided on the application.

SECTION 1.03. Amends Section 15.028, Election Code, as follows:

Sec. 15.028. New heading: NOTICE OF UNLAWFUL VOTING OR REGISTRATION. Requires the voter registrar (registrar), if the registrar determines that a person who is not eligible to vote may have registered to vote or voted in an election, rather than a person who is not a registered voter voted in an election, to execute and deliver to the attorney general, the secretary of state (SOS), and the county or district attorney having jurisdiction in the territory covered by the election an affidavit stating the relevant facts. Deletes existing text requiring the registrar, if the election covers territory in more than one county, to also deliver an affidavit to the attorney general. Makes a nonsubstantive change.

SECTION 1.04. Amends Section 16.0332(a), Election Code, as follows:

(a) Requires the registrar, after the registrar receives a list under Section 18.068 (Comparison of Information Regarding Ineligibility) of this code or Section 62.113 (Compilation of List of Noncitizens), Government Code, of persons excused or disqualified from jury service or otherwise determined to be ineligible to vote, rather than persons excused or disqualified from jury service, because of citizenship status, to deliver to each registered voter whose name appears on the list a written notice requiring the voter to submit to the registrar certain proof of United States citizenship.

SECTION 1.05. Amends Section 18.065, Election Code, by amending Subsection (a) and adding Subsections (e), (f), and (g), as follows:

(a) Requires SOS to monitor each registrar for substantial compliance with certain sections, including Section 16.0332 (Cancellation Because of Citizenship Status), and with rules implementing the statewide computerized voter registration list.

(e) Requires SOS, if a registrar fails to correct a violation within 30 days of a notice under Subsection (b) (relating to the requirement that SOS deliver a notice of noncompliance to the registrar), to correct the violation on behalf of the registrar.

(f) Provides that a registrar is liable to this state for a civil penalty of \$100 for each violation corrected by SOS under Subsection (e). Authorizes the attorney general to bring an action to recover a civil penalty imposed under Section 18.065 (Secretary of State to Monitor Registrar's Compliance).

(g) Requires that a civil penalty collected by the attorney general under this section be deposited in the state treasury to the credit of the general revenue fund.

SECTION 1.06. Makes application of this article prospective.

ARTICLE 2. VOTING BY MAIL

SECTION 2.01. Amends Subchapter A, Chapter 84, Election Code, by adding Section 84.0011, as follows:

Sec. 84.0011. SOLICITATION OF BALLOT BY MAIL APPLICATIONS PROHIBITED. Prohibits the early voting clerk from making any attempt to solicit a person to complete an application for an early voting ballot by mail, whether directly or through a third party.

SECTION 2.02. Amends Section 84.002, Election Code, by adding Subsection (c), as follows:

(c) Requires that an application for a ballot to be voted by mail on the ground of disability require the applicant to affirmatively indicate that the applicant agrees with the statement "I have a sickness or physical condition that prevents me from appearing at the polling place on election day without a likelihood of needing personal assistance or injuring my health," as prescribed by Section 82.002(a) (relating to the provision that a qualified voter is eligible for early voting by mail if the voter has certain health conditions).

SECTION 2.03 Amends Section 84.011(a), Election Code, as follows:

(a) Requires that the officially prescribed application form for an early voting ballot include certain information, including immediately preceding the signature space the statement: "I certify that the information given in this application is true, and I understand that giving false information in this application is a state jail felony," rather than "I certify that the information given in this application is true, and I understand that giving false information in this application is a crime."

SECTION 2.04. Amends Subchapter A, Chapter 84, Election Code, by adding Section 84.0111, as follows:

Sec. 84.0111. PROHIBITION ON DISTRIBUTION OF APPLICATION FORM. (a) Prohibits an officer or employee of this state or of a political subdivision of this state, unless authorized by this code, from distributing an application form for an early voting ballot to a person who did not request an application under Section 84.001 (Application Required).

(b) Prohibits an officer or employee of this state or of a political subdivision of this state from using public funds to facilitate the distribution by another person of an application form for an early voting ballot to a person who did not request an application under Section 84.001.

SECTION 2.05. Amends Section 84.035, Election Code, as follows:

Sec. 84.035. BALLOT SENT TO APPLICANT. (a) Creates this subsection from existing text and makes no further changes.

(b) Authorizes a person to whom an early voting ballot has been sent who cancels the person's application for a ballot to be voted by mail in accordance with Section 84.032 (Request for Cancellation) but fails to return the ballot to be voted by mail to the early voting clerk, deputy early voting clerk, or presiding judge as provided by that section to only vote a provisional ballot under Section 63.011 (Provisional Voting).

SECTION 2.06. Amends Section 86.0015, Election Code, by adding Subsection (b-3), as follows:

(b-3) Requires that an application for a ballot to be voted by mail on the ground of disability under Section 86.0015 (Annual Ballots by Mail) include or be accompanied by:

(1) written documentation from the United States Social Security Administration or the United States Department of Veterans Affairs evidencing that the applicant has been determined to have a disability; or

(2) a certificate of a licensed physician or chiropractor or accredited Christian Science practitioner in substantially a certain form.

SECTION 2.07. Amends Section 86.006, Election Code, by amending Subsections (a) and (e) and adding Subsection (a-2), as follows:

(a) Authorizes the official carrier envelope to be delivered in another envelope and requires that it be transported and delivered only by certain persons, including, subject to Subsections (a-1) (relating to authorizing a voter, with acceptable identification, to deliver a marked ballot in person to the early voting clerk's office only while the polls are open on election day) and (a-2), rather than Subsection (a-1), in-person delivery by the voter who voted the ballot.

(a-2) Requires that an in-person delivery of a marked ballot voted under Chapter 86 (Conduct of Voting by Mail) be received at the time of delivery by a person. Prohibits a ballot delivered in violation of this subsection from being counted.

(e) Prohibits a ballot delivered in violation of this subsection (relating to prohibiting carrier envelopes from being collected and stored for subsequent delivery to the early voting clerk) from being counted.

SECTION 2.08. Amends Section 86.011(c), Election Code, to require the early voting clerk, if the return of a voter's official carrier envelope for a ballot voted by mail is not timely, to enter the time of receipt on the carrier envelope and retain it in a locked container, rather than retain it, for the period for preserving the precinct election records.

SECTION 2.09. Amends Chapter 86, Election Code, by adding Section 86.015, as follows:

Sec. 86.015. ELECTRONIC TRACKING OF APPLICATION FOR BALLOT VOTED BY MAIL OR BALLOT VOTED BY MAIL. (a) Requires SOS to develop or otherwise provide an online tool to each early voting clerk that enables a person who submits an application for a ballot to be voted by mail to track the location and status of the person's application and ballot on SOS's Internet website and on the county's Internet website if the early voting clerk is the county clerk of a county that maintains an Internet website.

(b) Requires that the online tool developed or provided under Subsection (a) require the voter to provide certain personal information before permitting the voter to access information described by that subsection.

(c) Requires that an online tool used under this section update the applicable Internet website as soon as practicable after certain events occur.

(d) Requires SOS to adopt rules and prescribe procedures as necessary to implement this section.

SECTION 2.10. Amends Section 87.027(i), Election Code, as follows:

(i) Authorizes the signature verification committee to also compare the signature on each carrier envelope certificate and the signature on the voter's ballot application with any known signature of the voter, rather than with any two or more signatures of the voter made within the preceding six years, on file with the county clerk or voter registrar to determine whether the signatures are those of the voter.

SECTION 2.11. Amends Section 87.041(e), Election Code, to make conforming changes.

SECTION 2.12. Amends Sections 87.062(a) and (c), Election Code, as follows:

(a) Requires the early voting ballot board, on the direction of the presiding judge, in accordance with Section 85.032(b) (relating to the required security procedures for early voting ballot boxes), to open the containers, rather than the container, for the early voting ballots that are to be counted by the board, remove the contents from each container, and remove any ballots enclosed in ballot envelopes from their envelopes. Makes a nonsubstantive change.

(c) Requires that ballots voted by mail be tabulated separately from the ballots voted by personal appearance and be separately reported on the returns. Deletes existing text requiring that the results of all early voting ballots counted by the early voting ballot board under Subchapter D (Processing Manually Counted Ballots) be included in the same return.

SECTION 2.13. Amends Section 87.103, Election Code, as follows:

Sec. 87.103. COUNTING BALLOTS AND PREPARING RETURNS. (a) Requires that the early voting electronic system ballots counted at a central counting station, the ballots cast at precinct polling places, and the ballots voted by mail be tabulated separately, rather than requiring that early voting electronic system ballots counted at a central counting station be tabulated separately from the ballots cast at precinct polling places, and be separately reported on the returns.

(b) Requires that the early voting returns prepared at the central counting station include any early voting results obtained by the early voting ballot board under Subchapter D, rather than under Subchapters D and E.

SECTION 2.14. Amends Section 87.126, Election Code, by adding Subsection (a-1), as follows:

(a-1) Requires that electronic records made under Section 87.126 (Electronic Recording of Ballot Materials and Applications) record both sides of any application, envelope, or ballot recorded, and that all such records be provided to the early voting ballot board, the signature verification committee, or both.

SECTION 2.15. Makes application of this article prospective.

ARTICLE 3. ELECTION SECURITY

SECTION 3.01. Amends Section 33.006(b), Election Code, as follows:

(b) Deletes existing text requiring that a certificate of appointment of a watcher contain an affidavit executed by the appointee stating that the appointee will not have possession of a device capable of recording images or sound or that the appointee will disable or deactivate the device while serving as a watcher. Makes nonsubstantive changes.

SECTION 3.02. Amends Section 33.051(c), Election Code, as follows:

(c) Authorizes the presiding judge to inquire whether a watcher has possession of a recording device, rather than possession of any prohibited recording device, before accepting the watcher for service. Deletes existing text prohibiting a watcher from being accepted for service if the watcher has possession of a device capable of recording images or sound unless the watcher agrees to disable or deactivate the device.

SECTION 3.03. Amends Section 33.056, Election Code, by amending Subsection (a) and adding Subsections (e) and (f), as follows:

(a) Entitles a watcher to sit or stand near enough to see and hear, rather than conveniently near, the election officers conducting the observed activity, except as otherwise prohibited by Chapter 33 (Watchers).

(e) Prohibits a watcher from being denied free movement within the location at which the watcher is serving, except as provided by Section 33.057(b) (relating to prohibiting a watcher from being present at the voting station when a voter is preparing the voter's ballot or is being assisted by a person of the voter's choice).

(f) Provides that, in this code, a watcher who is entitled to "observe" an activity is entitled to sit or stand near enough to see and hear the activity.

SECTION 3.04. Amends Section 33.061, Election Code, by adding Subsection (c), as follows:

(c) Provides that an offense under Subsection (a) (relating to the provision that preventing an authorized watcher from observing an activity the watcher is entitled to observe is an offense) includes an action taken to distance or obstruct the view of a watcher in a way that makes observation reasonably ineffective.

SECTION 3.05. Amends Section 43.007, Election Code, by amending Subsection (m) and adding Subsections (m-1), (m-2), and (q), as follows:

(m) Requires that the county, in adopting a methodology under Subsection (f) (relating to the requirement that a county adopt a methodology for determining where each countywide polling place will be located), ensure that:

(1) in a county with a population of less than one million:

(A) creates this paragraph from existing text and makes no further changes; and

(B) the deviation in the percentage of the total number of countywide polling places located in a commissioners precinct does not vary by more than one percentage point in a precinct; and

(2) in a county with a population of one million or more, the number of polling places located in each state representative district included in the territory of the county is calculated by dividing the number of voters residing in that district by the total number of voters residing in the county and using the number generated as a percentage to allocate the same percentage of polling place locations, rounding up to the nearest whole number, if necessary.

Deletes existing text requiring that the county, in adopting a methodology under Subsection (f), ensure that the total number of permanent branch and temporary branch polling places open for voting in a county commissioners precinct does not exceed more than twice the number of permanent branch and temporary branch polling places in another county commissioners precinct.

(m-1) Requires that voter data from the most recent election be used in making a calculation under Subsection (m).

(m-2) Requires election officials and voting equipment, materials, and supplies to be allocated to each polling place based on the same percentage as polling place locations are determined under Subsection (m) with no greater than a five percent deviation in the allocation between polling place locations. Requires that each polling place location be able to accommodate 100 percent of the equipment allocated to be operational at the same time.

(q) Requires that each countywide polling place in a county have approximately the same number of voting machines as each other countywide polling place in the county.

SECTION 3.06. Amends Section 43.031(b), Election Code, as follows:

(b) Prohibits a polling place from being located in a tent or other temporary moveable structure or in a facility primarily designed for motor vehicles. Prohibits any voter from casting a vote from inside a motor vehicle unless the voter meets the requirements of Section 64.009 (Voter Unable to Enter Polling Place).

SECTION 3.07. Amends Section 61.014, Election Code, by amending Subsections (a) and (b) and adding Subsection (b-1), as follows:

(a) Prohibits a person, other than a watcher using the device solely to record image or sound as permitted under Subsection (b), rather than a person, from using a wireless communication device within 100 feet of a voting station.

(b) Prohibits a person, other than a watcher, from using a mechanical or electronic device to record images or sound at a polling place. Authorizes a watcher to use such a device to record images or sound at a polling place, except that a watcher is authorized to record activity of a voter at a voter station only if the voter is receiving assistance the watcher

reasonably believes to be unlawful. Deletes existing text prohibiting a person from using any mechanical or electronic means of recording images or sound within 100 feet of a voting station.

(b-1) Prohibits a recording made by a watcher under Subsection (b) from capturing or recording any information on a voter's ballot.

SECTION 3.08. Amends Section 64.007(c), Election Code, to require an election officer to maintain a register of spoiled ballots at the polling place, including spoiled ballots from a direct recording electronic voting unit.

SECTION 3.09. Amends Section 64.009, Election Code, by amending Subsection (b) and adding Subsections (b-1), (e), (f), (g), and (h), as follows:

(b) Creates an exception under Subchapter B (Assisting Voter), and makes no further changes to this subsection.

(b-1) Provides that a person other than the voter is only permitted to be inside the motor vehicle while the voter votes if the person would be entitled to accompany the voter to the voting station under other law.

(e) Entitles a poll watcher to observe any activity conducted under this section, except as provided by Section 33.057 (Observing Preparation of Voter's Ballot).

(f) Requires a person who assists three or more voters voting under this section by providing the voters with transportation to the polling place to complete and sign a form that contains the person's name and address and whether the person is providing assistance solely under this section or under both this section and Subchapter B.

(g) Requires that a form completed under Subsection (f) be delivered to SOS as soon as practicable. Requires SOS to retain a form delivered under this section for the period for preserving the precinct election records and to make the form available to the attorney general for inspection upon request.

(h) Requires SOS to prescribe the form described by Subsection (f).

SECTION 3.10. Amends Subchapter B, Chapter 64, Election Code, by adding Section 64.0322, as follows:

Sec. 64.0322. SUBMISSION OF FORM BY ASSISTANT. (a) Requires a person, other than an election officer, who assists a voter in accordance with Chapter 64 (Voting Procedures) to complete a form stating certain information.

(b) Requires SOS to prescribe the form required by this section. Requires that the form be incorporated into the official carrier envelope if the voter is voting an early voting ballot by mail and receives assistance under Section 86.010 (Unlawfully Assisting Voter Voting Ballot by Mail), or be submitted to an election officer at the time the voter casts a ballot if the voter is voting at a polling place or under Section 64.009.

SECTION 3.11. Amends Section 66.052, Election Code, as follows:

Sec. 66.052. New heading: DELIVERY BY ELECTION CLERK; CHAIN OF CUSTODY. (a) Creates this subsection from existing text and makes no further changes.

(b) Requires the presiding judge or an election clerk designated by the presiding judge under this section to keep records of each person that has custody of a precinct election record until the records are delivered.

SECTION 3.12. Amends Sections 66.058(b) and (g), Election Code, as follows:

(b) Requires that the voted ballots be preserved securely in a locked room in the locked ballot box in which they are delivered to the general custodian of election records for a period of at least 60 days after the date of the election, or until any election contest is resolved, whichever is longer, rather than for a period of at least 60 days after the date of the election. Makes a conforming change.

(g) Prohibits an electronic device used to store records from being altered in any manner as to delete or overwrite the records during the preservation period.

SECTION 3.13. Amends Section 85.005, Election Code, as follows:

Sec. 85.005. REGULAR DAYS AND HOURS FOR VOTING. (a) Provides that, except as provided by Subsection (c), in an election in which a county clerk is the early voting clerk under Section 83.002 (County Clerk as Early Voting Clerk), rather than in which a county clerk or city secretary is the early voting clerk under Section 83.002 or 83.005 (Clerk for City Elections), early voting by personal appearance at the main early voting polling place is required to be conducted on each weekday of the early voting period that is not a legal state holiday and for a period of at least nine hours, except that voting is prohibited from being conducted earlier than 6 a.m. or later than 9 p.m.

Deletes existing text requiring that early voting by personal appearance at the main early voting polling place be conducted on the weekdays of the early voting period and during the hours that the county clerk's or city secretary's main business office is regularly open for business.

(b) Requires that, in an election to which Subsection (a) does not apply, early voting by personal appearance at the main early voting polling place be conducted at least nine, rather than eight, hours each weekday of the early voting period that is not a legal state holiday unless the territory covered by the election has fewer than 1,000 registered voters. Requires that, in that case, the voting be conducted at least four, rather than three, hours each day.

(c) Requires that, in a county with a population of 30,000 or more, rather than 100,000 or more, the voting in a primary election or the general election for state and county officers be conducted at the main early voting polling place for 12 hours, rather than at least 12 hours, on each weekday of the last week of the early voting period, and the voting in a special election ordered by the governor be conducted at the main early voting polling place for 12 hours on each of the last two days of the early voting period. Prohibits voting under this subsection from being conducted earlier than 6 am. or later than 9 p.m. Makes conforming changes.

Deletes existing text requiring that, in an election ordered by a city, early voting by personal appearance at the main early voting polling place be conducted for at least 12 hours on one weekday, if the early voting period consists of less than six weekdays, or on two weekdays, if the early voting period consists of six or more weekdays.

SECTION 3.14. Amends Section 85.006(b), Election Code, to make conforming changes.

SECTION 3.15. Amends Section 85.010(a-1), Election Code, to redefine "eligible county polling place" for purposes of Section 85.010 (Early Voting Polling Place for Certain Elections Held by Political Subdivisions).

SECTION 3.16. Amends Section 85.061(a), Election Code, as follows:

(a) Requires that an early voting polling place, in a countywide election in which the county clerk is the early voting clerk under Section 83.002, be located inside, rather than at, each branch office that is regularly maintained for conducting general clerical functions of the county clerk, except as provided by Subsection (b) (relating to the

prohibition of certain county clerks' regularly maintained branch clerical offices from being branch early voting polling places). Authorizes the polling place, if a suitable room is unavailable inside the branch office, to be located in another room inside the same building as the branch office. Prohibits the polling place from being located in a tent or other temporary movable structure or a parking garage, parking lot, or similar facility designed primarily for motor vehicles.

SECTION 3.17. Amends Section 85.062(b), Election Code, as follows:

(b) Authorizes a polling place established under Section 85.062 (Temporary Branch Polling Place) to be located, subject to Subsection (d) (relating to authorizing certain commissioners courts to establish early voting polling places subject to certain criteria), at any place in the territory served by the early voting clerk and to be located inside any building, rather than in any stationary structure, as directed by the authority establishing the branch office. Prohibits the polling place from being located in a tent or other temporary movable structure or a parking garage, parking lot, or similar facility designed primarily for motor vehicles in the general election for state and county officers, general primary election, or runoff primary election.

SECTION 3.18. Amends Section 124.002, Election Code, by adding Subsection (c) to prohibit voting system ballots from being arranged in a manner that allows a political party's candidates to be selected in one motion or gesture.

SECTION 3.19. Amends Subchapter A, Chapter 125, Election Code, by adding Section 125.0071, as follows:

Sec. 125.0071. VOTER ALLOWED TO CAST BALLOT AT ANY TIME. Requires that a voting machine or ballot marking device allow a voter the option to cast or complete the voter's ballot without voting on all races or measures if the voter affirmatively chooses to do so.

SECTION 3.20. Amends Subchapter A, Chapter 127, Election Code, by adding Section 127.008, as follows:

Sec. 127.008. ELECTRONIC DEVICES IN CENTRAL COUNTING STATION. (a) Requires a counting station manager and the presiding judge of the counting station to develop a protocol under which any electronic device inside a central counting station that is necessary to count votes is equipped with software that tracks all input and activity on the electronic device.

(b) Requires the counting station manager and the presiding judge of the counting station to ensure that the input and activity tracked by the software is printed and delivered to SOS not later than the fifth day after vote counting is complete.

SECTION 3.21. Amends Section 127.1232, Election Code, as follows:

Sec. 127.1232. SECURITY OF VOTED BALLOTS. (a) Creates this subsection from existing text. Requires the general custodian of election records to post a licensed peace officer, rather than a guard, to ensure the security of ballot boxes containing voted ballots throughout the period of tabulation at the central counting station.

(b) Authorizes the general custodian of election records to implement a video surveillance system that retains a record of all areas containing voted ballots from the time the voted ballots are delivered to the central counting station until the canvass of precinct election returns. Authorizes the video to be made available to the public by a livestream.

(c) Provides that the video recorded is an election record under Section 1.012 (Public Inspection of Election Records) and is required to be retained by the general custodian of election records until the end of the calendar year in which

an election is held or until an election contest filed in the county has been resolved, whichever is later.

SECTION 3.22. Amends Subchapter A, Chapter 129, Election Code, by adding Section 129.003, as follows:

Sec. 129.003. PAPER AUDIT TRAIL REQUIRED. (a) Defines "auditable voting system."

(b) Prohibits a voting system that consists of direct recording electronic voting machines from being used in an election unless the system is an auditable voting system, except as provided by Subsection (e).

(c) Provides that, except for a recount under Title 13 (Recounts), the electronic vote is the official record of the ballot. Provides that, for a recount of ballots cast on a system involving direct recording electronic voting machines, the paper record is the official record of the vote cast.

(d) Authorizes an authority that purchased a voting system other than an auditable voting system after September 1, 2016, and before September 1, 2021, to use available federal funding and, if federal funding is not available, available state funding to retrofit the purchased voting system as an auditable voting system in accordance with the following schedule:

(1) if the voting system was retrofitted as an auditable voting system not later than the election taking place November 8, 2022, the authority is eligible to have 100 percent of the cost of retrofitting reimbursed under this section; and

(2) if the authority is not eligible for a 100 percent reimbursement of cost under Subdivision (1) and the voting system was retrofitted as an auditable voting system not later than the election taking place November 3, 2026, the authority is eligible to have 50 percent of the cost of retrofitting reimbursed under this section.

(e) Provides that Subsections (a)-(c) do not apply to an election held before September 1, 2026.

SECTION 3.23. Amends Section 129.023, Election Code, by adding Subsections (b-2) and (c-1), as follows:

(b-2) Requires the general custodian of election records, if a test conducted under Section 129.023 (Public Test of Logic and Accuracy) is being conducted for an election in which a county election board has been established under Section 51.002 (County Election Board), to notify each member of the board of the test at least 48 hours before the date of the test. Requires each member, if the county election board chooses to witness the test, to sign the statement required by Subsection (e)(1) (relating to the requirement that the testing board and the general custodian of election records sign a written statement containing certain information).

(c-1) Requires that a test conducted under Section 129.023 also require the general custodian of election records to demonstrate, using a representative sample of voting system equipment, that the source code of the equipment has not been altered.

SECTION 3.24. Amends Section 216.001, Election Code, as follows:

Sec. 216.001. APPLICABILITY OF CHAPTER. (a) Creates this subsection from existing text. Creates an exception under Subsection (b) and makes a nonsubstantive change.

(b) Requires the authority designated under Section 212.026 (Authority to Whom Petition Submitted), if the results of an election show that the number of votes cast in an election precinct exceeds the number of registered voters in the precinct, to initiate an automatic recount for that precinct in accordance with Chapter 216 (Automatic Recount).

SECTION 3.25. Amends Section 81.032, Local Government Code, as follows:

Sec. 81.032. ACCEPTANCE OF DONATIONS AND BEQUESTS. (a) Creates this subsection from existing text and makes no further changes.

(b) Prohibits the commissioners court from accepting a donation described in Subsection (a) (relating to the authority of a commissioners court to accept certain donations for the purpose of performing a function conferred by law on the county or a county officer) of over \$1,000 for use in administering elections without the written consent of SOS.

(c) Authorizes SOS to grant consent under Subsection (b) only if:

(1) SOS consults with the governor, the lieutenant governor, and the speaker of the Texas House of Representatives (house) on the proposed donation; and

(2) the governor, the lieutenant governor, and the speaker of the house unanimously agree to SOS's grant of consent.

SECTION 3.26. Makes application of this article prospective.

ARTICLE 4. ENFORCEMENT

SECTION 4.01. Amends Subchapter E, Chapter 31, Election Code, by adding Sections 31.126 and 31.127, as follows:

Sec. 31.126. RESTRICTION ON ELIGIBILITY. (a) Defines "election official."

(b) Prohibits a person from serving as an election official if the person has been finally convicted of an offense under Section 33.061 (Unlawfully Obstructing Watcher).

Sec. 31.127. CIVIL PENALTY. (a) Defines "election official."

(b) Provides that an election official may be liable to this state for a civil penalty if the official is employed by or is an officer of this state or a political subdivision of this state, and violates a provision of this code.

(c) Authorizes a civil penalty imposed under this section to include termination of the person's employment and loss of the person's employment benefits.

SECTION 4.02. Amends Section 33.051, Election Code, by adding Subsection (g), as follows:

(g) Provides that an election officer commits an offense if the officer knowingly refuses to accept a watcher for service whose acceptance is required by this code. Provides that an offense under Section 33.051 (Acceptance of Watcher) is a Class A misdemeanor.

SECTION 4.03. Amends Subchapter C, Chapter 33, Election Code, by adding Section 33.062, as follows:

Sec. 33.062. INJUNCTIVE RELIEF. Entitles a watcher, or the appointing authority for a watcher, to injunctive relief under Section 273.081 (Injunction) to enforce this chapter, including issuance of temporary orders.

SECTION 4.04. Amends Section 87.0431(b), Election Code, as follows:

(b) Requires the early voting clerk, not later than the 30th day after election day, to deliver notice to the attorney general, including certified copies of the carrier envelope and corresponding ballot application, of any ballot rejected because of certain reasons, including that any form of voter fraud was committed. Makes nonsubstantive changes.

SECTION 4.05. Amends Section 232.006(a), Election Code, as follows:

(a) Provides that the venue of an election contest for a statewide office is in Travis County or any county where a contestee resided at the time of the election. Provides that, for purposes of Section 232.006 (Venue), a contestee's residence is determined under Section 411.0257 (Residence), Government Code.

SECTION 4.06. Amends Chapter 232, Election Code, by adding Subchapter C, as follows:

SUBCHAPTER C. CONTEST INVOLVING ALLEGED FRAUD

Sec. 232.061. PETITION ALLEGING FRAUD. Provides that this subchapter applies to an election contest in which the contestant alleges in the petition that an opposing candidate, an agent of the opposing candidate, or a person acting on behalf of the opposing candidate with the candidate's knowledge committed election fraud under certain sections of this code.

Sec. 232.062. EVIDENTIARY STANDARD. Requires a contestant to prove an allegation described by Section 232.061 by a preponderance of the evidence.

Sec. 232.063. CIVIL PENALTY. (a) Provides that, if the court in its judgment finds that the contestee, an agent of the contestee, or a person acting on behalf of the contestee with the contestee's knowledge committed one or more violations of a section described by Section 232.061, the contestee is liable to this state for a civil penalty of \$1,000 for each violation.

(b) Requires that a penalty collected under this section by the attorney general be deposited in the state treasury to the credit of the general revenue fund.

Sec. 232.064. ATTORNEY'S FEES. Authorizes the court, in an election contest to which this subchapter applies, to award reasonable attorney's fees to the prevailing party.

SECTION 4.07. (a) Provides that the changes in law made by this article apply only to an election contest for which the associated election occurred after the effective date of this Act.

(b) Makes application of this article prospective.

ARTICLE 5. REPEALER AND EFFECTIVE DATE

SECTION 5.01. Repealer: Section 85.062(e) (relating to authorizing a county clerk to establish a temporary branch polling place located in a movable structure during certain elections), Election Code.

SECTION 5.02. Requires SOS to implement Section 86.015, Election Code, as added by this Act, only if the legislature appropriates money specifically for that purpose. Provides that if the legislature does not appropriate money specifically for that purpose, SOS is authorized, but not required, to implement Section 86.015, Election Code, using other appropriations available for that purpose.

SECTION 5.03. Effective date, subject to Section 5.02 of this Act: September 1, 2021.