

BILL SUMMARY
1st Session of the 59th Legislature

Bill No.:	HB2504
Version:	FA1
Request Number:	7741
Author:	Rep. Lepak
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Impact:	\$0

Research Analysis

HB2504, as introduced, creates the "Federal Election Communications Transparency Act of 2023," which ensures that the Governor and State Legislature are aware of all communications made or provided to agencies and entities responsible for overseeing elections so that the state can respond as needed. The Secretary of the State Election Board, the secretary of a county election board, or any state agency that receives official federal communication regarding voting or elections must provide notice to the Governor and Legislature leadership within 10 business days of receipt, using the postmark. A willful and intentional violation of requirements will be deemed a misdemeanor.

The measure also creates the "Unlawful Federalization of Elections Act of 2023," which is to ensure that all new federal election guidance has been properly reviewed by the State Legislature. If the Secretary of the State Election Board or a county election board intends to implement any new federal election guidance contrary to state law, they must provide notice to the Governor and State Legislature leadership at least 30 days before implementation. State and county election entities must not implement any federal directive or guidance contrary to state law without an explicit state or federal legal requirement to do so, including a court order or Legislative approval. A violation of this section will be deemed a misdemeanor.

Last, the measure creates the "State Oversight of Election Funding Act of 2023." This requires the Secretary of the State Election Board or the secretary of a county election board to provide notice to the Governor and the Legislative leadership 30 days before acceptance if they intend to accept or disburse new federal election funds. All new funds must approved by the State Legislature unless explicitly required by state or federal law. Violation of this provision will be deemed a misdemeanor.

CHANGES MADE IN THE FLOOR SUBSTITUTE

The floor substitute removes all previous language.

The floor substitute for HB2504 requires the Secretary of the State Election Board or the secretary of a county election to receive prior approval of the State Legislature in order to implement any new official directive or guidance issued by a federal agency. If the Legislature is not in session, it may be implemented upon written approval of House and Senate leadership. The Secretary of the State Election Board, the secretary of a county election board, or the director of any state agency must provide written notice to the Governor, legislative leadership, and the Attorney General of any new official directive or guidance pertaining to the administration of elections or voter registration within 10 days of receiving the guidance and if the Secretary of the State Election Board or the secretary of a county election board intends to implement any new federal election guidance or directive due to a court order. The written notice must include a description of the legal basis for the implementation. Nothing in this subsection will be construed to require the Secretary of the State Election Board or the secretary of a county

election board to provide notice about threat or intelligence information that is restricted or if providing such a notice would be a violation of federal or state law. The Secretary of the State Election Board or the secretary of a county election board must provide written notice to the Governor, Legislative leadership, and the Attorney General of any litigation or threat of litigation filed against the State or a county election board by the US Department of Justice or any federal executive agency within 10 days from receiving the complaint. A willful and intentional violation of the requirements will be deemed a misdemeanor.

The floor substitute also defines "new federal election funds" and specifies that this shall not mean funding or grants provided under the Help America Vote Act or other federal funding or grants authorized to be accepted by state law or any Cybersecurity or Physical Security subgrants. All new federal election funds must be approved by the State Legislature before they may be accepted or used. If the Legislature is not in session, then the funds may be accepted upon written approval of designated Legislative leadership. The secretary of the State Election Board must publish no later than Dec. 31, 2023 and then annually afterwards the balance of all federal funds possessed by the State Election Board and the source of these funds. A willful and intentional violation of these requirements will be deemed a misdemeanor.

Prepared By: Suzie Nahach

Fiscal Analysis

The floor amendment to HB 2504 requires the Secretary of the State Election Board or the secretary of a county election board to receive prior approval from the State Legislature in order to implement federal election directives. This measure also directs the Secretary of the State Election Board to disclose the balance of all federal funds in possession by the State Election Board (SEB) in an annual report. Per the SEB, this measure would have no direct fiscal or revenue considerations for the state.

Prepared By: Jay St Clair, House Fiscal Staff

Other Considerations

None.