
HOUSE BILL 1821

State of Washington

66th Legislature

2019 Regular Session

By Representatives Appleton, Hudgins, Dolan, and Pellicciotti

Read first time 01/31/19. Referred to Committee on State Government & Tribal Relations.

1 AN ACT Relating to requiring postelection audit reports; and
2 amending RCW 29A.60.185 and 29A.60.190.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 29A.60.185 and 2018 c 218 s 2 are each amended to
5 read as follows:

6 (1) Prior to certification of the election as required by RCW
7 29A.60.190, the county auditor shall conduct an audit of duplicated
8 ballots in accordance with subsection (2) of this section, and an
9 audit using at minimum one of the following methods:

10 (a) An audit of results of votes cast on the direct recording
11 electronic voting devices, or other in-person ballot marking systems,
12 used in the county if there are races or issues with more than ten
13 votes cast on all direct recording electronic voting devices or other
14 in-person ballot marking systems in the county. This audit must be
15 conducted by randomly selecting by lot up to four percent of the
16 direct recording electronic voting devices or other in-person ballot
17 marking systems, or one direct recording electronic voting device or
18 other in-person ballot marking system, whichever is greater, and, for
19 each device or system, comparing the results recorded electronically
20 with the results recorded on paper. For purposes of this audit, the
21 results recorded on paper must be tabulated as follows: On one-fourth

1 of the devices or systems selected for audit, the paper records must
2 be tabulated manually; on the remaining devices or systems, the paper
3 records may be tabulated by a mechanical device determined by the
4 secretary of state to be capable of accurately reading the votes cast
5 and printed thereon and qualified for use in the state under
6 applicable state and federal laws. Three races or issues, randomly
7 selected by lot, must be audited on each device or system. This audit
8 procedure must be subject to observation by political party
9 representatives if representatives have been appointed and are
10 present at the time of the audit. As used in this subsection, "in-
11 person ballot marking system" or "system" means an in-person ballot
12 marking system that retains or produces an electronic voting record
13 of each vote cast using the system;

14 (b) A random check of the ballot counting equipment consistent
15 with RCW 29A.60.170(3);

16 (c) A risk-limiting audit. A "risk-limiting audit" means an audit
17 protocol that makes use of statistical principles and methods and is
18 designed to limit the risk of certifying an incorrect election
19 outcome. The secretary of state shall:

20 (i) Set the risk limit. A "risk limit" means the largest
21 statistical probability that an incorrect reported tabulation outcome
22 is not detected in a risk-limiting audit;

23 (ii) Randomly select for audit at least one statewide contest,
24 and for each county at least one ballot contest other than the
25 selected statewide contest. The county auditor shall randomly select
26 a ballot contest for audit if in any particular election there is no
27 statewide contest; and

28 (iii) Establish procedures for implementation of risk-limiting
29 audits, including random selection of the audit sample, determination
30 of audit size, and procedures for a comparison risk-limiting audit
31 and ballot polling risk-limiting audit as defined in (c)(iii)(A) and
32 (B) of this subsection.

33 (A) In a comparison risk-limiting audit, the county auditor
34 compares the voter markings on randomly selected ballots to the
35 ballot-level cast vote record produced by the ballot counting
36 equipment.

37 (B) In a ballot polling risk-limiting audit, the county auditor
38 of a county using ballot counting equipment that does not produce
39 ballot-level cast vote records reports the voter markings on randomly
40 selected ballots until the prespecified risk limit is met; or

1 (d) An independent electronic audit of the original ballot
2 counting equipment used in the county. The county auditor may either
3 conduct an audit of all ballots cast, or limit the audit to three
4 precincts or six batches pursuant to procedures adopted under RCW
5 29A.60.170(3). This audit must be conducted using an independent
6 electronic audit system that is, at minimum:

7 (i) Approved by the secretary of state;

8 (ii) Completely independent from all voting systems, including
9 ballot counting equipment, that is used in the county;

10 (iii) Distributed or manufactured by a vendor different from the
11 vendor that distributed or manufactured the original ballot counting
12 equipment; and

13 (iv) Capable of demonstrating that it can verify and confirm the
14 accuracy of the original ballot counting equipment's reported
15 results.

16 (2) Prior to certification of the election, the county auditor
17 must conduct an audit of ballots duplicated under RCW 29A.60.125. The
18 audit of duplicated ballots must involve a comparison of the
19 duplicated ballot to the original ballot. The county canvassing board
20 must establish procedures for the auditing of duplicated ballots.

21 (3) For each audit method, the secretary of state must adopt
22 procedures for expanding the audit to include additional ballots when
23 an audit results in a discrepancy. The procedure must specify under
24 what circumstances a discrepancy will lead to an audit of additional
25 ballots, and the method to determine how many additional ballots will
26 be selected. The secretary of state shall adopt procedures to
27 investigate the cause of any discrepancy found during an audit.

28 (4) ~~((The secretary of state must establish rules by January 1,~~
29 ~~2019, to implement and administer the auditing methods in this~~
30 ~~section, including facilitating public observation and reporting~~
31 ~~requirements.)) Each county auditor shall create an audit report for
32 each special election, primary, and general election. The secretary
33 of state shall develop, and all county auditors shall use, a standard
34 reporting format for the audit report. At the time of certification
35 of the election, the county auditor shall post the report on the
36 county elections web site, or its equivalent. The report must include
37 the following information:~~

38 (a) Each type of postelection audit performed;

39 (b) The total number of ballots audited;

1 (c) The make, model, and serial number of voting systems that
2 were audited, and the total number of ballots counted using each of
3 the audited voting systems;

4 (d) The ballot races or issues included in the audit;

5 (e) For each audit sample:

6 (i) The count of the specific ballot races or issues as
7 originally tabulated for that audit sample;

8 (ii) The count as determined by the audit; and

9 (iii) An explanation of discrepancies found between the counts
10 reported under (e)(i) and (ii) of this subsection, if any;

11 (f) The number of ballots duplicated and any discrepancies found
12 during the audit of the duplicated ballots;

13 (g) Any other discrepancies found during each audit, and the
14 findings of any investigation conducted under subsection (3) of this
15 section;

16 (h) The signature, election administration certification number
17 if applicable, and date of last election administration training of
18 the county canvassing board members and designated election official
19 who observed or conducted the audit; and

20 (i) Any other information that the secretary of state deems
21 necessary.

22 (5) (a) Each county auditor shall submit the audit report required
23 under subsection (4) of this section to the secretary of state no
24 later than one day prior to the certification of the primary, special
25 election, or general election. Once submitted, the report must be
26 made available for public inspection and copying.

27 (b) The secretary of state shall review the report and, after
28 review, may direct the county auditor to conduct additional audits.
29 The secretary of state may instruct the county canvassing board to
30 delay certification, by no more than ten days beyond the timeline set
31 forth under RCW 29A.60.190, for the county auditor to complete any
32 additional audit directed by the secretary of state.

33 (6) (a) The secretary of state shall compile the audit reports
34 from each county and prepare a statewide audit report for each
35 primary, special election, and general election. The secretary of
36 state shall publish the statewide report on the secretary of state's
37 web site no later than one month after the last county's election
38 results have been certified.

39 (b) The report must include:

- 1 (i) Data from each county's audit report and other quantifiable
2 data that can be compared to measure performance and trends;
3 (ii) Any recommendations for improving election administration
4 and policy; and
5 (iii) Any other information the secretary of state deems useful
6 to develop a better understanding of election administration and
7 policy.

8 **Sec. 2.** RCW 29A.60.190 and 2015 c 146 s 4 are each amended to
9 read as follows:

10 Ten days after a special election held in February or April,
11 fourteen days after a primary, or twenty-one days after a general
12 election, the county canvassing board shall complete the canvass and
13 certify the results, except as provided under RCW 29A.60.185. Each
14 ballot that was returned before 8:00 p.m. on the day of the special
15 election, general election, or primary, and each ballot bearing a
16 postmark on or before the date of the special election, general
17 election, or primary and received no later than the day before
18 certification, must be included in the canvass report.

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