

HOUSE BILL REPORT

HB 1030

As Reported by House Committee On:
State Government & Tribal Relations

Title: An act relating to the conduct of limited audits of counted ballots during the election certification period.

Brief Description: Concerning the conduct of limited audits of counted ballots during the election certification period.

Sponsors: Representatives Low, Mena, Eslick, Reeves and Hill; by request of Secretary of State.

Brief History:

Committee Activity:

State Government & Tribal Relations: 1/14/25, 1/17/25 [DP].

Brief Summary of Bill

- Modifies procedures for postelection audits.
- Ends the use of audits of direct recording electronic voting devices, random checks of ballot counting equipment, and independent electronic audits of the original ballot counting equipment, and instead provides a choice between a limited hand-count audit or a risk-limiting audit to fulfill postelection audit requirements.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL RELATIONS

Majority Report: Do pass. Signed by 5 members: Representatives Mena, Chair; Stearns, Vice Chair; Waters, Ranking Minority Member; Doglio and Farivar.

Minority Report: Do not pass. Signed by 1 member: Representative Chase.

Staff: Desiree Omli (786-7105).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background:

Prior to election certification, the county auditor must conduct a comparison of duplicated ballots to original ballots. The county auditor must also conduct an additional audit using at least one of the following methods:

- an audit of votes cast on direct recording electronic (DRE) voting devices if more than 10 votes were cast on DRE devices or other in-person ballot marking systems on any race in the county;
- a random check of ballot counting equipment comparing the electronic count of ballots to the machine count from the original ballot counting equipment, which must be conducted if requested by observers from both major political parties;
- a risk-limiting audit, which uses statistical principles and methods to determine, based on a random sampling of paper ballots, whether ballot counting equipment interpreted and tallied the results correctly within an acceptable probability (or risk limit); or
- any independent electronic audit of the original ballot counting equipment using an accurate and independent system approved by the Secretary of State (SOS).

There are two types of risk-limiting audits authorized in statute:

- a ballot comparison risk-limiting audit, in which the county auditor compares the voter markings on the ballot to the ballot-level cast vote record (CVR) produced by the ballot counting equipment until the prespecified risk limit is met; and
- a ballot polling risk-limiting audit, used in counties where the ballot counting equipment does not produce a ballot-level CVR, where the county auditor reports the markings on randomly selected ballots for a selected contest until the prespecified risk limit is met.

Generally, a CVR is an electronic record of a voter's ballot selections formatted in a way that can provide a record of voter selections which can be counted in an efficient manner to produce election results. A CVR is created by equipment, such as batch-fed optical scanners (i.e. tabulation machines), and then collected by election officials on memory devices and subsequently copied to an election management system that aggregates and tabulates the votes.

Summary of Bill:

The procedure for postelection audits is modified to remove the option of completing an audit by performing either an audit of DREs, a random check of ballot counting equipment, or an independent electronic audit of the original ballot counting equipment. Instead, auditors must conduct, in accordance with rules adopted by the SOS, a postelection audit by completing at a minimum a limited hand-count audit of randomly selected precincts or batches of ballots or a risk-limiting audit.

A limited hand-count audit of randomly selected precincts or batches of ballots requires a

comparison of a manual count of ballots to the results for the selected precincts or batches recorded by the original ballot counting equipment. At least one precinct or two batches per ballot scanner must be included in the audit. The audit is limited to one office or issue which must be randomly selected according to procedures established by the county canvassing board. The audit must be expanded, according to procedures adopted by the board that are consistent with the rules adopted by the SOS, to include additional ballots when the audit results in an unresolved discrepancy.

A county opting to use risk-limiting audits may choose a third type of risk-limiting audit called the batch comparison risk-limiting audit which involves the selection of random batches of ballots for hand counting for a selected contest until the batch sample meets the prespecified risk limit. The SOS must adopt procedures for resolving discrepancies between results produced by a ballot counting system and results of a risk-limiting audit and next steps in the case of a failed audit.

When all counties are capable of conducting a ballot comparison risk-limiting audit, the SOS may conduct such an audit on a statewide level on an issue or office that files with the SOS. Counties may also choose to conduct a risk-limiting audit of a shared district if all counties represented by the district agree to participate.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Audits are an integral part of elections and it adds integrity to the process and confidence in the system. Hand recounts for auditing is the best practice, but not practical in larger counties. Audits vary from county to county. This would provide another tool for election officials to have in their toolbox to promote consistency and standardization in the auditing process.

(Opposed) None.

Persons Testifying: Representative Sam Low, prime sponsor; Steve Hobbs, Office of Secretary of State; and Stuart Holmes, Office of Secretary of State, Director of Elections.

Persons Signed In To Testify But Not Testifying: None.