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HOUSE BILL 1506

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State of Washington

67th Legislature

2021 Regular Session

By Representative Chase

1 AN ACT Relating to ballot integrity; amending RCW 29A.60.185;  
2 creating new sections; and declaring an emergency.

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

4 NEW SECTION. **Sec. 1.** It is the intent of the legislature to  
5 assure all voters in the state that only legitimate votes are counted  
6 in Washington state elections.

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

9 (1) ~~((Prior to))~~ As used in this section, "company" means an  
10 impartial, independent company selected by the secretary of state to  
11 perform the audit described in this section.

12 (2) Immediately after certification of the election as required  
13 by RCW 29A.60.190, the ~~((county auditor))~~ company shall conduct an  
14 audit of duplicated ballots in accordance with subsection ~~((+2))~~ (3)  
15 of this section, and an audit using ~~((at minimum one of))~~ the  
16 following methods:

17 (a) An audit of results of votes cast on the direct recording  
18 electronic voting devices, or other in-person ballot marking systems,  
19 used in the county if there are races or issues with more than ten  
20 votes cast on all direct recording electronic voting devices or other

1 in-person ballot marking systems in the county. This audit must be  
2 conducted by randomly selecting by lot up to four percent of the  
3 direct recording electronic voting devices or other in-person ballot  
4 marking systems, or one direct recording electronic voting device or  
5 other in-person ballot marking system, whichever is greater, and, for  
6 each device or system, comparing the results recorded electronically  
7 with the results recorded on paper. For purposes of this audit, the  
8 results recorded on paper must be tabulated as follows: On one-fourth  
9 of the devices or systems selected for audit, the paper records must  
10 be tabulated manually; on the remaining devices or systems, the paper  
11 records may be tabulated by a mechanical device determined by the  
12 secretary of state to be capable of accurately reading the votes cast  
13 and printed thereon and qualified for use in the state under  
14 applicable state and federal laws. Three races or issues, randomly  
15 selected by lot, must be audited on each device or system. This audit  
16 procedure must be subject to observation by political party  
17 representatives if representatives have been appointed and are  
18 present at the time of the audit. As used in this subsection, "in-  
19 person ballot marking system" or "system" means an in-person ballot  
20 marking system that retains or produces an electronic voting record  
21 of each vote cast using the system;

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

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

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

31 (ii) Randomly select for audit at least one statewide contest,  
32 and for each county at least one ballot contest other than the  
33 selected statewide contest. The (~~county auditor~~) company shall  
34 randomly select a ballot contest for audit if in any particular  
35 election there is no statewide contest; and

36 (iii) Establish procedures for implementation of risk-limiting  
37 audits, including random selection of the audit sample, determination  
38 of audit size, and procedures for a comparison risk-limiting audit  
39 and ballot polling risk-limiting audit as defined in (c)(iii)(A) and  
40 (B) of this subsection.

1 (A) In a comparison risk-limiting audit, the (~~county auditor~~)  
2 company compares the voter markings on randomly selected ballots to  
3 the ballot-level cast vote record produced by the ballot counting  
4 equipment.

5 (B) In a ballot polling risk-limiting audit(~~(, the county auditor~~  
6 ~~of~~) for a county using ballot counting equipment that does not  
7 produce ballot-level cast vote records, the company reports the voter  
8 markings on randomly selected ballots until the prespecified risk  
9 limit is met; (~~of~~) and

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

16 (i) Approved by the secretary of state;

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

19 (iii) Distributed or manufactured by a vendor different from the  
20 vendor that distributed or manufactured the original ballot counting  
21 equipment; and

22 (iv) Capable of demonstrating that it can verify and confirm the  
23 accuracy of the original ballot counting equipment's reported  
24 results.

25 (~~(2) Prior to~~) (3) Following certification of the election, the  
26 (~~county auditor~~) company must conduct an audit of ballots  
27 duplicated under RCW 29A.60.125. The audit of duplicated ballots must  
28 involve a comparison of the duplicated ballot to the original ballot.  
29 The (~~county canvassing board~~) company must establish procedures for  
30 the auditing of duplicated ballots.

31 (~~(3)~~) (4) For each audit method, the secretary of state must  
32 adopt procedures for expanding the audit to include additional  
33 ballots when an audit results in a discrepancy. The procedure must  
34 specify under what circumstances a discrepancy will lead to an audit  
35 of additional ballots, and the method to determine how many  
36 additional ballots will be selected. The secretary of state shall  
37 adopt procedures to investigate the cause of any discrepancy found  
38 during an audit.

39 (~~(4)~~) (5) The secretary of state must establish rules by  
40 January 1, 2019, to implement and administer the auditing methods in

1 this section, including facilitating public observation and reporting  
2 requirements.

3 (6) By December 31st in the same year as the election, the  
4 company must submit a report to the legislature containing the  
5 findings of the audit and any recommendations to improve ballot  
6 integrity in future elections.

7 NEW SECTION. Sec. 3. Within 30 days of the effective date of  
8 this section, the company, as defined in section 2 of this act, must  
9 perform an audit of the 2020 general election.

10 NEW SECTION. Sec. 4. This act is necessary for the immediate  
11 preservation of the public peace, health, or safety, or support of  
12 the state government and its existing public institutions, and takes  
13 effect immediately.

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