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**HOUSE BILL 1884**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By Representative Klippert**

1 AN ACT Relating to independent forensic election audits at the  
2 direction of the legislature; amending RCW 29A.60.090, 29A.60.095,  
3 29A.60.110, and 29A.60.125; and adding a new section to chapter  
4 29A.60 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 29A.60  
7 RCW to read as follows:

8 (1) By concurrent resolution or through a budget proviso, the  
9 legislature may authorize an independent forensic audit of a general  
10 election to be performed by a company or organization that is not a  
11 government entity. The concurrent resolution or budget proviso shall  
12 describe the scope of the forensic audit.

13 (2) The company or organization shall be selected by the  
14 secretary of state in a competitive bidding process consistent with  
15 chapter 39.26 RCW.

16 (3) The company or organization shall be given access to all  
17 election materials, including ballot envelopes, ballots and  
18 duplicated ballots, voting machines, and servers used in the election  
19 process.

20 (4) The audit shall be conducted in conjunction with elections  
21 officials.

1 (5) Election observers designated under RCW 29A.40.100 must be  
2 allowed to observe all aspects of the audit.

3 (6) By August 1st, the company or organization must submit a  
4 report to the legislature detailing the findings of the audit and any  
5 recommendations to improve ballot integrity in future elections.

6 **Sec. 2.** RCW 29A.60.090 and 2003 c 111 s 1509 are each amended to  
7 read as follows:

8 In counties using voting systems, the county auditor shall  
9 maintain the following documents for at least (~~sixty days~~) three  
10 years after the primary or election:

11 (1) Sample ballot formats together with a record of the format or  
12 formats assigned to each precinct;

13 (2) All programming material related to the control of the vote  
14 tallying system for that primary or election; and

15 (3) All test materials used to verify the accuracy of the  
16 tabulating equipment as required by RCW 29A.12.130.

17 **Sec. 3.** RCW 29A.60.095 and 2005 c 242 s 3 are each amended to  
18 read as follows:

19 (1) The electronic record produced and counted by electronic  
20 voting devices is the official record of each vote for election  
21 purposes. The paper record produced under RCW 29A.12.085 must be  
22 stored and maintained for use only in the following circumstances:

23 (a) In the event of a manual recount;

24 (b) By order of the county canvassing board;

25 (c) By order of a court of competent jurisdiction; (~~or~~)

26 (d) For use in the random audit of results described in RCW  
27 29A.60.185; or

28 (e) For use in the independent forensic audit described in  
29 section 1 of this act.

30 (2) When such paper record is used in any of the circumstances  
31 listed in subsection (1) of this section, it shall be the official  
32 record of the election.

33 **Sec. 4.** RCW 29A.60.110 and 2018 c 218 s 4 are each amended to  
34 read as follows:

35 (1) Immediately after their tabulation, all ballots counted at a  
36 ballot counting center must be sealed in containers that identify the

1 primary or election and be retained for at least (~~sixty days~~) three  
2 years or according to federal law, whichever is longer.

3 (2) In the presence of major party observers who are available,  
4 ballots may be removed from the sealed containers at the elections  
5 department and consolidated into one sealed container for storage  
6 purposes. The containers may only be opened by the canvassing board  
7 as part of the canvass, to conduct recounts, to conduct a random  
8 check under RCW 29A.60.170, to conduct an audit under RCW 29A.60.185  
9 or section 1 of this act, or by order of the superior court in a  
10 contest or election dispute. If the canvassing board opens a ballot  
11 container, it shall make a full record of the additional tabulation  
12 or examination made of the ballots. This record must be added to any  
13 other record of the canvassing process in that county.

14 **Sec. 5.** RCW 29A.60.125 and 2018 c 218 s 8 are each amended to  
15 read as follows:

16 If inspection of the ballot reveals a physically damaged ballot  
17 or ballot that may be otherwise unreadable or uncountable by the  
18 tabulating system, the county auditor may refer the ballot to the  
19 county canvassing board or duplicate the ballot if so authorized by  
20 the county canvassing board. The voter's original ballot may not be  
21 altered. A ballot may be duplicated only if the intent of the voter's  
22 marks on the ballot is clear and the electronic voting equipment  
23 might not otherwise properly tally the ballot to reflect the intent  
24 of the voter. Ballots must be duplicated by teams of two or more  
25 people working together. When duplicating ballots, the county auditor  
26 shall take the following steps to create and maintain an audit trail  
27 of the action taken:

28 (1) Each original ballot and duplicate ballot must be assigned  
29 the same unique control number, with the number being marked upon the  
30 face of each ballot, to ensure that each duplicate ballot may be tied  
31 back to the original ballot;

32 (2) A log must be kept of the ballots duplicated, which must at  
33 least include:

34 (a) The control number of each original ballot and the  
35 corresponding duplicate ballot;

36 (b) The initials of at least two people who participated in the  
37 duplication of each ballot; and

38 (c) The total number of ballots duplicated.

1 Original and duplicate ballots must be sealed in secure storage  
2 at all times, except during duplication, inspection by the canvassing  
3 board, tabulation, or to conduct an audit under RCW 29A.60.185 or  
4 section 1 of this act.

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