

1-1 By: Kolkhorst S.B. No. 598  
1-2 (In the Senate - Filed February 5, 2021; March 11, 2021,  
1-3 read first time and referred to Committee on State Affairs;  
1-4 April 1, 2021, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 1, 2021,  
1-6 sent to printer.)

1-7 COMMITTEE VOTE

|      | Yea        | Nay | Absent | PNV |
|------|------------|-----|--------|-----|
| 1-8  |            |     |        |     |
| 1-9  | Hughes     | X   |        |     |
| 1-10 | Birdwell   | X   |        |     |
| 1-11 | Campbell   | X   |        |     |
| 1-12 | Hall       | X   |        |     |
| 1-13 | Lucio      | X   |        |     |
| 1-14 | Nelson     | X   |        |     |
| 1-15 | Powell     | X   |        |     |
| 1-16 | Schwertner | X   |        |     |
| 1-17 | Zaffirini  | X   |        |     |

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 598 By: Hughes

1-19 A BILL TO BE ENTITLED  
1-20 AN ACT

1-21 relating to auditable voting systems.  
1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
1-23 SECTION 1. Chapter 127, Election Code, is amended by adding  
1-24 Subchapter I to read as follows:  
1-25 SUBCHAPTER I. RISK-LIMITING AUDIT  
1-26 Sec. 127.301. APPLICABILITY OF SUBCHAPTER. This subchapter  
1-27 applies to an election:  
1-28 (1) that occurs after August 31, 2026;  
1-29 (2) that contains a race or measure that is voted on  
1-30 statewide; and  
1-31 (3) in which an auditable voting system described by  
1-32 Section 129.003(a) is used.  
1-33 Sec. 127.302. RISK-LIMITING AUDIT. (a) Not later than 24  
1-34 hours after all ballots have been counted in an election, the  
1-35 general custodian of election records shall conduct a risk-limiting  
1-36 audit for a selected statewide race or measure.  
1-37 (b) The secretary of state shall select, in accordance with  
1-38 rules adopted by the secretary, the precincts to be counted and the  
1-39 office or proposition to be counted.  
1-40 (c) The general custodian of election records shall  
1-41 complete the audit not later than 24 hours before the time for  
1-42 conducting the canvass of the election.  
1-43 (d) The general custodian of election records shall post a  
1-44 notice of the date, hour, and place of the audit in the custodian's  
1-45 office and on the county's Internet website, if the county  
1-46 maintains a website.  
1-47 (e) A watcher may be present for the audit if appointed by a  
1-48 candidate in the election. A watcher must deliver a certificate of  
1-49 appointment to the general custodian of election records at the  
1-50 time the watcher reports for service. The certificate must be in  
1-51 writing and must include:  
1-52 (1) the printed name and signature of the watcher;  
1-53 (2) the election subject to the audit; and  
1-54 (3) the printed name and signature of the candidate  
1-55 making the appointment.  
1-56 (f) The secretary of state may appoint personnel to assist  
1-57 with the audit, including applicable voting system technicians or  
1-58 representatives and persons who have assisted with the design and  
1-59 implementation of the audit.  
1-60 Sec. 127.303. RULES. (a) The secretary of state shall

2-1 adopt rules prescribing procedures necessary to implement this  
 2-2 subchapter.

2-3 (b) Rules adopted under this subchapter must include a rule,  
 2-4 using widely accepted statistical methods, that provides for the  
 2-5 number or percentage of paper records that must be counted in a  
 2-6 risk-limiting audit under Section 127.302.

2-7 Sec. 127.304. PUBLICATION OF RESULTS. The results of a  
 2-8 risk-limiting audit conducted under this subchapter must be  
 2-9 published on the Internet website of the secretary of state not  
 2-10 later than three days after the completion of the audit.

2-11 Sec. 127.305. PILOT PROGRAM. (a) Notwithstanding Section  
 2-12 127.301(1), the secretary of state shall conduct a pilot program,  
 2-13 beginning with the election taking place November 8, 2022, of the  
 2-14 risk-limiting audit program created under this subchapter.

2-15 (b) The secretary of state shall select at least five  
 2-16 counties to participate in the pilot program. At least one county  
 2-17 participating in the pilot program must have a population of at  
 2-18 least 500,000.

2-19 (c) After each election conducted under the pilot program,  
 2-20 the secretary of state shall send a detailed report to each member  
 2-21 of the legislature evaluating the success of the program and making  
 2-22 a recommendation as to whether the legislature should act to delay  
 2-23 the statewide implementation of the program.

2-24 (d) The secretary of state shall adopt rules as necessary to  
 2-25 implement this section.

2-26 (e) This section expires August 31, 2026.

2-27 SECTION 2. Subchapter A, Chapter 129, Election Code, is  
 2-28 amended by adding Section 129.003 to read as follows:

2-29 Sec. 129.003. PAPER AUDIT TRAIL REQUIRED. (a) In this  
 2-30 section, "auditable voting system" means a voting system that:

2-31 (1) uses, creates, or displays a paper record that may  
 2-32 be read by the voter; and

2-33 (2) is not capable of being connected to the Internet  
 2-34 or any other computer network or electronic device.

2-35 (b) Except as otherwise provided by this section, a voting  
 2-36 system that consists of direct recording electronic voting machines  
 2-37 may not be used in an election unless the system is an auditable  
 2-38 voting system.

2-39 (c) The electronic vote is the official record of the vote  
 2-40 cast if a risk-limiting audit conducted under Section 127.302  
 2-41 produces strong evidence that the reported outcome of the election  
 2-42 matches the results that a full counting of the paper records would  
 2-43 reveal.

2-44 (d) The paper record is the official record of the vote  
 2-45 cast:

2-46 (1) for a recount under Title 13, including a recount  
 2-47 of ballots cast on a system involving direct recording electronic  
 2-48 voting machines; or

2-49 (2) if a risk-limiting audit conducted under Section  
 2-50 127.302 fails to produce strong evidence that the reported outcome  
 2-51 of the election matches the results that a full counting of the  
 2-52 paper records would reveal.

2-53 (e) An authority that purchased a voting system other than  
 2-54 an auditable voting system after September 1, 2014, and before  
 2-55 September 1, 2021, may use available federal funding and, if  
 2-56 federal funding is not available, available state funding to  
 2-57 convert the purchased voting system into an auditable voting system  
 2-58 in accordance with the following schedule:

2-59 (1) if the voting system was converted into an  
 2-60 auditable voting system not later than the election taking place  
 2-61 November 8, 2022, the authority is eligible to have 100 percent of  
 2-62 the cost of conversion reimbursed under this section; and

2-63 (2) if the authority is not eligible for a 100 percent  
 2-64 reimbursement of cost under Subdivision (1) and the voting system  
 2-65 was converted into an auditable voting system not later than the  
 2-66 election taking place November 3, 2026, the authority is eligible  
 2-67 to have 50 percent of the cost of conversion reimbursed under this  
 2-68 section.

2-69 (f) The secretary of state may use any available funds to

3-1 assist an authority with the purchase of an auditable voting system  
3-2 if the funds have been appropriated for that purpose.

3-3 (g) Subsections (b), (c), and (d) do not apply to an  
3-4 election held before September 1, 2026.

3-5 (h) A paper record generated by an auditable voting system  
3-6 may be used only for the purposes described by this section and may  
3-7 not be retained by the voter.

3-8 (i) Notwithstanding Subsection (b), a voter voting under  
3-9 Section 64.009 may use a direct recording electronic voting machine  
3-10 regardless of whether the direct recording electronic voting  
3-11 machine is part of an auditable voting system.

3-12 SECTION 3. Section 129.054, Election Code, is amended to  
3-13 read as follows:

3-14 Sec. 129.054. NETWORK CONNECTIONS AND WIRELESS TECHNOLOGY.

3-15 (a) A voting system may not be connected to any external  
3-16 communications network, including the Internet. Beginning  
3-17 September 1, 2026, a voting system may not be capable of being  
3-18 connected to any external or internal communications network,  
3-19 including the Internet.

3-20 (b) A voting system may not have the capability of  
3-21 permitting wireless communication unless the system uses  
3-22 line-of-sight infrared technology that shields the transmitter and  
3-23 receiver from external infrared transmissions and the system can  
3-24 only accept transmissions generated by the system. Beginning  
3-25 September 1, 2026, a voting system may not have the capability of  
3-26 permitting wireless communication.

3-27 SECTION 4. The secretary of state is required to implement a  
3-28 provision of this Act only if the legislature appropriates money  
3-29 specifically for that purpose. If the legislature does not  
3-30 appropriate money specifically for that purpose, the secretary of  
3-31 state may, but is not required to, implement a provision of this Act  
3-32 using other appropriations that are available for that purpose.

3-33 SECTION 5. This Act takes effect September 1, 2021.

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