

By: Kolkhorst

S.B. No. 598

A BILL TO BE ENTITLED

AN ACT

relating to auditable voting systems.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 127, Election Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. RISK-LIMITING AUDIT

Sec. 127.301. APPLICABILITY OF SUBCHAPTER. This subchapter applies to an election:

(1) that occurs after August 31, 2026;

(2) that contains a race or measure that is voted on statewide; and

(3) in which an auditable voting system described by Section 129.003(a) is used.

Sec. 127.302. RISK-LIMITING AUDIT. (a) Not later than 24 hours after all ballots have been counted in an election, the general custodian of election records shall conduct a risk-limiting audit for a selected statewide race or measure.

(b) The secretary of state shall select, in accordance with rules adopted by the secretary, the precincts to be counted and the office or proposition to be counted.

(c) The general custodian of election records shall complete the audit not later than 24 hours before the time for conducting the canvass of the election.

(d) The general custodian of election records shall post a

1 notice of the date, hour, and place of the audit in the custodian's
2 office and on the county's Internet website, if the county
3 maintains a website.

4 (e) A watcher may be present for the audit if appointed by a
5 candidate in the election. A watcher must deliver a certificate of
6 appointment to the general custodian of election records at the
7 time the watcher reports for service. The certificate must be in
8 writing and must include:

9 (1) the printed name and signature of the watcher;

10 (2) the election subject to the audit; and

11 (3) the printed name and signature of the candidate
12 making the appointment.

13 (f) The secretary of state may appoint personnel to assist
14 with the audit, including applicable voting system technicians or
15 representatives and persons who have assisted with the design and
16 implementation of the audit.

17 Sec. 127.303. RULES. (a) The secretary of state shall
18 adopt rules prescribing procedures necessary to implement this
19 subchapter.

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

24 Sec. 127.304. PUBLICATION OF RESULTS. The results of a
25 risk-limiting audit conducted under this subchapter must be
26 published on the Internet website of the secretary of state not
27 later than three days after the completion of the audit.

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

5 (b) The secretary of state shall select at least five
6 counties to participate in the pilot program. At least one county
7 participating in the pilot program must have a population of at
8 least 500,000.

9 (c) After each election conducted under the pilot program,
10 the secretary of state shall send a detailed report to each member
11 of the legislature evaluating the success of the program and making
12 a recommendation as to whether the legislature should act to delay
13 the statewide implementation of the program.

14 (d) The secretary of state shall adopt rules as necessary to
15 implement this section.

16 (e) This section expires August 31, 2026.

17 Sec. 127.306. WAIVER NOT PERMITTED. The secretary of state
18 may not waive any requirements of this subchapter.

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

21 Sec. 129.003. PAPER AUDIT TRAIL REQUIRED. (a) In this
22 section, "auditable voting system" means a voting system that:

23 (1) uses, creates, or displays a paper record that may
24 be read by the voter; and

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

27 (b) Except as otherwise provided by this section, a voting

1 system that consists of direct recording electronic voting machines
2 may not be used in an election unless the system is an auditable
3 voting system.

4 (c) The electronic vote is the official record of the vote
5 cast if a risk-limiting audit conducted under Section 127.302
6 produces strong evidence that the reported outcome of the election
7 matches the results that a full counting of the paper records would
8 reveal.

9 (d) The paper record is the official record of the vote
10 cast:

11 (1) for a recount under Title 13, including a recount
12 of ballots cast on a system involving direct recording electronic
13 voting machines;

14 (2) for an election contest under Title 14; or

15 (3) if a risk-limiting audit conducted under Section
16 127.302 fails to produce strong evidence that the reported outcome
17 of the election matches the results that a full counting of the
18 paper records would reveal.

19 (e) An authority that purchased a voting system other than
20 an auditable voting system after September 1, 2014, and before
21 September 1, 2021, may use available federal funding and, if
22 federal funding is not available, available state funding to
23 convert the purchased voting system into an auditable voting system
24 in accordance with the following schedule:

25 (1) if the voting system was converted into an
26 auditable voting system not later than the election taking place
27 November 8, 2022, the authority is eligible to have 100 percent of

1 the cost of conversion reimbursed under this section; and

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

8 (f) The secretary of state may use any available funds to
9 assist an authority with the purchase of an auditable voting system
10 if the funds have been appropriated for that purpose.

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

13 (h) A paper record generated by an auditable voting system
14 may be used only for the purposes described by this section and may
15 not be retained by the voter.

16 (i) Notwithstanding Subsection (b), a voter voting under
17 Section 64.009 may use a direct recording electronic voting machine
18 regardless of whether the direct recording electronic voting
19 machine is part of an auditable voting system.

20 (j) The secretary of state may not waive any requirements of
21 this section.

22 SECTION 3. Section 129.054, Election Code, is amended to
23 read as follows:

24 Sec. 129.054. NETWORK CONNECTIONS AND WIRELESS TECHNOLOGY.

25 (a) A voting system may not be connected to any external
26 communications network, including the Internet. Beginning
27 September 1, 2026, a voting system may not be capable of being

1 connected to any external or internal communications network,
2 including the Internet.

3 (b) A voting system may not have the capability of
4 permitting wireless communication unless the system uses
5 line-of-sight infrared technology that shields the transmitter and
6 receiver from external infrared transmissions and the system can
7 only accept transmissions generated by the system. Beginning
8 September 1, 2026, a voting system may not have the capability of
9 permitting wireless communication.

10 (c) The secretary of state may not waive any requirements of
11 this section.

12 SECTION 4. The secretary of state is required to implement a
13 provision of this Act only if the legislature appropriates money
14 specifically for that purpose. If the legislature does not
15 appropriate money specifically for that purpose, the secretary of
16 state may, but is not required to, implement a provision of this Act
17 using other appropriations that are available for that purpose.

18 SECTION 5. This Act takes effect September 1, 2021.