

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 SECTION 2. Subchapter [A](#), Chapter [129](#), Election Code, is
18 amended by adding Section 129.003 to read as follows:

19 Sec. 129.003. PAPER AUDIT TRAIL REQUIRED. (a) In this
20 section, "auditable voting system" means a voting system that uses,
21 creates, or displays a paper record that may be read by the voter.

22 (b) Except as otherwise provided by this section, a voting
23 system that consists of direct recording electronic voting machines
24 may not be used in an election unless the system is an auditable
25 voting system.

26 (c) The electronic vote is the official record of the vote
27 cast if a risk-limiting audit conducted under Section 127.302

1 produces strong evidence that the reported outcome of the election
2 matches the results that a full counting of the paper records would
3 reveal.

4 (d) The paper record is the official record of the vote
5 cast:

6 (1) for a recount under Title 13, including a recount
7 of ballots cast on a system involving direct recording electronic
8 voting machines; or

9 (2) if a risk-limiting audit conducted under Section
10 127.302 fails to produce strong evidence that the reported outcome
11 of the election matches the results that a full counting of the
12 paper records would reveal.

13 (e) An authority that purchased a voting system other than
14 an auditable voting system after September 1, 2014, and before
15 September 1, 2021, may use available federal funding and, if
16 federal funding is not available, available state funding to
17 convert the purchased voting system into an auditable voting system
18 in accordance with the following schedule:

19 (1) if the voting system was converted into an
20 auditable voting system not later than the election taking place
21 November 8, 2022, the authority is eligible to have 100 percent of
22 the cost of conversion reimbursed under this section; and

23 (2) if the authority is not eligible for a 100 percent
24 reimbursement of cost under Subdivision (1) and the voting system
25 was converted into an auditable voting system not later than the
26 election taking place November 3, 2026, the authority is eligible
27 to have 50 percent of the cost of conversion reimbursed under this

1 section.

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

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

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

10 (i) Notwithstanding Subsection (b), a voter voting under
11 Section [64.009](#) may use a direct recording electronic voting machine
12 regardless of whether the direct recording electronic voting
13 machine is part of an auditable voting system.

14 SECTION 3. This Act takes effect September 1, 2021.