



Secretary of State

Kim Wyman

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Dear House and Senate state government committees:

Please find enclosed the Survey on Post-Election Audits. Per ESHB 2406 (Chapter 218, 2018) and RCW 29A.60.170, the Secretary of State conducted a survey prior to November 1, 2018, of all random check audit procedures adopted by County Canvassing Boards.

The report evaluates the procedures to identify best practices and any discrepancies.

According to the new law, the report shall be submitted to the appropriate committees of the Legislature no later than December 15, 2018.

Sincerely,

A handwritten signature in blue ink that reads "Kim Wyman".

Kim Wyman
Secretary of State

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Background

In March of 2018, the Legislature passed ESHB 2406, relating to election security practices around auditing and equipment. The act amends RCW 29A.60.170 and RCW 29A.60.185 to expand the range of options county elections officials may use to audit the results of votes cast in their jurisdiction.

Previously, counties were only required to conduct post-election audits under certain circumstances depending on the type of voting equipment they used.

State law now requires county elections officials to conduct an audit of all duplicated ballots under RCW 29A.60.125, in addition to at least one audit selected from the four methods described in the section below.

To provide support to the counties, the Secretary of State has issued clearinghouse notice #18-06 outlining these rules to county election officials.

Election Audit Methods

- 1) Audit of the results of votes cast on direct recording electronic devices (DREs), or other in-person ballot marking systems.
 - An audit of this method may only be selected if there are races or issues with more than ten votes cast on all DREs or other in-person ballot marking systems in the county.
 - This audit method will be conducted by randomly selecting up to four percent of the DREs or other in-person ballot marking systems, or one DRE or other in-person ballot marking system, whichever is greater, and for each device or system, comparing the results of votes recorded electronically with votes recorded on paper.
 - On one-fourth of the devices or systems selected for the audit, paper records must be tabulated manually, while the remainder may be tabulated by a mechanical device certified for use in the state.
 - Three races or issues, randomly selected by lot, must be audited on each device or system, and may be subject to observation by political party representatives.
- 2) Random check of ballot counting equipment (hereafter referred to as a random batch or precinct audit).
 - An audit of this type must be conducted upon the mutual agreement of designated political party observers or at the discretion of the county auditor.
 - The procedures for a random check must be adopted by the County Canvassing Board and consistent with rules adopted under RCW 29A.60.185.
 - Per RCW 29A.60.185(1)(d), the random check will compare a manual or electronic count if an audit is conducted to the machine count from the ballot counting equipment used in the election, and may involve up to three precincts or six batches, depending on the county and the ballot counting procedures it uses.

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- The random check will be limited to one office or issue on the ballots in the precincts or batches that are selected for the audit, and the selection of precincts or batches must be according to procedures adopted by the County Canvassing Board.
 - The procedures must outline a process for expanding the audit to include additional ballots if the random check results in a discrepancy, and the check must be completed within forty-eight hours of the election.
- 3) A risk-limiting audit (RLA)
- A risk-limiting audit, or RLA, is an audit method that employs statistical principles to limit the probability of certifying an incorrect election outcome.
 - The Secretary of State will be responsible for setting the risk limit, or the largest statistical probability that an incorrect election outcome will avoid detection in the audit.
 - In an RLA, the Secretary of State will select at least one statewide contest for audit, in addition to at least one other ballot contest for each county. In an election with no statewide contest, the county auditor will randomly select a ballot contest for audit.
 - There are two types of RLAs. The first is a known as a comparison risk-limiting audit, in which the county auditor will compare voter markings on randomly selected ballots to the ballot-level cast vote record produced by the ballot counting equipment. The second is a ballot polling risk-limiting audit, used in counties the ballot counting equipment does not produce a ballot-level cast vote record. In such an audit, the county auditor will report the markings on randomly selected ballots until the pre-specified risk limit is met.
- 4) Independent electronic audit of the original ballot counting equipment
- In this type of audit, the county auditor may either conduct an audit of all ballots cast, or limit the audit to three precincts or six batches, and must comply with procedures adopted by the County Canvassing Board.
 - The audit must be conducted using an independent electronic audit system that is at least:
 - a) Approved by the Secretary of State
 - b) Completely independent from all voting systems
 - c) Distributed or manufactured by a vendor different from the distributor or manufacturer of the original ballot counting equipment
 - d) Capable of demonstrating that it can verify and confirm the accuracy of the results reported by the original ballot counting equipment

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Audit of Duplicated Ballots

County Canvassing Boards also adopt procedures for the duplication of ballots that cannot be scanned by the voting system, as required by RCW 29A.60.125. Duplication involves the copying of valid votes from a ballot that has been damaged or received by the county in a way that it cannot be tabulated as intended by the voter, the result being a duplicate ballot.

Now, ESHB 2406 specifies that counties administer an audit of all duplicated ballots to verify their accuracy according to voter intent guidelines. This audit must involve a comparison of the duplicated ballot to the original ballot, and County Canvassing Boards must establish procedures outlining this process. ESHB 2406 requires the Secretary of State to survey all counties on the audit procedures adopted by their County Canvassing Board, and identify best practices and likely sources of discrepancies.

Survey Responses

Every county elections department in Washington responded to the survey distributed by the Secretary of State.

The survey, conducted between October and December of 2018, revealed that thirty eight counties conducted a random batch or precinct audit following the November 2018 General Election. Their County Canvassing Boards have formally adopted procedures for conducting these audits. No discrepancies were reported by any counties conducting the random audit.

Thirty seven counties also conducted the duplicated ballot audit as required by state law. Of these, twenty nine counties have adopted procedures, while four stated that they are in the process of drafting and adopting the required procedures. Five counties confirmed that corrections were made to duplicated ballots through this audit. These corrections were in alignment with voter intent rules, and were made before ballots were scanned into the county voting system.

Counties administering a random batch or precinct audit	38
Counties having adopted procedures for a random batch or precinct audit	38
Counties administering an audit of duplicated ballots	35*
Counties having adopted procedures for a duplicated ballot audit	31*
Counties in full compliance with ESHB 2406	31*

*At the time of the distribution of this report

Whitman County reported to the Secretary of State that they were not in compliance with ESHB 2406. While Whitman did conduct a duplicated ballot audit, they had not adopted procedures for this audit and did not conduct one of the other four post-election audits as required by state law. The Whitman County Auditor stated in a letter to the Secretary of State that they would be in compliance with these sections of the law before the February 2019 Special Election.

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Kittitas and Wahkiakum counties are not in compliance with the requirement for conducting a duplicated ballot audit. The counties of Grays Harbor and San Juan conducted a duplicated ballot audit but had not yet adopted formal procedures. At the time of this report, the Secretary of State is awaiting confirmation from the counties of Ferry, Garfield, and Pend Oreille that an audit of duplicated ballots was conducted.

Of the 38 counties that have thus far conducted and adopted procedures for conducting one of the four post-election audits, all have chosen the random batch or precinct audit. This is because counties do not yet have the infrastructure to conduct an RLA or independent electronic audit. However, some counties have expressed interest in piloting one of these audits once rules have been established.

In recent elections, the number of counties using DRE equipment has decreased. According to the reconciliation report for the November 2018 Election, only Kitsap County had enough DRE ballots issued in order to conduct an audit of their DRE equipment. Kitsap County opted to conduct a random batch or precinct audit instead.

Best Practices

Based on the range of procedures received from the counties through this survey, the Office of the Secretary of State recommends the following best practices for the administration of random checks of ballot counting equipment:

- 1) Specify how counties intend to randomize the selection of batches or precincts that will be used in the audit, such as a random number generator (MS Excel can be used for this purpose).
- 2) Agree upon the method of selecting the specific race on which the ballots will be evaluated (based on factors such as commonality of the race).
- 3) Use a standardized random audit tally sheet/form.
- 4) Counties should notify the public and designated observers as to the time and place a post-election audit will be conducted. Counties should also make their procedures and results available to the public.
- 5) Specify who among the election staff shall be responsible for executing certain tasks, or if certain issues arise within the process (for example, if a voter intent issue comes up, who is the designated authority / what is done?).
- 6) Specify how the selected ballots will be identified, selected, and returned through the duration of the audit process.
- 7) If the totals counted by hand and reported on the tally sheet do not match the output of the tabulation system, specify that the same counting staff count the selected ballots again. If the numbers do not match a second time, have a different team conduct the same count. If the totals are different a third time, refer to members of the staff who may make the determination that the difference arose from an improper resolution of voter intent. If this is the case, add a set amount of additional ballots to the pool being examined in the audit and repeat the count. If the count is different after this step, repeat one more time before referring the matter to the County Canvassing Board.

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- 8) If the error arose from the ballot counting equipment itself, refer the matter to the County Canvassing Board.
- 9) Per WAC 434-261-108, the Secretary of State recommends that counties using optical scan equipment tabulate each batch on a different scanner if more than one scanner is used in the election. If there are more scanners used in the election than batches to be checked, then the scanners must be selected at random.

Next Steps and Rulemaking

In December, the Secretary of State will introduce rules for the administration of duplicated ballot audits, amending WAC 434-261-005 and WAC 434-261-100. The Secretary of State will also adopt WAC 434-261-114, which establishes procedures for administering risk-limiting audits under requirements set by RCW 29A.60.170.

The rules being adopted cover the following areas: definitions, preparations, procedures, reports, and risk-limiting audit board members.