

HB259 INTRODUCED



1 HB259
2 98TXPMM-1
3 By Representatives Wood (D), Fincher, Paschal, Rehm, Fidler,
4 Hulsey, Rigsby, Underwood, Colvin, Stringer, Starnes,
5 Standridge
6 RFD: Ways and Means General Fund
7 First Read: 28-Feb-24



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SYNOPSIS:

This bill would require the judge of probate of each county to conduct a post-election audit after every county and statewide general election to determine the accuracy of the originally reported results of the election.

A BILL
TO BE ENTITLED
AN ACT

Relating to elections; to require the judge of probate of each county to conduct a post-election audit after every county and statewide general election to determine the accuracy of the originally reported results of the election.
BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) This section shall be known and may be cited as the Alabama Post-Election Audit Act.

(b) (1) Notwithstanding any other law to the contrary, the judge of probate of each county shall order a post-election manual audit after every county and statewide general election consisting of a manual tally of all ballots in at least one randomly selected precinct for one randomly selected countywide or statewide race that appeared on the



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29 ballot and is not subject to a recount or election contest.
30 Nothing in this section shall prohibit the judge of probate
31 from ordering the audit of additional precincts and races. The
32 order shall include the name of the precinct or precincts and
33 the race or races to be audited. The order shall authorize the
34 sheriff or other county authority to provide access to the
35 ballot containers along with any other necessary election
36 materials, including electronic data.

37 (2) The precincts and races shall be randomly selected
38 by the judge of probate at noon on the second Friday after any
39 county and statewide general election. Random selection may
40 occur by drawing lots or by computerized random selection such
41 that all precincts and county and statewide races are included
42 in the selection method. If a race that was randomly selected
43 for the post-election audit is subject to a recount or
44 election contest, before the commencement of the post-election
45 audit, the judge of probate shall randomly select another
46 precinct and race that is not subject to a recount or election
47 contest. If a race becomes subject to a recount or election
48 contest after the commencement of the post-election audit, the
49 audit shall be concluded for that race and the ballots shall
50 be returned to their original containers and sealed. The
51 inspectors shall sign the containers and return them to the
52 appropriate authority.

53 (3) If, at the conclusion of the audit, there is a
54 discrepancy in the results, the judge of probate shall
55 determine if the discrepancy may be reconciled by further
56 review of the official results, including any electronic data,



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57 and the manual tally. If the discrepancy cannot be reconciled,
58 the judge of probate shall amend the initial certification of
59 the election to reflect the results of the audit and transmit
60 the results to the Secretary of State within 24 hours.

61 (4) If the results of the audit name a winner other
62 than the person initially certified, the outcome shall
63 constitute grounds for an election contest. A contest of an
64 election pursuant to this section shall be filed within 24
65 hours of recertification of the vote.

66 (5) The judge of probate, at noon on the second Friday
67 after any county and statewide general election, shall select
68 the date, time, and place of meeting to conduct the
69 post-election audit and shall appoint the appropriate number
70 of poll workers required to complete the audit in the same
71 manner as for any other election. Compensation for poll
72 workers shall be the same as provided in Section 17-8-12, Code
73 of Alabama 1975.

74 (6) To begin the audit process, the voted ballot
75 containers subject to the audit shall be delivered, unopened
76 and still sealed in the original containers, to the inspectors
77 in charge of the audit by the custodian of the ballot
78 containers along with any other necessary election materials,
79 including electronic data.

80 (7) The post-election audit shall commence within five
81 days after certification of results by the canvassing board
82 and shall be completed within 14 days of commencement.

83 (8) At the conclusion of the audit, the ballots shall
84 be returned to their original containers and sealed. The



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85 inspectors shall sign the containers and return them to the
86 appropriate authority, and the judge of probate shall report
87 the findings to the Secretary of State who shall make all
88 results from the post-election audit public by posting the
89 results on the official website of the Secretary of State.

90 (9) The post-election audit report shall include all of
91 the following:

92 a. A description of any problems or discrepancies
93 encountered.

94 b. A description of the likely cause of any problems or
95 discrepancies encountered.

96 c. Recommendations for corrective or remedial actions.

97 (10) The Secretary of State shall report all findings
98 of the post-election audit to the Governor and the Legislature
99 within 30 days of receipt of the audits.

100 (11) Poll watchers may attend and observe the
101 post-election audit in the same manner as for any other
102 election, and appointments shall be made in the same manner as
103 any general election. The judge of probate shall give notice
104 to the public of the date, time, and location of the audit by
105 publication in a newspaper of general circulation in the
106 county or on the county's official website. Accredited members
107 of the media shall be permitted to be present and observe the
108 audit being performed.

109 (12) As an alternative to the manual tally audit, the
110 judge of probate may conduct the post-election audit by use of
111 a precinct ballot counter or counters previously tested,
112 certified, and sealed according to the procedures for testing



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113 and certification of precinct ballot counters prior to the
114 election. The ballot counter or counters shall have been
115 sealed and not used for voting during the election subject to
116 the audit.

117 (c) All expenses incurred by any county as a result of
118 the audit shall be reimbursed from federal or state funds made
119 available for use by the Comptroller.

120 (d) The Secretary of State may adopt rules and
121 prescribe forms to implement this act.

122 Section 2. This act shall become effective on October
123 1, 2024.