2017 ASSEMBLY BILL 743

December 13, 2017 - Introduced by Representatives HEBL, ANDERSON, BERCEAU, GENRICH, OHNSTAD, POPE, SARGENT, SHANKLAND, SINICKI, SPREITZER and C. TAYLOR, cosponsored by Senators HANSEN, LARSON, MILLER, RINGHAND, L. TAYLOR and VINEHOUT. Referred to Committee on Campaigns and Elections.

1   AN ACT *to create* 5.42 of the statutes; **relating to:** post-election risk-limiting

2   audits and requiring the exercise of rule-making authority.

Analysis by the Legislative Reference Bureau

Beginning with the 2018 partisan primary, this bill requires the Elections Commission to conduct risk-limiting audits following each regularly scheduled primary and general election. The bill defines a risk-limiting audit as an audit protocol that makes use of statistical methods and is designed to limit to acceptable levels the risk of certifying a preliminary election outcome that constitutes an incorrect outcome.

Risk-limiting audits performed for and between the 2018 partisan primary and 2020 spring election are to be performed on a pilot basis on a limited number of offices specified in the bill: one statewide elective office and one local elective office in each county in which an election for local office is held. Beginning with the 2020 partisan primary, the commission must perform risk-limiting audits following each regularly scheduled election in the manner determined by the commission pursuant to rules promulgated by the commission. The bill requires the commission to consult with statisticians, municipal and county clerks, and voting equipment vendors when promulgating the rules.

The commission must provide at least 48 hours' notice prior to conducting each risk-limiting audit, and the audit must be open to the public. The commission must complete each risk-limiting audit within six months following the date of the election for which the audit was performed and must publish the results of each audit on the commission's Internet site. In addition, the bill requires, by July 1, 2020,

following the end of the pilot program, and every five years thereafter, the commission to submit a report to the governor, the Joint Committee on Finance, and the legislature on the cost and value of performing risk–limiting audits.

For further information see the ***state*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1   SECTION 1. 5.42 of the statutes is created to read:

2   **5.42 Post-election risk-limiting audits. (1)** In this section:

3   (a) "Audit unit" means the geographic reporting unit, as determined by the

4   commission, used in a risk–limiting audit. An "audit unit" may include a block,

5   election district, ward, and any combination thereof.

6   (b) "Incorrect outcome" means an outcome that is inconsistent with the election

7   outcome that would be obtained by conducting a full recount of the election.

8   (c) "Risk–limiting audit" means an audit protocol that makes use of statistical

9   methods and is designed to limit to acceptable levels the risk of certifying a

10   preliminary election outcome that constitutes an incorrect outcome.

11   **(2)** (a) The commission shall, beginning with the 2018 partisan primary and

12   following each regularly scheduled election that falls between the 2018 partisan

13   primary and the 2020 spring election, conduct a risk–limiting audit pilot program.

14   For each regularly scheduled election in the pilot program, the commission shall

15   select one state office and one local office in each county in the state in which an

16   election for local office is held and conduct a risk–limiting audit of the elections held

17   for that office. The commission shall conduct the risk–limiting audits under this

18   paragraph in conformance with the rules promulgated under sub. (4).

1   (b) Beginning with the 2020 general election, the commission shall conduct

2   risk-limiting audits following each general election, spring primary, spring election,

3   and partisan primary. The commission shall conduct the risk-limiting audits under

4   this paragraph in conformance with the rules promulgated under sub. (4).

5   (c) The commission shall perform the risk-limiting audits under this section

6   in addition to the audits required under s. 7.08 (6).

7   **(3)** The commission shall do all of the following:

8   (a) Provide 48 hours' notice of each risk-limiting audit conducted under this

9   section by publication of a class 1 notice under ch. 985 in one or more newspapers

10   published in the municipality within which the audit unit is located if a newspaper

11   is published therein. If no newspaper is published therein, the commission shall

12   publish the notice in a newspaper of general circulation in the municipality.

13   (b) Ensure that each risk-limiting audit is open to the public.

14   (c) Complete each risk-limiting audit performed under this section within 6

15   months after the date of the election for which the audit was performed.

16   (d) Publish the results of each risk-limiting audit on the commission's Internet

17   site.

18   (e) By July 1, 2020, and every five years thereafter, submit a report to the

19   governor, the joint committee on finance, and the chief clerk of each house of the

20   legislature for distribution to the legislature under s. 13.172 (2) on the cost and utility

21   of performing risk-limiting audits. The commission shall include in the report any

22   changes in the statutes governing election administration and the performance of

23   risk-limiting audits the commission recommends.

24   **(4)** The commission shall promulgate rules to implement this section. The

25   commission shall consult with statisticians, voting equipment vendors, and

1 municipal and county clerks when promulgating rules under this section. The

2 commission shall include all of the following in the rules:

3 (a) The minimum and maximum size of each audit unit to be audited under this

4 section.

5 (b) The number of audit units to be audited following each election.

6 (c) The criteria the commission will follow in selecting the race or races to audit

7 in each audit unit following each election. All contested races shall be eligible for

8 such selection.

9 SᴇᴄᴛɪᴏN 2. **Nonstatutory provisions.**

10 (1) Before the date on which the rules promulgated under section 5.42 (4) of the

11 statutes are finally promulgated, the elections commission shall administer the

12 post-election risk-limiting audit program under section 5.42 of the statutes

13 according to policies and procedures established by the commission, but not

14 promulgated as rules, notwithstanding the absence of rules to administer that

15 section.

16 **(END)**