

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1081 Session of
2024

INTRODUCED BY PHILLIPS-HILL, ROTHMAN, BAKER, HUTCHINSON, REGAN
AND DUSH, FEBRUARY 23, 2024

REFERRED TO STATE GOVERNMENT, FEBRUARY 23, 2024

AN ACT

1 Amending the act of June 3, 1937 (P.L.1333, No.320), entitled
2 "An act concerning elections, including general, municipal,
3 special and primary elections, the nomination of candidates,
4 primary and election expenses and election contests; creating
5 and defining membership of county boards of elections;
6 imposing duties upon the Secretary of the Commonwealth,
7 courts, county boards of elections, county commissioners;
8 imposing penalties for violation of the act, and codifying,
9 revising and consolidating the laws relating thereto; and
10 repealing certain acts and parts of acts relating to
11 elections," in electronic voting systems, further providing
12 for statistical sample.

13 The General Assembly finds and declares that enhanced
14 bipartisan post-election audits of election outcomes are in the
15 best interest of Pennsylvania voters to reinforce effective
16 election administration, confirm election outcomes and increase
17 public confidence.

18 The General Assembly of the Commonwealth of Pennsylvania
19 hereby enacts as follows:

20 Section 1. Section 1117-A of the act of June 3, 1937
21 (P.L.1333, No.320), known as the Pennsylvania Election Code, is
22 amended to read:

23 Section 1117-A. [Statistical Sample.--The county board of

1 elections, as part of the computation and canvass of returns,
2 shall conduct a statistical recount of a random sample of
3 ballots after each election using manual, mechanical or
4 electronic devices of a type different than those used for the
5 specific election. The sample shall include at least two (2) per
6 centum of the votes cast or two thousand (2,000) votes whichever
7 is the lesser.] Post-Election Ballot Audit.--(a) After each

8 regularly scheduled primary and general election, each county
9 board of elections shall participate in a bipartisan post-
10 election ballot audit in accordance with the following:

11 (1) The audit shall include a review of a random sample of
12 paper ballots cast in one or more selected Statewide or county
13 contests.

14 (2) The audit shall be facilitated by the department.

15 (3) The audit shall include the contested race at the top of
16 the ballot and, if existing, an additional Statewide contest to
17 be randomly selected by the department. The following are not
18 eligible for selection:

19 (i) An uncontested race.

20 (ii) A race for which a full recount has been ordered.

21 (4) The department shall identify, approve and employ an
22 audit method that provides a high statistical confidence that
23 the election outcome in each audited Statewide contest is
24 correct. All department-approved audit methods shall be
25 consistent with best practices in the field, including methods
26 approved by the National Academies of Sciences and the American
27 Statistical Association.

28 (5) The department shall direct and oversee the process to
29 randomly select the ballots necessary to confirm the accuracy of
30 the election outcome for the Statewide races, based on the

1 statistical methods and on the margin between the winning and
2 the losing candidate or measure.

3 (6) During and after the audit, the department shall publish
4 detailed audit data that allows the public to verify the random
5 sample, audit calculations and audit results as soon as
6 practicable.

7 (7) The department and each county shall provide public
8 notice in accordance with 65 Pa.C.S. Ch. 7 (relating to open
9 meetings) of the time and place of the audit processes. The
10 audit shall be conducted in public view to permit observation
11 and within feasible election operations. Under no circumstances
12 may any member of the public:

13 (i) Touch ballots or other official materials.

14 (ii) In any way impede the process.

15 (8) The audit:

16 (i) Shall take into account all forms of validly cast
17 ballots, including in person, absentee, mail-in and provisional
18 ballots.

19 (ii) May include hand-marked, ballot marking device-marked
20 and disability tool-marked ballots.

21 (9) Each audit participant shall swear or affirm that the
22 participant will support, obey and defend the Constitution of
23 the United States and the Constitution of Pennsylvania and that
24 the participant will discharge the duties of the audit with
25 fidelity.

26 (10) Each official participating in the audit shall ensure
27 that each ballot examined during the audit is protected from
28 loss, substitution, alternation or addition.

29 (11) The department shall provide any necessary
30 instructions, software and other materials to the county boards

1 to carry out these audits.

2 (12) The audit process and oversight, including ballot
3 review and reporting of votes, shall be conducted by teams of no
4 less than two officials and no greater than three officials
5 representing a partisan balance which shall include the two
6 principal political parties, and may include additional
7 unaffiliated voters. Each audit team member shall be appointed
8 by the county board of elections from a pool of competent
9 persons who are qualified registered electors of the county and
10 who meet the above criteria. Any audit team vacancy occurring at
11 any time preceding or on the day of the audit shall be filled by
12 appointment by the county board of elections according to the
13 above criteria.

14 (b) The following shall apply:

15 (1) The post-election ballot audits must be completed during
16 the official canvass before a county board finalizes the
17 certification of official election returns before the third
18 Monday after the primary or general election.

19 (2) The secretary may extend the county certification
20 deadline if:

21 (i) The extension is necessary to complete the audit.

22 (ii) The extension does not impair other deadlines.

23 (3) If the results of the audit confirm to a high degree of
24 statistical confidence that the originally reported contest
25 outcome was correct, the contests shall be certified by the
26 county and the secretary.

27 (4) If the initial audit result fails to confirm to a high
28 degree of statistical confidence that the originally reported
29 contest outcome was correct, the following shall apply:

30 (i) Within forty-eight hours, the secretary shall direct

1 relevant counties to commence appropriate action to confirm or
2 determine the outcome.

3 (ii) The action may include further investigation or
4 expanding the size and scope of the ballot sample, including, if
5 necessary, a full hand count of all ballots cast for the audited
6 contest.

7 (5) If the official results of the audit process conclude a
8 different outcome than the originally reported results, the
9 winner determined by the audit shall replace the originally
10 reported winner.

11 (6) During and after the audit, the department shall publish
12 detailed audit data that allows the public to verify the random
13 sample, audit calculations and audit results as soon as
14 practicable.

15 (c) As used in this section, the following words and phrases
16 shall have the meanings given to them in this subsection unless
17 the context clearly indicates otherwise:

18 "Department" shall mean the Department of State of the
19 Commonwealth.

20 "Paper ballot" shall mean the original of all forms of
21 validly cast and counted ballots, including qualified in-person,
22 absentee, mail-in and provisional ballots, and may include hand
23 marked, ballot marking device-marked and disability tool-marked
24 ballots.

25 "Post-election ballot audit" shall mean a post-election
26 process that involves visual, human inspection of a random
27 sample of paper ballots to verify votes cast in one or more
28 selected contests, as determined and facilitated by the
29 department.

30 "Secretary" shall mean the Secretary of the Commonwealth.

1 Section 2. This act shall take effect in 60 days.