

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 SENATE BILL 995

By: Prieto

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5
6 AS INTRODUCED

7 An Act relating to elections; stating legislative
8 findings and intent; providing certain best
9 practices; requiring certain post-election audits;
10 establishing procedures and requirements for certain
11 audits; authorizing Legislature to require certain
12 audits; requiring reports of certain audits;
13 requiring reports to be made available to the public;
14 requiring State Election Board to promulgate certain
15 rules; requiring certain consultation; defining
16 terms; amending 26 O.S. 2021, Sections 4-101 and 4-
17 120.2, as last amended by Section 4, Chapter 293,
18 O.S.L. 2022 (26 O.S. Supp. 2022, Section 4-120.2),
19 which relate to voter registration; prohibiting voter
20 registration for certain persons; increasing
21 frequency of certain address confirmation mailings;
22 modifying date for removal of certain voter
23 registrations; increasing frequency for
24 identification of duplicate voter registrations;
25 requiring certain annual report to Legislature by
26 Secretary of the State Election Board; requiring
27 annual audit of voter registration database by
28 Attorney General; establishing requirements for
29 certain audit; requiring report of certain audit to
30 Legislature; amending 26 O.S. 2021, Section 7-130, as
31 amended by Section 2, Chapter 291, O.S.L. 2022 (26
32 O.S. Supp. 2022, Section 7-130), which relates to
33 election watchers; expanding ability of election
34 watchers to observe the election process;
35 establishing requirements for authorized observation
36 by election watchers; prohibiting certain actions by
37 election watchers; creating misdemeanor offense;
38 repealing 26 O.S. 2021, Section 3-130, which relates
39 to post-election audits; providing for codification;
40 providing an effective date; and declaring an
41 emergency.

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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-130A of Title 26, unless there is created a duplication in numbering, reads as follows:

A. The Legislature hereby finds that the auditing of election results is necessary to ensure effective election administration and public confidence in the election process.

B. By enacting this section, the Legislature intends that the state conduct a post-election audit of election results that is developed with the assistance of statistical experts and that relies upon statistical audits making use of best practices for conducting such audits. Such best practices shall include:

1. All ballot types shall be eligible to be included in every audit including but not limited to absentee ballots, provisional ballots, early voting ballots, and election day ballots;

2. Audit shall be conducted in a public forum, and watchers shall be allowed to observe the audit process; and

3. Audit results shall be able to reverse preliminary outcomes if the audit determines they are incorrect.

C. Following each primary, general, runoff, recall, or congressional vacancy election, each county shall make use of a post-election audit of election results in accordance with the

1 requirements of this section. Races to be audited shall be selected
2 in accordance with procedures established by the State Election
3 Board and all contested races shall be eligible for such selection.

4 D. A comprehensive procedural audit shall be conducted every
5 five (5) years in jurisdictions randomly selected by the State
6 Election Board. Such audit shall be conducted by the State Election
7 Board on the entire process of voting including but not limited to
8 voter registration, machine tabulation, ballot security, ballot and
9 voting system design.

10 E. At any time, the Legislature may require a comprehensive
11 procedural audit of election results in any jurisdiction using the
12 standards promulgated by the State Election Board. Such audit may
13 be requested by the Legislature while not in session with the
14 consent of the President Pro Tempore of the Senate and the Speaker
15 of the House of Representatives.

16 F. The secretary of each county election board shall report the
17 findings of the post-election audit of election results to the
18 Secretary of the State Election Board. The Secretary of the State
19 Election Board shall make the results of the procedural audit
20 available to the public.

21 G. The State Election Board shall promulgate rules and
22 procedures as necessary to implement and administer the requirements
23 of this section. In the promulgation of such rules, the State
24 Election Board shall consult statistical experts, equipment vendors,
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1 county clerks, and recorders and shall consider best practices for
2 conducting audits.

3 H. As used in this section:

4 1. "Incorrect outcome" means an outcome that is inconsistent
5 with the election outcome that would be obtained by conducting a
6 full recount; and

7 2. "Post-election audit of election results" means an audit
8 protocol that makes use of statistical methods and is designed to
9 limit to acceptable levels the risk of certifying a preliminary
10 election outcome that constitutes an incorrect outcome.

11 SECTION 2. AMENDATORY 26 O.S. 2021, Section 4-101, is
12 amended to read as follows:

13 Section 4-101. Every person who is a qualified elector as
14 defined by Section 1 of Article III of the Oklahoma Constitution
15 shall be entitled to become a registered voter in the precinct of
16 his or her residence, with the following conditions:

17 1. Persons convicted of a felony shall be eligible to register
18 to vote when they have fully served their sentence of court-mandated
19 calendar days, including any term of incarceration, parole or
20 supervision, or completed a period of probation ordered by any
21 court; and

22 2. Any person who has been adjudged to be an incapacitated
23 person as such term is defined by Section 1-111 of Title 30 of the
24 Oklahoma Statutes shall be ineligible to register to vote. When
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1 such incapacitated person has been adjudged to be no longer
2 incapacitated such person shall be eligible to become a registered
3 voter. The provisions of this paragraph shall not prohibit any
4 person adjudged to be a partially incapacitated person as such term
5 is defined by Section 1-111 of Title 30 of the Oklahoma Statutes
6 from being eligible to register to vote unless the order adjudging
7 the person to be partially incapacitated restricts such person from
8 being eligible to register to vote-; and

9 3. A person who is not a citizen of the United States shall not
10 be eligible to register to vote in any election conducted in this
11 state.

12 SECTION 3. AMENDATORY 26 O.S. 2021, Section 4-120.2, as
13 last amended by Section 4, Chapter 293, O.S.L. 2022 (26 O.S. Supp.
14 2022, Section 4-120.2), is amended to read as follows:

15 Section 4-120.2. A. No later than June 1 of each ~~odd-numbered~~
16 year, any voter identified within the previous ~~twenty-four (24)~~
17 twelve (12) months as subject to the provisions of this subsection
18 shall be sent an address confirmation mailing prescribed by the
19 Secretary of the State Election Board and paid for by the state.
20 The following shall be subject to the provisions of this subsection:

21 1. Any voter for whom a first-class mailing from the county
22 election board or the State Election Board was returned;

1 2. Any voter identified by the Secretary of the State Election
2 Board as a potential duplicate voter in another county in this state
3 or in another state;

4 3. Any voter identified in subsection C of Section 4-118.1 of
5 this title who has not updated his or her voter registration;

6 4. Any registered voter identified in subsection F of Section
7 4-120.3 of this title whose voter registration has not been
8 canceled;

9 5. Any active registered voter who did not vote in the second
10 previous general election or any election conducted by a county
11 election board since the second previous general election and who
12 has initiated no voter registration change;

13 6. Any registered voter who was sent a notice and application
14 to update a voter registration address as required by subsection B
15 of Section 4-109.3 of this title, but whose voter registration
16 address has not been updated or canceled; and

17 7. Any voter who is registered to vote and has the same address
18 of residence as five or more other registered voters. "Same address
19 of residence" means the same street name, same street direction,
20 same street type, same street post direction, same street number,
21 same building or apartment number, and same ZIP code.

22 Voters who do not respond to the confirmation mailing or whose
23 mailing is returned as nonforwardable or undeliverable as addressed
24 shall be designated as inactive sixty (60) days after the mailing.

1 B. An inactive voter's status shall be changed to active under
2 the following conditions:

- 3 1. With any registration change initiated by the voter; or
- 4 2. By voting in any election conducted by a county election
5 board.

6 An inactive voter who does not vote in any election conducted by
7 a county election board during the period beginning on the date of
8 the confirmation mailing and ending ~~on the day after the date of the~~
9 ~~second successive general election for federal office~~ on December 1
10 of each year shall be removed as a registered voter and all the
11 information on that voter shall be destroyed. Each county election
12 board secretary shall maintain a list of the names and addresses of
13 all persons sent a confirmation mailing as described in this section
14 and information on whether each such person has responded to the
15 notice. The list shall be maintained for twenty-four (24) months
16 following the date of the second successive federal general election
17 after the date of the confirmation mailing.

18 C. The secretary of each county election board shall cause all
19 inactive voters in a precinct to be identified on the precinct
20 registry.

21 D. No later than June 1 of each ~~odd-numbered~~ year, the
22 Secretary of the State Election Board shall identify duplicate voter
23 registrations in the state and shall direct appropriate county
24 election board secretaries to cancel the voter registration of all

1 but the latest registration of duplicate voter registrations. Each
2 county election board secretary shall maintain for twenty-four (24)
3 months a list of the names and addresses of all canceled duplicate
4 voter registrations. For the purposes of this subsection, duplicate
5 voter registrations are those registrations which contain the
6 following identical information on more than one registration:

- 7 1. First name, middle name or initial, last name, and date of
8 birth;
- 9 2. Driver license number and date of birth; or
- 10 3. Last name, date of birth, and the last four digits of the
11 Social Security number.

12 SECTION 4. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 4-122 of Title 26, unless there
14 is created a duplication in numbering, reads as follows:

15 By December 31 of each year, the Secretary of the State Election
16 Board shall provide a report to the President Pro Tempore of the
17 Senate and the Speaker of the House of Representatives detailing the
18 number of voters removed from the voter registration database due to
19 inactivity, death, convicted felony, mental incompetence, voluntary
20 cancellation, relocation to another jurisdiction, or for any other
21 reason.

22 SECTION 5. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 4-123 of Title 26, unless there
24 is created a duplication in numbering, reads as follows:

1 No later than December 31 of each year, the Attorney General
2 shall conduct an audit of the voter registration database. The
3 audit shall include a random selection of a least two percent of the
4 active registered voters statewide, and shall include active
5 registered voters from each county. For each voter selected for the
6 audit, the auditor shall verify that the voter is eligible for the
7 registration, verify that the voter's registration information is
8 accurate and supported by the documentation on file, check for
9 duplicate voter registrations, search available resources to
10 determine whether the voter is inactive, deceased, convicted of a
11 felony, or adjudicated as incapacitated. The audit report shall
12 identify areas of concern or training needed in response to the
13 audit findings. The Attorney General shall share the audit results
14 with the State Election Board and verify that the county election
15 boards address the concerns and fulfill the training identified
16 during the audit. No later than December 31 of each year, the
17 Attorney General shall report the audit results to the President Pro
18 Tempore of the Senate and the Speaker of the House of
19 Representatives and post the results on the Attorney General's
20 publicly available website.

21 SECTION 6. AMENDATORY 26 O.S. 2021, Section 7-130, as
22 amended by Section 2, Chapter 291, O.S.L. 2022 (26 O.S. Supp. 2022,
23 Section 7-130), is amended to read as follows:
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1 Section 7-130. Any candidate or any recognized political party
2 shall be entitled to have a watcher present ~~at any place where an~~
3 ~~official count is being conducted~~ to observe all stages of the
4 election process including but not limited to the testing,
5 maintenance, and certification of election technologies, any place
6 where an official count is being conducted, canvassing, elector
7 appeals, vote tabulation, ballot transport, audits, and recounts.
8 The precinct official shall clearly designate observation areas for
9 watchers. The observation areas shall be not less than three feet
10 from nor more than six feet from the table at which electors
11 announce their name and address to be issued a voter number at the
12 polling place, office, or alternate site, and not less than three
13 feet from nor more than six feet from the table at which a person
14 may register to vote at the polling place, office, or alternate
15 site. The observation areas shall be positioned to permit any
16 watcher to readily observe all public aspects of the voting process.
17 A watcher is entitled to bring in voter lists to observe and to flag
18 ballots for review. Such watcher must be commissioned in writing by
19 the candidate, or by the chair of the recognized political party of
20 the county in which the watcher is being authorized. Such
21 commission must be filed with the secretary of the appropriate
22 county election board no later than 5:00 p.m. on Wednesday preceding
23 the election. Watchers must subscribe to an oath to observe all
24 laws and rules prescribed for watchers as hereinafter provided.

1 Such oath must be administered by the inspector of the precinct in
2 which the watcher is authorized. ~~Watchers shall be entitled to~~
3 ~~observe the voting device both before the polls are opened and after~~
4 ~~the polls are closed; provided, further, that such watchers shall~~
5 ~~not be present at the polling place at other times. Watchers may be~~
6 ~~commissioned to observe voting device testing and to accompany~~
7 ~~personnel assigned to repair or maintain machines during the period~~
8 ~~of the election. In such case, the watchers shall be limited to~~
9 ~~observing the repair or maintenance work being performed and making~~
10 ~~a written record of such work.~~ All watchers shall only appear in
11 person and the use of watchers via electronic devices is prohibited.
12 A watcher shall not wear any campaign material advocating for or
13 against a candidate or ballot question. A watcher shall not
14 interfere with any elector in the preparation or casting of the
15 elector's ballot or hinder or prevent the performance of the duties
16 of any election official. Any watcher who violates the law
17 prescribed for watchers shall be deemed guilty of a misdemeanor.
18 Any precinct official who violates the provisions of this section
19 shall be deemed guilty of a misdemeanor.

20 SECTION 7. REPEALER 26 O.S. 2021, Section 3-130, is
21 hereby repealed.

22 SECTION 8. This act shall become effective July 1, 2023.

23 SECTION 9. It being immediately necessary for the preservation
24 of the public peace, health or safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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