



STATE REPRESENTATIVE
GARY HEBL
46TH ASSEMBLY DISTRICT

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REP. HEBL INTRODUCES BILL TO ENSURE CONFIDENCE IN ELECTION RESULTS

(MADISON) – Gary Hebl (D-Sun Prairie) today announced that he is circulating a bill aimed at protecting Wisconsin elections from outside tampering. The bill, LRB-4589/1, would require the Wisconsin Elections Commission to perform risk-limiting audits. Risk-limiting audits are low-cost audits that use statistical data to determine which races are audited and the number of ballots that are recounted to ensure confidence in an election outcome.

“We live in a time where cyber security and cyberattacks on election equipment are growing concerns,” Hebl said. “U.S. intelligence agencies have found attempts to hack into several state election systems during last year’s election season, and we have even seen breaches, such as at Kennesaw State University in Georgia, where voting data could have been compromised.”

Wisconsin does already perform post-election audits, but they differ from risk-limiting audits in that they are meant to ensure voting machines are working properly, while risk-limiting audits ensure the correct election outcome. Colorado, which already has set up risk-limiting audits, has stated that they will make their auditing software free for other states to use.

“It’s a low-cost option to make sure that our elections are not being tampered with,” Hebl continued. “It’s also a more efficient audit. One report stated that Colorado would have cut the number of recounted ballots from more than 32,000 down to 142. Because of the low cost and high confidence of the outcomes, it’s a simple, sensible solution to ensure the people of Wisconsin can trust election results.”

The audits would begin on a pilot basis starting with the 2018 partisan primary and go into full effect in time for the 2020 partisan primary. The audits will be open to the public, must be completed six months after the election, and will be published on the Election Commissions website. It also requires the Elections Commission to periodically submit a report on the cost and value of performing the audits.

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2017 BILL

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,

BILL

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).

BILL

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

BILL**SECTION 1**

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 **SECTION 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)