HB259

98TXPMM-1

By Representatives Wood (D), Fincher, Paschal, Rehm, Fidler, Hulsey, Rigsby, Underwood, Colvin, Stringer, Starnes, Standridge

RFD: Ways and Means General Fund

First Read: 28-Feb-24

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

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

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

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

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

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

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

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

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

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

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

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

a. A description of any problems or discrepancies encountered.

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

c. Recommendations for corrective or remedial actions.

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

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

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

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

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

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

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