

# House Bill 3448

Sponsored by Representative OWENS; Representatives BOSHART DAVIS, HIEB (at the request of Glenn Palmer, Patti Kopke-Hales)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires comprehensive election audit to be conducted every two years, following general election. Sets forth method for selecting auditor and details required contents of audit. Requires auditor selection materials and results of audit to be made publicly available, free of charge, on website of Secretary of State.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to election audits; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. Sections 2 to 4 of this 2023 Act are added to and made a part of ORS chapter**  
5 **254.**

6 **SECTION 2. (1) In addition to any public certification test required under ORS 254.235**  
7 **or 254.485, or audit required under ORS 254.529 or 254.532 or other provision of ORS chapters**  
8 **246 to 260, by no later than January 15 of each even numbered year, the Secretary of State**  
9 **shall:**

10 (a) **Solicit bids from qualified entities to conduct an audit in the manner described in**  
11 **section 3 of this 2023 Act;**

12 (b) **Rank the bids received under paragraph (a) of this subsection in accordance with**  
13 **which bids the secretary determines offer the best value to state government; and**

14 (c) **Submit a recommendation of which bid to accept, as well as the two next best bids,**  
15 **to the extent additional bids exist, to interim committees of the Legislative Assembly related**  
16 **to elections.**

17 (2) **Bids submitted under this section must include:**

18 (a) **References from any previous election audits conducted by the qualified entity; and**

19 (b) **Complete financial information relating to the audit that fully captures the amount**  
20 **the audit will cost the state government if the qualified entity's bid is accepted.**

21 (3) **An auditor may not be hired under this section until the selection of the auditor is**  
22 **approved by the Legislative Assembly.**

23 (4) **Any contract entered into with a qualified entity under this section must contain a**  
24 **clause that prohibits the qualified entity from conducting the audit by entering into subcon-**  
25 **tracts with:**

26 (a) **Any person who resides in Oregon;**

27 (b) **Any public body;**

28 (c) **Any entity that produces vote tallying machines; or**

29 (d) **Any individual employed by an entity described in paragraph (b) or (c) of this sub-**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 section.

2 (5) As used in this section:

3 (a) “Public body” has the meaning given that term in ORS 174.109.

4 (b) “Qualified entity” means an entity that:

5 (A) Has significant experience conducting election audits; and

6 (B) Is based outside of Oregon and does not employ any individuals who reside in Oregon.

7 (c) “State government” has the meaning given that term in ORS 174.111.

8 **SECTION 3.** (1) The auditor shall conduct an audit that evaluates the degree to which  
9 elections conducted in this state are accurate and held in compliance with all state and fed-  
10 eral laws.

11 (2) An audit conducted under this section must:

12 (a) Commence between 1 and 15 days following the date of the general election next fol-  
13 lowing the date on which the auditor is hired under section 2 of this 2023 Act; and

14 (b) Be complete no later than 40 days following the date of the general election described  
15 in paragraph (a) of this subsection.

16 (3) An audit conducted under this section must include:

17 (a) An evaluation as to whether the vote tallying machines used for elections in this state  
18 are secure and accurately tally ballots;

19 (b) An evaluation as to whether the process for providing ballots to electors, casting  
20 ballots and retrieving ballots is secure and accurate;

21 (c) A comprehensive analysis of how county clerks process received ballots;

22 (d) A review of the accuracy of voter registration rolls; and

23 (e) Any recommendations from the auditor on methods for improving the security and  
24 accuracy of elections held in this state.

25 (4) In addition to the requirements set forth in subsection (3) of this section:

26 (a) The Secretary of State shall ensure that the auditor has complete access to any vote  
27 tallying machine that was used to tally ballots during the most recent general election;

28 (b) The auditor shall use a program to randomly select no fewer than 25 percent of all  
29 vote tallying machines described in paragraph (a) of this subsection to be audited to deter-  
30 mine whether the machines are properly secure and accurately tally ballots; and

31 (c) The auditor, in addition to auditing the vote tallying machines as described in para-  
32 graph (b) of this subsection, shall audit each vote tallying machine that was removed from  
33 service during the year preceding the audit to determine the type and frequency of any er-  
34 rors in the machine relating to security or the tallying of ballots.

35 (5)(a) On the date the audit is concluded, the auditor shall submit a report to the Sec-  
36 retary of State.

37 (b) The report must:

38 (A) Detail how the audit was conducted;

39 (B) Set forth the evaluations and analyses required under subsections (3) and (4) of this  
40 section; and

41 (C) Identify each vote tallying machine that the auditor has identified as failing to be  
42 sufficiently secure or as failing to properly tally ballots.

43 (c) The report may:

44 (A) Include recommendations on steps the Secretary of State or Legislative Assembly  
45 could take in order to better ensure the ballot security and accurate tallying of ballots; and

1 (B) Include recommendations on how the Secretary of State should treat ballots that  
2 were identified as being incorrectly tallied at the general election.

3 (6) As used in this section, “auditor” means the qualified entity hired to conduct an audit  
4 under section 2 of this 2023 Act.

5 **SECTION 4.** (1) No later than 30 days after an auditor is hired under section 2 of this 2023  
6 Act, the Secretary of State shall ensure that the website of the secretary makes publicly  
7 accessible, at no charge to the public, all bid submissions made by the auditor under section  
8 2 of this 2023 Act.

9 (2) No later than 30 days after the audit described in section 3 of this 2023 Act is com-  
10 pleted, the Secretary of State shall ensure that the website of the secretary makes publicly  
11 accessible, at no charge to the public, all materials produced and delivered to the secretary  
12 by the auditor, including but not limited to the report described in section 3 (5) of this 2023  
13 Act.

14 (3) As used in this section, “auditor” has the meaning given that term in section 3 of this  
15 2023 Act.

16 **SECTION 5.** This 2023 Act being necessary for the immediate preservation of the public  
17 peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect  
18 on its passage.

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