

### ACLU-PA Position: **Opposes**

#### Bill summary

[HB 1482 \(P.N. 1600\)](#) proposes numerous changes to the Pennsylvania Election Code (P.L. 1333, No. 320).

While we support the common sense data reporting requirements in HB 1482, we are concerned that this proposed legislation follows a national legislative playbook that reinforces a lack of trust in election administration at both the county and state levels and aims to shift power away from election officials and place it under the authority of another body, agency, or office.

**HB 1482 would codify provisions that mirror sham ballot reviews and would grant excessive election-related authority and discretion to the Auditor General.**

HB 1462 codifies reviews of election processes and data similar to the sham ballot reviews occurring nationally. And following a national trend to shift power away from election officials, HB 1482 would establish an audit department within the Auditor General's office and would require extensive reviews after every election. The level of discretion conferred on the Auditor General is very broad and could be used to disrupt election administration at the county and state levels.

Putting aside the lack of election-related expertise at the Auditor General, the bill would take effect in 60 days which is hardly enough time for an agency newly charged with conducting election audits to staff up to do this work. Additionally, there is no funding associated with these new requirements.

#### Bill detail

##### Adds a new section to Article I Preliminary Provisions<sup>1</sup>

**Creates a “Bureau of Election Audits” within the Office of the Auditor General to:**

- Require the Auditor General to conduct “independent election audits.”
- Require the Auditor General to “verify the accuracy of the election and the accuracy of all election equipment used.
- When the Auditor General is up for election, s/he must appoint a Special Auditor who is a licensed CPA (certified public accountant) and shall have experience completing election audits.

**Establishes the duties of the Bureau of Election Audits, which include:**

- Conducting “result-confirming audits” of each election by the third Friday following the election. These audits include:
  - Ballot comparison risk-limiting audit, except if election is uncontested;<sup>2</sup>
  - Election machine logs;
  - Returned absentee and mail-in ballots in each county;
  - Comparing each canvassed and retained paper ballot in each county with number of votes recorded;
  - Pre-election testing in each county;
  - Any other audit deemed necessary to “ensure public trust in the outcome.”

<sup>1</sup> Likely codified at 24 P.S. § 2607.

<sup>2</sup> Election equipment in Pennsylvania's precincts are unable to support ballot comparison audits.

- Conducting performance audits of operations of elections once every 5 years, including for:
  - Each county election office;
  - Department of State election equipment certification process;
  - Statewide voter registration system for accuracy;
  - Department of State administration of elections;
  - Any other audit deemed necessary by the Bureau of Election Audits to “ensure public trust in the election administration.”
- Publicly posting audit methodologies on the Auditor General and Department of State websites.
- Publicly posting results of each audit on Auditor General, Department of State and each county websites.
- Monitoring corrective action plans to ensure that corrective action addresses deficiencies and is successfully executed.

**Establishes the duties of the county boards of elections to:**

- Cooperate with the Bureau of Election Audits so they can conduct audits;
- Cooperate with the Bureau of Election Audits to post results of audits;
- Hold a public meeting on date specified to make the results of the audits publicly available;
- Submit a report to the Department of State with the results of audits. Report must include:
  - Overall accuracy or election results;
  - Description of any problem or discrepancy encountered in the election;
  - Identified causes of any problems or discrepancies;
  - Recommended corrective actions;
- Develop a corrective action plan.

**Creates a new section: Reports on Implementation of Elections (25 P.S. § 2629)**

**Requires the Bureau of Commissions Elections and Legislation to prepare a report not later than 60 days after the election and deliver it to the House and Senate State Government Committee leadership and publish it on the Department of State website.**

- The following information only must be included in the report for each county and total statewide:
  - Number of applications for absentee ballots received;
  - Number of applications for mail-in ballots received;
  - Number of applications for absentee ballots approved;
  - Number of Applications for mail-in ballots approved;
  - Number of absentee ballots voted by qualified electors;
  - Number of mail-in ballots voted by qualified electors;
  - Number of provisional ballots cast by voters who requested an absentee ballot but who have not voted it and appear to vote in-person at the polling place;
  - Number of provisional ballots cast by voters who requested a mail-in ballot but did not vote it and appear to vote in-person at the polling place;
  - Number of provisional ballots voted by voters who requested absentee ballots and voted in-person and whose provisional ballots were canvassed;
  - Number of provisional ballots voted by voters who requested mail-in ballots and voted in-person and whose provisional ballots were canvassed;
  - Number of applications for an absentee ballot by an individual not a registered elector at the time of the application and for whom a voter registration application was timely received after the absentee ballot application;
  - Number of applications for an mail-in ballot by an individual not a registered elector at the time of the application and for whom a voter registration application was timely received after the mail-in ballot application;
  - Number of voter registration applications where were received fewer than:
    - 30 days before the election
    - 15 days before the election

- The date, starting time, and ending time of the pre-canvass meeting for absentee and mail-in ballots (before election day);
- The date, starting time, and ending time of the canvass meeting for absentee and mail-in ballots (after election day);
- Number of absentee ballots which were challenged on the grounds that the individual was not a qualified elector;
- Number of mail-in ballots which were challenged on the grounds that the individual was not a qualified elector;
- Number of challenged absentee ballots that were not canvassed;
- Number of challenged mail-in ballots that were not canvassed;
- Number of incidents of the following:
  - Absentee or mail-in ballot sent to the wrong address
  - Absentee or mail-in ballot voted by someone other than the individual who applied for the ballot
  - Absentee or mail-in ballot that was returned by means other than permitted by law
- Review of actions taken by county or PA Department of State relating to above incidents;
- Review of issues or incidents with electronic voting systems that received approval of the Secretary, including technical issues and software problems;
- Review of any inconsistent treatment of absentee or mail ballot received by county boards of election after 8 p.m. on the day of the election;
- Review of any inconsistencies in the manner in which county boards of elections received, processes or canvassed absentee or mail-in ballots which did not comply with the Election Code requirements for absentee or mail-in ballots;
- Review of the access given to poll watchers including inconsistencies or disparate treatment based on political affiliation;
- Review of access given to authorized representatives including inconsistencies or disparate treatment based on political affiliation;
- Review of issues or incidents regarding in-person return of absentee or mail-in ballots at a location other than the main office, the monitoring of those locations;
- Review of issues or incidents of the review process of absentee and mail-in ballots, ballots cast at polling places and provisional ballots and any inconsistencies in the standards applied to determine the eligibility of electors.
- The PA Department of State must develop a system for collecting the data from the counties and they must comply.

### **Repeals 25 P.S. § 3031.7—Statistical Sample**

- Repeals the current provision that requires a 2% or 2000 vote “statistical recount” of a random sample of ballots.

### **Effective date**

- Act is effective 60 days from enactment.