Auditor’s Conference

Election Security Legislative Discussion

Last year’s bill 2647/6412 had several parts

- Improve signature witness information
- Reorganize and improve post-election audits
- Update the recount process
- Protect the ballot collection process
- Remove electronic ballot return

Witnessing Signatures

- The process for signature witnessing needs to be improved
  - We have new WAC language that makes it clearer that a “person is unable to sign” if they are physically present with the ballot but cannot sign.
- The bill would gather a phone number or email address for each witness
- The bill places the requirement in statute, so all counties will do it the same
  - Ballot return envelopes
  - Ballot curing forms

Reorganize and improve post-election audits

- Primarily cleanup from the bill passed in 2018.
- This is a reorganization of **EXISTING POLICY**
- Requirements unpacked to be more easily understood and explained.
- Standalone sections:
  - DRE audits
  - Duplicated ballot audits
  - The three choices for post-election audit
    - Random check of ballot counting equipment
    - RLA for older systems
    - RLA for digital scan systems.

Options for RLA

- At some point in the future Risk Limiting Audits will become standard practice.
  - The League of Women Voters and the legislature are very motivated.
  - At this point, there is room for us as a community to learn and perfect before it is put into statute.
  - The League made several suggestions to improve the language in statute, we intend to include those suggestions again. They involve definitions and labels for the process.
- The LWV also wants a large increase in reported information they refer to these as “audit reports”. See the handout for the detail. processes

Update the recount process

- Recounts are intended to confirm close counts and give the public assurance of the results.
- This is the section that has the most opportunity for design improvement.
- The last update to recount processes was done in 2005, the systems have changed a great deal since then.
- Risk-limiting audits are an important new tool and should be part of the recount process

Possible Improvements

- Intent:
  - Modernize and update the process
    - Today's systems are much more accurate
    - Explore options to merge the RLA process with the recount process
  - Acknowledge that the "machine" recount doesn't really prove anything or provide observers with a sense that the results have been double checked.
  - We could make all recounts hand recounts and adjust the threshold to .33%
  - We could create a merge of RLA from .5% to .25% and hand count below .25%
  - We could remove machine recounts and maintain the current .25% with an additional requirement to recount races closer than 10 votes.
  - Remove PCOs from statute?

Data review

- I took data Pierce created, added the most recent and found this:
  - There were 134 recounts between from 2007 to 2019 inclusive.
    - Out of the 134 there were two with a changed outcome
      - 2009 OpScan one vote separated out of 1,900. Hand count, losing candidate gained 3.
      - 2015 three votes out of 12,350 Hand count, losing candidate gained three and won flip.
    - There were 59 where vote totals changed but not the outcome
      - Almost all had a change of one vote, and with the following exceptions less than four
        - 2008 OpScan Hand 84 votes gained, margin increase from 118 to 134 out of 68,756
        - 2011 OpScan Hand 22 votes gained margin increase from 12 to 20 out of 7,200
        - 2015 OpScan Hand 6 votes gained margin increased from 19 to 21 out to 5,500
        - 2016 OpScan Hand 6 votes gained margin increased from 11 to 13 out of 4,450
      - This OpScan system has been replaced.

Data review

- In the last two years, accuracy of the systems has been in the 1/1000th of a percent (.001%) to 2.38/100ths of a percent (.0238%).
- Comparing .001% or even .0238% to .5% or .25%.
  - A narrower recount trigger of .25% is still more than 10 times the greatest error rate.
- Including a less than 10 votes margin makes it so a needed recount would never be missed.

The Way Forward

- Likelihood of an error of greater than 10 votes is extremely low
    - 10 votes is more than any change in recounts since 2012 and all recounts using Digital Scan systems.
- Because of improved reconciliation reporting, there is little reason to recount .5% margins (except if the margin is less than 10 votes).
- Changing the threshold to .25% would remove all machine recounts, it would have removed 28 recounts over the last 10 years, 10 of those involved over 25,000 ballots.
- What about using RLA from .5% to .25%?

Protecting ballot collection

- Between pre-paid postage and ballot boxes there is no reason to give a voted ballot to a stranger.
- People known to the voter are not at issue.
- Documenting the chain of custody when a stranger is involved protects both the voter and the ballot collector.
- Incidents in Oregon, North Carolina, and within our own state show that this is an area where ballot tampering or disenfranchisement can and has occurred.
- In Oregon a collector didn’t understand the deadline, in N.C. the election had to be rerun.

The Way Forward

- In some cases it is innocent error, in others it is intentional, regardless the voter is harmed.
- Education of voters and collectors about timelines
  - The voter would get a receipt
  - The collector would keep a log
  - The ballots would be turned in
  - If the ballots aren’t turned in, the receipt is proof.
  - Collectors would be required to produce ID upon request of the voter
- Highlight the liability and responsibility taken on by a collector

Removing electronic ballot return

- Cyber threats are growing. Cyber-criminals and Nation-state actors supporting hackers are much more sophisticated, and well funded, than when the current statutory authorization was adopted.
- The risks are to the voter and the county
  - Voter risks loss of privacy, or changed vote, or total disenfranchisement
  - County assumes risks for virus and other penetration
- Cyber security experts, are unanimous in opposing these systems
- NSA, FVAP, Pentagon, Homeland Security, Veterans groups, the Military Department, CISA, NIST, LWV, and OSOS all oppose the use of electronic ballot return.

The proposal

- Remove all electronic ballot return, including UOCAVA

Discussion points

- Current state law allows for electronic return for UOCAVA voters.
- Can we agree that electronic distribution is acceptable and maximizes the time available for hard copy return by the voter?
- Can we agree that email is very vulnerable?
- Can we agree that most UOCAVA voters have access to enough time and transit opportunity that they do not need electronic return?
- Can we agree that the request for use of electronic return should be only approved for voters with a proven need, as a failsafe only?
  - And only on an election by election basis?

What reasons are enough to allow electronic return?

- Being in another country that has poor mail service and no access to military mail?
- Last minute request for a ballot?
- Others?

How can we improve the existing process?

- Electronic delivery of the blank ballot
- Moving the primary to an earlier date, to provide additional transit time
- Providing instruction to civilians living overseas on options for mail return
  - APO FPO
  - Embassy and consulates providing mail return
- Removing electronic return for anyone that is within the US
- Other suggestions?

Next steps

- We have options
  - We can edit and improve an omnibus bill (like) the last one
  - We can break the bill into parts and work each one on its own
    - Advantage: a popular idea could pass on its own
    - Disadvantage: small bills often lack interest from the legislature
  - Other election security topics to include?
  - We need to make decisions on bills by the middle of this fall
  - Drafts by November 15