



April 10, 2019

Oregon Progressive Party Position on Bills at 2019 Session of Oregon Legislature:

SB 944: Oppose, unless amended

Dear Committee:

The Oregon Progressive Party previously expressed opposition to this bill, which permits county clerks to decide whether to conduct hand count of ballots, as specified under existing law, or instead doing "risk-limiting audits" following each primary, general or special election.

The testimony at the hearing today suggested that "risk-limiting audits" include some unstated quantity of hand counting of ballots. But SB 944 provides no meaningful definition of "risk-limiting audit." SB 944 states:

- (b) "Risk" means the probability that a risk-limiting audit would fail to detect an incorrect election outcome.
- (c) "Risk limit" means the largest acceptable risk.
- (d) "Risk-limiting audit" means a set of procedures to ensure that the risk does not exceed the risk limit.

Under those definitions, each county clerk could conduct virtually any sort of audit, with or without hand counting of any specified quantity or percentage of ballots. The audit must "Be based on direct visual human examination of elector-marked ballots," but no quantity or percentage of ballots is specified. Nor is the level of acceptable risk specified in SB 944. Instead, the county clerk apparently gets to choose the level of acceptable risk, within rules to be adopted by the Secretary of State "in consultation with county clerks" and others.

"Risk-limiting audits" may be a good idea. But SB 944 is too vague. It needs to specify a maximum allowable level for risk of incorrect result and not leave that decision up to one or more county clerks or the Secretary of State. It needs a comprehensible definition of "risk-limiting audit." Only Rhode Island, Colorado, and

Virginia currently have laws requiring risk-limiting audits in future elections. (Washington requires testing of such audits in a few races.) Here is the definition adopted by the legislature of Rhode Island:

(3) "Risk-limiting audit" means a manual tally employing a statistical method that ensures a large, predetermined minimum chance of requiring a full manual tally whenever a full manual tally would show an electoral outcome that differs from the outcome reported by the vote tabulating system for the audited contest. A risk-limiting audit shall begin with a hand tally of the votes in one or more audit units and shall continue to hand tally votes in additional audit units until there is strong statistical evidence that the electoral outcome is correct. In the event that counting additional audit units does not provide strong statistical evidence that the electoral outcome is correct, the audit shall continue until there has been a full manual tally to determine the correct electoral outcome of the audited contest.

The definition of "risk-limiting audit" in the Colorado statute is vague and in the Virginia statute is nonexistent. The word "risk-limiting" was inserted into the statute without explanation. We suggest adopting the Rhode Island definition.

Oregon Progressive Party

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