

**California Secretary of State  
Proposed Regulatory Action: Risk Limiting Audits  
Initial Statement of Reasons**

**PUBLIC HEARING AND COMMENT**

**Hearing Date:** No hearing date is scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the contact person listed no later than 15 days prior to the close of the written comment period.

**Written Public Comment Period:** October 25, 2019, through December 10, 2019

**Subject Matter of Proposed Regulations:** Risk Limiting Audits

**Section(s) Affected:** Sections 20110 through 20126 of Title 2, Division 7, Chapter 2 of the California Code of Regulations

**PURPOSE AND NECESSITY**

Elections Code sections 15365 through 15367 were enacted in 2018 with Assembly Bill (AB) 2125 (Chapter 913, Statutes of 2018). This bill established a post-election risk-limiting audit program. Existing law in Section 15360 of the Elections Code requires an elections official, during the official canvass of an election in which a voting system is used, to conduct a public manual tally of the ballots cast in one percent of the precincts chosen at random by the elections official. AB 2125 authorized the use of risk-limiting audits in lieu of the one percent manual tally beginning with the March 3, 2020, statewide primary election. The bill requires the Secretary of State (SOS) to adopt regulations to implement and administer a risk-limiting audit program. Elections Code sections 15365 through 15367 remain in effect only until January 1, 2021, and as of that date will be repealed.

**FACTUAL BASIS / RATIONALE**

A working group of recognized statistical experts, election verification and integrity stakeholders, voting system manufacturers, and local elections officials was convened by the SOS. The working group held several meetings and recommended the language of these proposed regulations. The proposed regulations fulfill the mandate of AB 2125.

Elections Code section 15367 requires the SOS to adopt regulations that:

1. Require elections officials to establish appropriate audit boards and procedures to conduct the risk-limiting audits.
2. Establish criteria for public education on risk-limiting audits.
3. Establish procedures to ensure the security of the ballots, the selection of ballots to be inspected during each audit, and the rules governing cast vote records and other data involved in risk-limiting audits.

4. Establish the calculations and other methods to be used in the audit to determine whether or when the audit of any contest is required to include the examination of more ballots, and to establish calculations and methods to be used in such an escalation, and to determine whether and when the audit of each contest is complete.
5. Establish procedures and requirements for testing and disclosing the algorithms and source code of any software used by the Secretary of State for the selection of ballots to be included when elections officials conduct risk-limiting audits under this article.
6. Establish requirements for the content of the risk-limiting audit report in the certification of the official canvass of the vote.
7. Establish procedures and requirements to ensure the audit process is observable and verifiable by the public, including disclosing the methods used to select samples and to calculate the risk, providing public opportunity to verify that the correct ballots were inspected during the audit, and providing public opportunity to observe the inspection of the voters' marks on the ballots during the audit.

The factual basis and rationale for each section of the proposed regulations are as follows:

**Section 20110. General Provisions** – This section sets forth the purpose of these regulations, identifies the SOS's authority to adopt these regulations, and provides the requirements for participating elections officials to notify the SOS that they will conduct a Risk Limiting Audit (RLA).

Subdivision (a) provides that the purpose of these regulations is to establish guidelines and procedures for an elections official to conduct an RLA. This subdivision is non-substantive and restates the authority of the SOS to adopt these regulations.

Subdivision (b) provides that an elections official may conduct an RLA beginning with the statewide primary elections held on March 3, 2020, in place of the one percent manually tally required by Elections Code section 15360 during the official canvass of any election. This subdivision is non-substantive and reiterates the statutory provision.

Subdivision (c) provides the notification requirements for an election official who decides to conduct RLA in place of one percent manual tally. Paragraph 1 provides that an election official is required to notify the SOS no later than one day after the completion of the semifinal official canvass. The semifinal official canvass commences immediately upon the close of the polls and continue without adjournment until all precincts are accounted for. The purpose of this subdivision is to establish when an elections official shall notify the SOS of its decision to conduct an RLA. Paragraph 2 provides that such notice shall include a list of all contests in the jurisdiction included in the election no later than one day after the completion of the semifinal official canvass. The purpose of this subdivision is to establish the requirement of providing the list of the contests to the SOS timely. The SOS requires the list of contests to select the contests for the elections officials to conduct an RLA.

**Section 20111. Definitions** – This section defines the terms used in these regulations.

Subdivision (a) defines the term “ballot.” The SOS has identified that the term “ballot” has the same meaning as set forth in Elections Code section 15366 (a). This subdivision aims to provide clarity to elections officials and the public by providing that these terms are one and the same.

Subdivision (b) defines the term “ballot-level comparison audit.” The SOS has identified that the term “ballot-level comparison audit” has the same meaning as set forth in Elections Code section 15366 (b). This subdivision aims to provide clarity to elections officials and the public by providing that these terms are one and the same.

Subdivision (c) defines the term “ballot manifest.” Ballot manifest is a list of a detailed description of how the ballots are stored and organized, listing the unique physical location of each and every ballot cast in the election in such a way that individual ballots or batches of ballots can be found, retrieved, and examined manually. The definition of ballot manifest is necessary because it is one of the necessary items in the audit process.

Subdivision (d) defines the term “ballot-polling audit.” The SOS has identified that the term “ballot-polling audit” has the same meaning as set forth in Elections Code section 15366 (c). This subdivision aims to provide clarity to elections officials and the public by providing that these terms are one and the same.

Subdivision (e) defines the term “cast vote record.” The SOS has identified that the term “cast vote record” has the same meaning as set forth in Elections Code section 15366 (d). This subdivision aims to provide clarity to elections officials and the public by providing that these terms are one and the same.

Subdivision (f) defines the term “cross-jurisdictional contest.” The SOS has identified that the term “cross-jurisdictional contest” has the same meaning as set forth in Elections Code section 15366 (e). This subdivision aims to provide clarity to elections officials and the public by providing that these terms are one and the same.

Subdivision (g) defines the term “elections official.” The SOS has identified that the term “elections official” has the same meaning as set forth in Elections Code section 320. This subdivision aims to provide clarity to elections officials and the public by providing that these terms are one and the same.

Subdivision (h) defines the term “electoral outcome.” The SOS has identified that the term “electoral outcome” has the same meaning as set forth in Elections Code section 15366 (f). This subdivision aims to provide clarity to elections officials and the public by providing that these terms are one and the same.

Subdivision (i) defines the term “partial risk-limiting audit.” The SOS has identified that the term “partial risk-limiting audit” has the same meaning as set forth in Elections Code section 15366 (g). This subdivision aims to provide clarity to elections officials and the public by providing that these terms are one and the same.

Subdivision (j) defines the term “risk-limiting audit.” The SOS has identified that the term “risk-limiting audit” has the same meaning as set forth in Elections Code section 15366 (h). This subdivision aims to provide clarity to elections officials and the public by providing that these terms are one and the same.

Subdivision (k) defines the term “statewide contest” because the Elections Code does not define the term statewide contest. The statewide contest is defined as any contest that appears on the ballot of every voter throughout the state, including statewide ballot measures and excluding partisan primaries. This subdivision is necessary to remove any confusion as to what contests are statewide contests under the meaning of these regulations.

Subdivision (l) defines the term “voting system.” The SOS has identified that the term “voting system” has the same meaning as set forth in Elections Code section 362. This subdivision aims to provide clarity to elections officials and the public by providing that these terms are one and the same.

**Section 20112. Audit Types** – This section provides that SOS will provide the RLA software tool to the elections official to conduct the different types of audits. The working group discussed above unanimously recommended that the SOS provide the RLA software tool, saying that this would be better than having each elections official procure their own tool that would be subject to SOS certification requirements and may also cause confusion.

Subdivisions (a), (b), and (c) provide different types of RLA audits the elections official can conduct to be in compliance with the requirements of the statute. The SOS has identified that subdivisions (a), (b), and (c) have the same requirements as section 15367(a)(3) of the Elections Code. These subdivisions aim to provide clarity to elections officials and the public by providing that the requirements are one and the same.

**Section 20113. Audit Initiation** – This section provides direction to the elections official about when to start the RLA and what method to use. The purpose of this section is to bring clarity regarding when and how the RLA should be conducted.

Subdivision (a) provides that if the audit starts after all the ballots are tabulated, then the audit shall be conducted in a single phase. Industry best practices require that all eligible ballots must be included in an RLA. Therefore, if an elections official can tabulate all its eligible ballots before starting the RLA, it can do the RLA in a single phase because all ballots will be included in the RLA.

Subdivision (b) provides that if the audit starts before all the ballots are tabulated, then the audit shall be conducted in two phases. If an elections official is not able to tabulate all its ballots prior to starting the RLA, it must do RLA in two phases. In the first phase, it can include all the ballots tabulated until that time and in the second phase include the rest of ballots. The option of a two phase audit is necessary in cases where a full adjudication of ballots will not be complete until close to the end of the canvass period, in which case an elections official may not have sufficient time to conduct an RLA before they must report final election results. This occurs, for example,

when an elections official has to review a large number of provisional ballots or when voters are offered the chance to cure their signature and have not yet done so.

**Section 20114. Selection of Contests** – This section provides the number of contests to be selected for audit, selection criteria, and who will select the contests. This section is necessary to establish guidelines and criteria regarding the selections of contests for the RLA.

Subdivision (a) provides that elections officials shall conduct an RLA on at least three contests, one of which will be statewide and two other contests from the election official's jurisdiction. Non-statewide contests can be either fully (for example, District Attorney, County Supervisor, or city council member) or partially (for example, a State Senate district that crosses county boundaries) contained in the jurisdiction. This subdivision further provides that these contests will be selected by the SOS at random. Selection criteria are provided in subdivision (c). One statewide contest is chosen for all the counties, and multiple local contests are chosen separately for each county. The purpose behind choosing one statewide and multiple local contests is to widen the scope of RLA that would touch each race in the county. It is necessary to choose contests randomly to ensure that every contest has an equal chance of being chosen for audit such that contests are not handpicked in such a way that would erode public confidence in the RLA or the underlying vote.

Subdivision (b) gives an option to the elections officials to conduct an RLA on more than three contests at their discretion. An elections official who selects additional contests is not required to do so randomly. This subdivision aims to provide flexibility to the elections official.

Subdivision (c) provides the selection criteria for the SOS to select the contests for the RLA. Paragraph (1) provides that the selection process will be open to the public. Paragraph (2) provides the timing of the selection. Paragraph (3) provides that the SOS will list all statewide contests in any order (in other words, the contests do not need to be in the order as they appear on the ballot). Paragraph (4) provides that all the other contests for a jurisdiction shall be listed in the same manner as statewide contests, but in a separate list for each jurisdiction. Paragraph (5) provides that the SOS will select one statewide contest for all the jurisdictions participating in the RLA for that election. Paragraph (6) provides that the SOS will use the fair, translucent, differently colored ten-sided dice to select the all contests. Selecting random contests through rolling of dice was recommended by renowned statistician Professor Philip Stark, who was one of the participants in the working group. This subdivision aims to ensure public participation and transparency in the RLA process.

Subdivision (d) provides that when there is no statewide contest in an election, the SOS will select all three local contests using the same method described in subdivision (c). This alternative selection method allows for cases when an election does not include a statewide contest.

Subdivision (e) provides that if there are fewer than three contests in an election, then the RLA will be conducted on all contests. This subdivision aims to deal with special elections. The working group discussed above determined that conducting an RLA on all contests if there are fewer than three contests is not only a better policy, but it would also enhance the public trust in the elections official.

**Section 20115. Audit Board Selection** – This section provides the selection criteria for the audit board. The audit board members are responsible for retrieving and examining ballots selected for audit. This section is necessary to establish the criteria for the selection of the audit board as required under section 15367(b)(2)(A) of the Elections Code.

Subdivision (a) provides that the elections official shall use set criteria to appoint members of the audit board. Paragraph (1) provides that there shall be at least three members in an audit board, one of whom shall be an observer. The working group determined that having at least three members on an audit board will give confidence to the public and elections officials that ballot retrieval and examination process is impartial and will substantially reduce the chances of any human error. Paragraph (2) provides that audit board members can be either full-time or temporary staff and/or volunteers. Given that members of the public may not always be present to become a member of an audit board, the working group determined that audit board members can be either full-time or temporary staff and/or volunteers. This paragraph aims to provide flexibility to the local elections officials in appointing the audit board members. Paragraph (3) provides that all audit board members are required to sign a declaration of intent to faithfully discharge the duties of the audit board and to support the United States and California constitutions. A declaration form is provided in this paragraph. This paragraph aims to ensure that audit board members understand their responsibility upon which they are about to enter and acknowledge the same by signing the declaration. This paragraph is also necessary to provide a declaration form to the local elections officials. Paragraph (4) provides that at least two members of the audit board shall be in possession of the ballot during the audit process. This aims to provide additional verification for all ballots retrieved and examined during the audit.

Subdivision (b) provides that when there are multiple audit boards, only one audit board shall evaluate each ballot included in the audit. This subdivision accomplishes several goals: it removes confusion about whether it is appropriate for multiple audit boards to review the same ballot; it eliminates duplicate work since multiple audit boards will not have to accomplish the same task; and it prevents different audit boards from making different ballot marking determinations.

**Section 20116. Public Education on Risk-Limiting Audits** – This section establishes the criteria for public education on risk-limiting audits.

Subdivision (a) provides that, before conducting the RLA, an elections official must publish information about the RLA process including the difference between the one percent manual tally and an RLA and methods for ensuring the ballot security. This information can be released to the public through various methods. This subdivision aims to ensure public participation and transparency in the RLA process.

Subdivision (b) provides that the SOS will make the material described in subdivision (a) available on its website. This subdivision aims to provide more ways for the public to get information about the RLA.

**Section 20117. Ballot Manifest and Ballot Handling** – This section provides the procedures for creating a ballot manifest and ballot handling. This section is necessary to provide guidelines for

elections officials to create ballot manifests and to arrange or handle ballots for the purpose of an RLA.

Subdivision (a) provides that an elections official conducting an RLA must maintain an accurate ballot manifest that must be created independent of the voting system as defined in sections 20111(c) and 20111(l). This subdivision also provides that the ballot manifest must identify the location of the ballots. This subdivision is necessary to provide guidelines for elections officials regarding the criteria and the purpose of the ballot manifest. Ballot manifests must be created independent of the voting system because the RLA is not just verifying that the election result was accurately determined by elections staff reviewing ballots but also that the voting system accurately reported the vote result. It is necessary for the ballot manifest to include the location of the ballots so that the audit board can easily locate the ballots and to ensure that they are reviewing the correct ballot.

Subdivision (b) provides the format for the ballot manifest. Due to the complexity involved in explaining the format of the ballot manifest, the SOS determined that a ballot manifest format and sample should be incorporated as a reference with these regulations.

Subdivision (c) provides that when the audit starts after all valid ballots have been tabulated, the elections official shall create only one ballot manifest that would include information on all ballots. This subdivision is necessary to provide guidelines for elections officials to create a ballot manifest for the purpose of an RLA.

Subdivision (d) provides that when the audit starts before all valid ballots have been tabulated, the elections official shall create two ballot manifests: an initial ballot manifest for the first phase of the audit and a final ballot manifest for the second phase of the audit. The final ballot manifest shall include all tabulated ballots. This subdivision aims to clarify the process for a two-phase audit.

Subdivision (e) provides that an elections official cannot make changes in the initial ballot manifest when making the final ballot manifest. Any missing ballots in the initial ballot manifest shall be stored in the new containers and their information shall be listed on the new rows followed by the information of the initial ballot manifest. Subdivision (e) also provides an example of this process. This subdivision is necessary to provide guidelines for elections officials to create a ballot manifest for the purpose of an RLA.

**Section 20118. Chain of Custody** – This section establishes procedures to ensure the security of the ballots as required by section 15367(b)(2)(C) of the Elections Code.

Subdivision (a) provides that an elections official shall maintain the chain of custody for each ballot and each ballot storage container. It also requires the elections official to maintain a chain of custody log for public inspection after the canvass is complete. The working group discussed above determined that maintaining an uninterrupted chain of custody and a chain of custody log is the best way to ensure ballot security. This subdivision is necessary to ensure ballot security.

Subdivision (b) provides that elections officials shall secure and maintain all tabulated ballots in sealed ballot containers. The working group determined that securing the ballots in the sealed ballots containers is the best way to ensure ballot security. This subdivision is necessary to ensure ballot security.

Subdivision (c) provides that elections officials shall establish written procedures to ensure the security, confidentiality, and integrity of any ballots, cast vote records, or any other data collected, stored, or otherwise used in an RLA. This subdivision provides that these procedures shall be published on the elections official's website at least five days in advance of the audit. The working group determined that each jurisdiction shall establish its own procedures in addition to the chain of custody and sealed ballot containers. This subdivision is necessary to ensure ballot security and public awareness of such security measures while providing flexibility to elections officials conducting an RLA.

**Section 20119. Data Publication Prior to Audit** – This section establishes procedures for the publication of the data prior to the audit as required by section 15367(b)(2)(C) of the Elections Code.

Subdivision (a) provides that the elections official shall publish the same data that shall be entered in the RLA software tool before any audit phase begins. This subdivision aims to ensure public transparency in conducting the RLA.

Subdivision (b) provides that cast vote records shall be made available to the public where the audit is being conducted but not on the election official's website. This subdivision aims to create a balance between transparency and privacy of voter information.

**Section 20120. Random Seed** – This section establishes procedures regarding the generation of the random seed. It describes the random seed and its purpose.

Subdivision (a) provides that the random seed shall be generated by the roll of 10-sided dice. The selection of the random seed through rolling of dice was recommended by renowned statistician Professor Philip Stark, a member of the working group described above.

Subdivision (b) provides that the random seed shall be selected in a public meeting as follows: paragraph (1) provides that 5 days public notice shall be given of this meeting; Paragraph (2) provides that members of the public or staff members shall take turn to roll the die; and Paragraph (3) deals with a situation where no member of the public attends the meeting then elections officials can designate someone to themselves to roll the die. This subdivision aims to ensure public participation and transparency in the RLA process.

Subdivision (c) provides that the elections official shall publicize the random seed by various methods, which increases audit transparency and public confidence that the ballots selected for audit were selected in random manner.

Subdivision (d) provides that the random seed shall be entered into the RLA software tool. This subdivision is necessary to direct elections officials on the use of the random seed.



**Section 20121. Audit Procedures for Single-Phase Audit** – This section establishes procedures for a single-phase audit. This section is necessary to establish procedures for an elections official to conduct the audit in a single phase.

Subdivision (a) provides the information that needs to be entered into the RLA software tool.. That includes: (1) the ballot manifest for all ballots, (2) the results for all ballots tabulated, (3) if a ballot-level comparison audit is being conducted, the cast vote records for all ballots tabulated. The RLA tool requires this information in order to provide the list of randomly selected ballots for examination.

Subdivision (b) provides that if the RLA software tool identifies any inconsistency in the information entered into the RLA software tool, the elections official shall correct that information before the audit proceeds. This subdivision aims to ensure that any inconsistency is corrected before the audit proceeds.

Subdivision (c) provides the next step in the RLA: to generate the random seed according to the procedures described in section 20120.. This subdivision is necessary to direct the local elections officials to follow the process described in section 20120 to generate the random seed.

Subdivision (d) provides the next step in the RLA: to enter the random seed into the RLA software tool. It also provides that once the random seed is entered into the RLA software tool, the tool will specify which particular ballots or batches of ballots from the ballot manifest to inspect manually. This subdivision is necessary to provide direction to local elections officials on the next step and its result in the audit process

Subdivision (e) provides the option to the elections officials to conduct a full manual tally of any contests whose outcome has not been confirmed by the RLA. If the elections official decides to conduct a full manual tally, the RLA of that contest shall be suspended. The result of the manual tally shall be the official result of that contest. This subdivision aims to provide an option and flexibility to the elections official to conduct a full manual tally at any point during the audit, for any reason.

**Section 20122. Audit Procedures for Two-Phase Audit** – This section establishes procedures for a two-phase audit. This section is necessary to establish procedures for the elections official to conduct the audit in two phases.

Subdivision (a) provides an introduction to this section. This subdivision is non-substantive.

Subdivision (b) provides the information that needs to be entered into the RLA software tool. That includes: (1) the initial ballot manifest for all ballots tabulated as described in subdivision (d) of section 20117, (2) the results for all ballots tabulated that are included in the initial ballot manifest; (3) if a ballot-level comparison audit is being conducted, the cast vote records for all ballots tabulated that are included in the initial ballot manifest; and (4) the maximum number of ballots yet to be tabulated. The RLA tool requires this information in order to provide the list of randomly selected ballots for examination. This subdivision provides the first step in the first

phase of a two-phase audit. This subdivision is necessary for an elections official to understand how to administer an RLA.

Subdivision (c) provides that if the RLA software tool identifies any inconsistency in the information entered into the RLA software tool, the elections official shall upload and publish the corrected information before the audit proceeds. This subdivision aims to ensure that any inconsistency is corrected before the audit proceeds. This subdivision is necessary for an elections official to understand how to administer an RLA.

Subdivision (d) provides the next step in the RLA: to generate the first random seed according to the procedures described in section 20120. This subdivision is necessary to direct the local elections officials to follow the process described in section 20120 to generate the random seed. This subdivision is necessary for an elections official to understand how to administer an RLA.

Subdivision (e) provides the next step in the RLA: to enter the first random seed into the RLA software tool. It also provides that once the random seed is entered into the RLA software tool, the tool will provide the list of will specify which particular ballots or batches of ballots from the ballot manifest to inspect manually. This subdivision is necessary to provide direction to local elections officials on the next step and its result in the audit process. This subdivision is necessary for an elections official to understand how to administer an RLA.

Subdivision (f) provides procedures for the second phase of the audit. This subdivision provides the information that needs to be entered into the RLA software tool. That includes: (1) the final ballot manifest for all ballots tabulated as described in subdivision (d) of section 20117; (2) the results for all ballots tabulated that are included in the final ballot manifest; and (3) if a ballot-level comparison audit is being conducted, the cast vote records for all ballots tabulated that are included in the final ballot manifest. The RLA tool requires this information in order to provide the list of randomly selected ballots for examination. This subdivision is necessary for an elections official to understand how to administer an RLA.

Subdivision (g) provides that if the RLA software tool identifies any inconsistency in the information entered into the RLA software tool, the elections official shall upload and publish the corrected information before the audit proceeds. This subdivision aims to ensure that any inconsistency is corrected before the audit proceeds. This subdivision is necessary for an elections official to understand how to administer an RLA.

Subdivision (h) provides the next step in the RLA: to generate the first random seed according to the procedures described in section 20120. This subdivision is necessary to direct the local elections officials to follow the process described in section 20120 to generate the random seed. This subdivision is necessary for an elections official to understand how to administer an RLA.

Subdivision (i) provides the next step in the RLA: to enter the second random seed into the RLA software tool. It also provides that once the second random seed is entered into the RLA software tool, the tool will specify whether the audit can stop or whether further auditing is required. If the RLA software tool determines that further auditing is required, the tool will specify which ballots from the final ballot manifest to examine. This subdivision is necessary to

provide direction to local elections officials on the next step and its result in the audit process. This subdivision is necessary for an elections official to understand how to administer an RLA.

Subdivision (j) provides the option to the elections official to conduct a full manual tally of any contests whose outcome has not been confirmed by the RLA. If the elections official decides to conduct a full manual tally, the RLA of that contest shall be suspended. The result of the manual tally shall be the official result of that contest. This subdivision aims to provide an option and flexibility to the elections official to conduct a full manual tally at any point during the audit, for any reason.

**Section 20123. Ballot Retrieval and Manual Examination** – This section establishes the procedures for ballot retrieval and manual examination. This section is necessary to establish procedures and guidelines for the audit board to retrieve and manually examine the ballots selected for the audit.

Subdivision (a) describes the process for how the audit board shall retrieve ballots. This subdivision is necessary to establish a process of retrieval of ballots from ballot storage containers.

Subdivision (b) provides the process for the audit board to examine voter marking on the ballots. This subdivision provides the next step in the ballot retrieval and manual examination process. This subdivision is necessary for an elections official to understand how to administer an RLA.

Subdivision (c) establishes the process for resolving any disagreement among the audit board members regarding the voter's intent on the ballot. The elections official shall make the final determination. This subdivision is necessary to establish a process in the event of disagreement among the audit board members on the voter's intent.

Subdivision (d) provides that the audit board shall not only record voters' ballot choices for selected contests, but it shall also record voters' choices in every contest on every ballot selected for audit. This subdivision is necessary to specify that all the contests on the ballots selected for the RLA shall be examined by the audit board. Examining contests other than those chosen for audit allows the RLA to verify the results of those contests as well, such that the RLA provides confidence in the result of the entire election and not just the selected contests. The RLA provides additional confidence in the results of the other contests in subdivision (g).

Subdivision (e) provides that the audit shall continue until the 5% risk limit is met for every contest selected for audit. This 5% risk limit only applies to the contests selected for the RLA and not on other contests on the ballots. If the RLA software tool specifies that additional ballots need to be examined, the elections official shall retrieve them as described in subdivision (a). This subdivision is necessary for an elections official to understand how to administer an RLA. This subdivision specifies that the risk limit only applies to the contests selected for audit because the results of the other contests will be verified separately, as provided in subdivision (g).

Subdivision (f) provides the option to the elections official to perform a full manual tally of one or more contests. It provides that the audits of those contest(s) shall be deemed to have met the risk limit and the results of the full manual tally shall be the official results for those contest(s). This subdivision clarifies that the 5% risk limit does not apply in case of a full manual tally. A full manual tally is allowed so that an elections official can provide for 100% confidence in certain contests, at its discretion, or to allow the public to have confidence in the vote results if there are questions about or problems with the RLA.

Subdivision (g) provides that if there is any contest in the jurisdiction not contained on any of the ballots selected for the audit, the elections official shall select one or more precincts at random from precincts that contain the contest and manually tabulate the votes in that contest, pursuant to Elections Code section 15360. The manual tabulation shall apply only to the contests not previously included in RLA. This subdivision is necessary to establish procedures for those contests that were missing on the ballots selected for the RLA.

Subdivision (h) provides the deadline for the completion of the RLA. It is necessary for the RLA to be completed prior to the end of the canvass period so that the final election results have been verified before they are certified.

**Section 20124. Public Observation and Verification of Audit** – This section establishes procedures and requirements to ensure the audit process is observable and verifiable by the public, including disclosing the methods used to select samples and to calculate the risk, providing a public opportunity to verify that the correct ballots were inspected during the audit, and providing a public opportunity to observe the inspection of voters' marks on the ballots during the audit pursuant to section 15367(b)(2)(G) of the Elections Code.

Subdivision (a) puts the responsibility on the elections official to ensure that the audit process is observable and verifiable to the public. Paragraph (1) provides that elections official shall provide at least five days public notice prior to the first phase of the RLA. Paragraph (2) provides that the elections official shall describe in writing the process of manually interpreting ballot cards and the selection of the ballots to be used in the audit. Paragraph (3) provides that the elections official shall provide observers with an oral and/or written explanation of the RLA process, a written code of conduct for observation, and any documentation they need for informed and effective observation. Paragraph (4) provides that the elections official shall disclose the methods used to select samples and to calculate the risk. Paragraph (5) provides that the elections official shall provide the public the opportunity to observe ballots being retrieved during the audit. Paragraph (6) provides that the elections official shall provide the public the opportunity to observe the voters' marks on every audited ballot during the audit. The SOS has identified that these requirements are in accordance with section 15367(b)(2)(G) and (c) of the Elections Code. This subdivision aims to ensure public participation and transparency in the RLA process.

Subdivision (b) provides that observers can ask questions of the audit board, as long as they do not interfere with the conduct of the audit procedures. This subdivision aims to create a balance between public transparency and efficient election administration.

**Section 20125. Certification of Contest Results and Reporting of Audit Results** – This section provides for the certification of contests and reporting of audit result in accordance with section 15367(d) of the Elections Code.

Subdivision (a) provides the contents and time of the report. After a thorough discussion and debate, the working group discussed above recommended that the information listed in paragraphs 1 through 14 be included in the final report. This subdivision is necessary to provide public disclosure of the audit results, transparency in the audit process, and to inform future RLA endeavors.

Subdivision (b) provides that the certification of the official canvass of the vote shall be conducted in accordance with Division 10, Part 2, Chapter 2, and Article 4 of the California Elections Code. This subdivision is non-substantive.

Subdivision (c) requires the SOS to publish any report under this section received from an elections official on its website no later than five days after the date it publishes the certification of the official canvass of the vote. This subsection shall not prohibit the elections official from publishing the same report on its website. This subdivision is necessary to implement the requirements of section 15367(d) of the Elections Code. The timing of the report publication is necessary to provide disclosure of the audit results at a time when the public remains interested in the election and when information remains available for follow-up.

**Section 20126. Redaction of Personally Identifiable Voter Choices** – This section requires elections officials to redact voter choices from cast vote records used for the RLA. This section is designed to prevent the incidental publication of identifiable voter choices that may have been identified during the course of the audit.

## **ECONOMIC IMPACT STATEMENT**

Assembly Bill (AB) 2125 (Chapter 913, Statutes of 2018) requires the Secretary of State (SOS) to adopt regulations to implement and administer a risk-limiting audit program. The purpose of these regulations is to comply with this mandate.

### **Creation or Elimination of Jobs within the State of California**

It is not anticipated that these regulations will create or eliminate jobs within the State of California. These regulations offer an alternative to the one percent manual tally of election results set forth in Elections Code section 15360, and AB 2125 provides that an RLA can be used in the place of a one percent manual tally. Therefore, no additional staff should be required.

### **Creation of New or Elimination of Existing Businesses within the State of California**

These regulations are anticipated only to affect the Secretary of State and local elections offices. They offer an alternative to an existing process. They should not create or eliminate a new industry or related businesses within the State of California.

### Expansion of Businesses or Elimination of Existing Businesses within the State of California

These regulations are anticipated only to affect the Secretary of State and local elections offices. They offer an alternative to an existing process. They should not expand or eliminate a new industry or related businesses within the State of California.

### Benefits of the Regulations

The benefit of these proposed regulations is that they will provide guidance to the SOS and local elections officials on the procedure for conducting risk-limiting audits. These proposed regulations will also provide the opportunity for the public to take part in and observe the audit process. Along with bringing more transparency in the post-election canvass process these proposed regulations will strengthen the public trust in the State of California's election process.