

COMMITTEE REPORT

MR. PRESIDENT:

The Senate Committee on Elections, to which was referred Senate Bill No. 109, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 1, delete lines 1 through 14.
- 2 Page 3, line 13, after "(b)" insert "**This subsection does not apply**
- 3 **to the office of precinct inspector."**
- 4 Page 3, line 23, after "(b)" insert "**This subsection does not apply**
- 5 **to the office of precinct inspector."**
- 6 Page 3, line 32, after "(c)" insert "**This subsection does not apply**
- 7 **to the office of precinct inspector."**
- 8 Page 6, line 8, delete "county".
- 9 Page 6, line 8, after "office" insert "**designated under this**
- 10 **chapter"**.
- 11 Page 13, delete lines 33 through 42.
- 12 Delete pages 14 through 25.
- 13 Page 26, delete lines 1 through 9.
- 14 Page 27, line 5, delete "section" and insert "**subsection"**.
- 15 Page 34, between lines 10 and 11, begin a new paragraph and insert:
- 16 "SECTION 46. IC 3-12-10-2.2 IS ADDED TO THE INDIANA
- 17 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 18 [EFFECTIVE UPON PASSAGE]: **Sec. 2.2. (a) The state recount**
- 19 **fund is established for the purpose of receiving, holding, and**
- 20 **disbursing funds as a fiduciary for the state recount commission**

1 **and individuals who have provided a cash deposit under this**
 2 **article. The fund shall be administered by the administrative**
 3 **division of the office of the secretary of state.**

4 (b) **The expenses of administering the fund shall be paid from**
 5 **money in the fund.**

6 (c) **Money in the fund at the end of a state fiscal year does not**
 7 **revert to the state general fund."**

8 Page 34, line 19, strike "general" and insert "**recount**".

9 Page 34, line 23, delete "general" and insert "**recount**".

10 Page 34, line 31, delete "annually".

11 Page 34, line 32, after "commission" insert "**from the state general**
 12 **fund**".

13 Page 36, between lines 28 and 29, begin a new paragraph and insert:

14 "SECTION 51. IC 3-12-11-10 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Each
 16 petitioner shall furnish a cash deposit for the payment of costs of the
 17 recount chargeable to the petitioner. The minimum amount of the cash
 18 deposit is one hundred dollars (\$100). **The cash deposit shall be**
 19 **deposited in the state recount fund.**

20 (b) This subsection applies only to a recount of an election for
 21 nomination or election to either of the following:

22 (1) A legislative office in which, on the face of the election
 23 returns, the difference between the number of votes cast for the
 24 candidate nominated or elected and the petitioner is not more than
 25 one percent (1%).

26 (2) An office other than a legislative office in which, on the face
 27 of the election returns, the difference between the number of votes
 28 cast for the candidate nominated or elected and the petitioner is
 29 not more than one percent (1%).

30 If the number of precincts to be recounted exceeds ten (10), the amount
 31 of the deposit shall be increased by ten dollars (\$10) for each precinct
 32 in excess of ten (10).

33 (c) This subsection applies only to a recount of an election for
 34 nomination or election to either of the following:

35 (1) A legislative office in which, on the face of the election
 36 returns, the difference between the number of votes cast for the
 37 candidate nominated or elected and the petitioner is more than
 38 one percent (1%).

1 (2) An office other than a legislative office in which, on the face
 2 of the election returns, the difference between the number of votes
 3 cast for the candidate nominated or elected and the petitioner is
 4 more than one percent (1%).

5 If the number of precincts to be recounted exceeds ten (10), the amount
 6 of the deposit shall be increased by one hundred dollars (\$100) for each
 7 precinct in excess of ten (10).

8 (d) If after a recount, it is determined that a petitioner has been
 9 nominated or elected, the deposit furnished by that petitioner shall be
 10 returned to that petitioner in full.

11 (e) Any unexpended balance remaining in a deposit after payment
 12 of the costs of the recount shall be returned to the depositor in the
 13 following manner:

14 (1) If the recount results in a reduction of at least fifty percent
 15 (50%) but less than one hundred percent (100%) of the margin of
 16 the total certified votes, the petitioner shall receive a refund of
 17 that percentage of the unexpended balance.

18 (2) If after a recount, it is determined that a petitioner has been
 19 nominated or elected, the deposit or the bond furnished by that
 20 petitioner shall be returned to that petitioner in full.

21 (3) Any unexpended balance remaining after the provision of
 22 subdivision (1) has ~~have~~ been satisfied shall be deposited in the
 23 state ~~general~~ **recount** fund.

24 SECTION 52. IC 3-12-11-11 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) This section
 26 applies if a cross-petition is filed under this chapter.

27 (b) This subsection applies only to a recount of an election for
 28 nomination or election to either of the following:

29 (1) A legislative office in which, on the face of the election
 30 returns, the difference between the number of votes cast for the
 31 cross-petitioner and the petitioner with the greatest number of
 32 votes is not more than one percent (1%).

33 (2) An office other than a legislative office in which, on the face
 34 of the election returns, the difference between the number of votes
 35 cast for the cross-petitioner and the petitioner with the greatest
 36 number of votes is not more than one percent (1%).

37 The cross-petitioner shall furnish a cash deposit equal to ten dollars
 38 (\$10) multiplied by the number of precincts that the cross-petitioner

1 seeks to have recounted. **The cash deposit shall be deposited in the**
 2 **state recount fund.**

3 (c) This subsection applies only to a recount of an election for
 4 nomination or election to either of the following:

5 (1) A legislative office in which, on the face of the election
 6 returns, the difference between the number of votes cast for the
 7 cross-petitioner and the petitioner with the greatest number of
 8 votes is more than one percent (1%).

9 (2) An office other than a legislative office in which, on the face
 10 of the election returns, the difference between the number of votes
 11 cast for the cross-petitioner and the petitioner with the greatest
 12 number of votes is more than one percent (1%).

13 The cross-petitioner shall furnish a cash deposit equal to ten dollars
 14 (\$10) multiplied by the number of precincts that the cross-petitioner
 15 seeks to have recounted for the first ten (10) precincts recounted. For
 16 each precinct in excess of ten (10) the cross-petitioner seeks to have
 17 recounted, the cross-petitioner shall furnish an additional cash deposit
 18 equal to one hundred dollars (\$100) multiplied by the number of
 19 precincts in excess of ten (10) that the cross-petitioner seeks to have
 20 recounted. **The cash deposit shall be deposited in the state recount**
 21 **fund.**

22 (d) If after a recount, it is determined that the cross-petitioner has
 23 been nominated or elected, the deposit furnished by the cross-petitioner
 24 shall be returned to the cross-petitioner in full.

25 (e) Any unexpended balance remaining in a deposit after payment
 26 of the costs of the recount shall be deposited in the state ~~general~~
 27 **recount fund.**"

28 Page 37, between lines 16 and 17, begin a new paragraph and insert:

29 "SECTION 54. IC 3-12-12-5 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Each petition
 31 filed under section 2 of this chapter must be accompanied by a cash
 32 deposit or a bond with corporate surety to the approval of the court for
 33 the payment of all costs of the recount. The minimum amount of the
 34 cash deposit or bond is one hundred dollars (\$100). **A cash deposit for**
 35 **a recount conducted by a county recount commission shall be**
 36 **deposited in the county general fund. A cash deposit in a recount**
 37 **conducted by the state recount commission shall be deposited in the**
 38 **state recount fund.**

1 (b) This subsection applies to the recount of a public question to
2 which either of the following applies:

3 (1) The public question is a local public question under IC 3-10-9
4 in which, on the face of the election returns, the difference
5 between the number of affirmative and negative votes cast is not
6 more than two hundred (200).

7 (2) The public question is covered under section 23 of this chapter
8 and, on the face of the election returns, the difference between the
9 number of affirmative and negative votes cast is not more than
10 two thousand (2,000).

11 If the number of precincts to be recounted exceeds ten (10), then the
12 amount of the deposit shall be increased by ten dollars (\$10) for each
13 precinct in excess of ten (10).

14 (c) This subsection applies to the recount of a public question to
15 which either of the following applies:

16 (1) The public question is a local public question under IC 3-10-9
17 and, on the face of the election returns, the difference between the
18 number of affirmative and negative votes cast is more than two
19 hundred (200).

20 (2) The public question is covered under section 23 of this chapter
21 and, on the face of the election returns, the difference between the
22 number of affirmative and negative votes cast is more than two
23 thousand (2,000).

24 If the number of precincts to be recounted exceeds ten (10), the amount
25 of the deposit shall be increased by one hundred dollars (\$100) for each
26 precinct in excess of ten (10).

27 (d) If after a recount, it is determined that the result of the public
28 question is other than what was shown on the face of the election
29 returns, the deposit furnished by the petitioner shall be returned to the
30 petitioner in full.

31 (e) Any unexpended balance remaining in a deposit after payment
32 of all costs of the recount ~~shall be deposited~~ **remains** in the county
33 general fund.

34 **(f) This subsection applies to a recount conducted by the state**
35 **recount commission under this chapter. Any unexpended balance**
36 **remaining in a deposit after payment of all costs of the recount**
37 **remains in the state recount fund."**

38 Page 38, line 32, after "voter" insert "**or candidate**".

1 Page 38, between lines 35 and 36, begin a new paragraph and insert:

2 "SECTION 58. IC 5-4-1-1 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]:

4 Sec. 1. (a) **Except as provided in subsection (c)**, every officer and
5 every deputy, before entering on the officer's or deputy's official duties,
6 shall take an oath to support the Constitution of the United States and
7 the Constitution of the State of Indiana, and that the officer or deputy
8 will faithfully discharge the duties of such office.

9 (b) A prosecuting attorney and a deputy prosecuting attorney shall
10 take the oath required under subsection (a) before taking office.

11 (c) **This subsection applies to a deputy of a political subdivision.**
12 **An individual appointed as a deputy is considered an employee of**
13 **the political subdivision performing ministerial functions on behalf**
14 **of an officer and is not required to take the oath prescribed by**
15 **subsection (a). However, if a chief deputy assumes the duties of an**
16 **office during a vacancy under IC 3-13-11-12, the chief deputy must**
17 **take the oath required under subsection (a) before entering on the**
18 **official duties of the office.**

19 SECTION 59. IC 5-4-1-1.2 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.2. (a) **This**
21 **section does not apply to an individual appointed or elected to an**
22 **office the establishment or qualifications of which are expressly**
23 **provided for in the Constitution of the State of Indiana or the**
24 **Constitution of the United States.**

25 (b) **If the township assessor or any city an officer of a political**
26 **subdivision does not take and file the oath required under section 1**
27 **of this chapter within ~~ten (10)~~ thirty (30) days after the beginning of**
28 **his the officer's term, the office becomes vacant.**

29 SECTION 60. IC 5-4-1-2 IS AMENDED TO READ AS FOLLOWS
30 [EFFECTIVE DECEMBER 1, 1998 (RETROACTIVE)]: Sec. 2. (a)
31 The oath required by section 1 of this chapter, except in the case of a
32 notary public or in those cases specified in section 3 of this chapter,
33 shall be endorsed on or attached to the:

34 (1) commission;

35 (2) certificate if a certificate was issued under IC 3-10-7-34,
36 IC 3-12-4, or IC 3-12-5; or

37 (3) certificate of appointment pro tempore under IC 3-13-11-11;
38 signed by the person taking the oath, and certified to by the officer

1 before whom **it the oath** was taken, who shall also deliver to the person
2 taking the oath a copy of the oath.

3 (b) **A copy of** the oath of office of a prosecuting attorney shall be:

4 (1) recorded on the bond required by section 20 of this chapter;
5 ~~and on or~~

6 (2) **attached to** the commission of the prosecuting attorney.

7 SECTION 61. IC 5-4-1-4 IS AMENDED TO READ AS FOLLOWS
8 [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) **As used in this section,**
9 **"political subdivision" has the meaning set forth in IC 36-1-2-13.**

10 (b) The copy of the oath under section 2 of this chapter shall be
11 deposited by the person as follows:

12 (1) Of all officers whose oath is endorsed on **or attached to** the
13 commission and whose duties are not limited to a particular
14 county **or of a justice, judge, or prosecuting attorney,** in the
15 office of the secretary of state.

16 (2) Of ~~county~~ **the circuit court clerk,** officers **of a political**
17 **subdivision or school corporation,** and constables of a small
18 claims court, in the circuit court clerk's office of the county
19 **containing the greatest percentage of the population of the**
20 **political subdivision or school corporation.**

21 ~~Of county council members; officers appointed by the board~~
22 ~~of county commissioners; and township officers that the board~~
23 ~~may require to do so; with the county auditor:~~

24 ~~Of township board members; with the township trustee:~~

25 ~~Of city officers; in the office of the clerk of the city-county~~
26 ~~council; city clerk; or city clerk-treasurer:~~

27 ~~Of deputies of the surveyor; in a book kept by the surveyor for~~
28 ~~this purpose:~~

29 ~~Of town officers; in the office of the town clerk-treasurer:~~

30 ~~Of a justice, judge, or prosecuting attorney; in the office of the~~
31 ~~secretary of state:~~

32 ~~Of a deputy prosecuting attorney; in the office of the clerk of~~
33 ~~the circuit court of the county in which the deputy prosecuting~~
34 ~~attorney resides.~~

35 ~~Of a school board member; in the circuit court clerk's office~~
36 ~~of the county containing the greatest percentage of population of~~
37 ~~the school corporation:~~

38 SECTION 62. IC 5-6-1-2 IS AMENDED TO READ AS FOLLOWS

1 [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a) This subsection does not**
 2 **apply to the deputy of a circuit court clerk.**

3 **(b) ~~Such~~** Deputies shall take the oath required of their principals,
 4 and may perform all the official duties of such principals, being subject
 5 to the same regulations and penalties."

6 Page 41, between lines 25 and 26, begin a new paragraph and insert:

7 "SECTION 68. IC 33-16-4-1 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. ~~(a)~~ The
 9 following are authorized to **subscribe and** administer oaths and take
 10 acknowledgments ~~generally, of all documents whatsoever~~, pertaining
 11 to all matters where an oath is required:

12 (1) Notaries public.

13 (2) Justices and judges of courts, in their respective jurisdictions.

14 (3) The secretary of state of Indiana.

15 **(4) The clerk of the supreme court.**

16 (5) Mayors, clerks, ~~and~~ clerk-treasurers of towns and cities, **and**
 17 **township trustees**, in their respective towns, ~~and~~ cities, **and**
 18 **townships.**

19 **(6)** Clerks of circuit courts and master commissioners, in their
 20 respective counties.

21 ~~(7)~~ **(7)** Judges of United States district courts of Indiana, in their
 22 respective jurisdictions.

23 ~~(8)~~ **(8)** United States commissioners appointed for any United
 24 States district court of Indiana, in their respective jurisdictions.

25 ~~(9)~~ **(9)** A precinct election officer (as defined in IC 3-5-2-40.1)
 26 and an absentee voter board member appointed under IC 3-11-10,
 27 for any purpose authorized under IC 3.

28 ~~(10)~~ **(10)** A member of the Indiana election commission, a
 29 co-director of the election division, or an employee of the election
 30 division under IC 3-6-4.2.

31 ~~(11)~~ **(11)** County auditors, in their respective counties.

32 ~~(12)~~ **(12)** Any member of the general assembly ~~shall have full~~
 33 ~~power and authority to subscribe and administer oaths and take~~
 34 ~~acknowledgments of all documents whatsoever~~ anywhere in
 35 Indiana."

36 Page 41, delete line 42.

37 Page 42, delete lines 1 through 20.

38 Page 42, line 22, delete "IC 3-9-5-21;".

- 1 Page 42, line 23, after "IC 3-11-15-35" insert "; IC 5-4-1-1.1".
- 2 Page 42, delete lines 24 through 42.
- 3 Page 43, delete lines 1 through 10.
- 4 Page 43, line 21, delete "commission" and insert "**fund established**
- 5 **under IC 3-12-10-2.2**".
- 6 Page 43, line 23, delete "beginning July 1," and insert ".".
- 7 Page 43, delete line 24.
- 8 Renumber all SECTIONS consecutively.
(Reference is to SB 109 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

Landske

Chairperson