HOUSE BILL No. 1391

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-6-4.2; IC 3-11-6.5.

Synopsis: Election administration. Provides that if the co-directors of the election division are unable to resolve a dispute between themselves regarding the election commission's or the election division's budget, the election commission's or the election division's expenditures, or a contract to which the election commission or the election division is a party, the secretary of state may decide the matter. Provides that the consent of the co-directors of the election division are not necessary for the secretary of state to receive or administer certain funds received by the state under the federal Help America Vote Act (HAVA).

Effective: Upon passage.

Richardson

January 22, 2013, read first time and referred to Committee on Elections and Apportionment.

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Introduced

First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

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HOUSE BILL No. 1391

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 3-6-4.2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The governor shall appoint two (2) co-directors for the election division.

(1) The co-directors shall do the following:

(A) Carry out the policies, decisions, and recommendations of the commission.

(B) Maintain an office for the election division.

(b) The co-directors may not be members of the same political party.

(c) The co-directors have equal authority and responsibilities under this title. **However, if the co-directors are unable to resolve a dispute between themselves regarding:**

(1) the commission's or the election division's budget, the commission's or the election division's expenditures; or

(2) contracts to which the commission or the election division is a party;

the secretary of state may decide the matter. A decision by the secretary of state regarding the matter is final.

(d) The co-directors must:

(1) be classified the same under the state's personnel system; and

(2) except for differences due to years of service as co-directors, receive the same compensation.

SECTION 2. IC 3-6-4.2-12.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12.5. (a) As authorized under 42 U.S.C. 15421, the secretary of state ~~with the consent of the co-directors of the election division~~ shall apply to the Secretary of Health and Human Services for payments under the HAVA (42 U.S.C. 15421 through 15425) to do the following:

(1) Make polling places (including the path of travel, entrances, exits, and voting areas of each polling place) more accessible to individuals with disabilities, including the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as other voters.

(2) Provide individuals with disabilities and other individuals described in subdivision (1) with information about the accessibility of polling places, including outreach programs to inform the individuals about the availability of accessible polling places and training election officials, poll workers, and election volunteers on how best to promote the access and participation of individuals with disabilities in elections.

(b) If the secretary of state receives payments from the Secretary of Health and Human Services under 42 U.S.C. 15421 through 15425, the election division shall expend the money as described in the application submitted under 42 U.S.C. 15423.

SECTION 3. IC 3-11-6.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) In accordance with 42 U.S.C. 15404, the election administration assistance fund is established for the following purposes:

(1) As provided by 42 U.S.C. 15401, to carry out activities to improve the administration of elections for federal office.

(2) As provided by 42 U.S.C. 15401, to use funds provided to the state under Title II, Subtitle D, Part I of HAVA (42 U.S.C. 15401 through 15408) as a reimbursement of costs in obtaining voting equipment that complies with 42 U.S.C. 15481 if the state obtains the equipment after November 7, 2000.

(3) As provided by 42 U.S.C. 15401, to use funds provided to the state under Title II, Subtitle D, Part I of HAVA (42 U.S.C. 15401 through 15408) as a reimbursement of costs in obtaining voting equipment that complies with 42 U.S.C. 15481 under a multiyear

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contract incurred after December 31, 2000.

(4) For reimbursing counties for the purchase of new voting systems or for the upgrade or expansion of existing voting systems that would not qualify for reimbursement under subdivision (2) or (3).

(b) The fund consists of the following:

(1) Money appropriated to the fund by the general assembly, including any money appropriated from the build Indiana fund.

(2) All money allocated to the state by the federal government:

(A) under Section 101 of HAVA (42 U.S.C. 15301), as required by 42 U.S.C. 15304;

(B) under Section 102 of HAVA (42 U.S.C. 15302), as required by 42 U.S.C. 15304;

(C) under Title II, Subtitle D, Part I of HAVA (42 U.S.C. 15401 through 15408); and

(D) under any other program for the improvement of election administration.

(3) Proceeds of bonds issued by the Indiana bond bank for improvement of voting systems as authorized by law.

The auditor of state shall establish an account within the fund for money appropriated by the general assembly and separate accounts within the fund for any money received by the state from the federal government for each source of allocations described under subdivision (2). Proceeds of bonds issued by the Indiana bond bank under subdivision (3) may be deposited into any account, as determined by the election division.

(c) The secretary of state ~~with the consent of the co-directors of the election division~~ shall administer the fund.

(d) The expenses of administering the fund shall be paid from money in the Section 101 account of the fund. If money is not available for this purpose in the Section 101 account of the fund, the expenses of administering the fund shall be paid from money appropriated under subsection (b)(1).

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund and allocated among the accounts within the fund according to the balances of the respective accounts.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(g) Money in the fund is appropriated continuously for the purposes

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stated in subsection (a).

SECTION 4. IC 3-11-6.5-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.1. The secretary of state ~~with the consent of the co-directors of the election division,~~ may administer the fund in accordance with the HAVA state plan, as published in the Indiana Register on November 1, 2003. The state plan may be amended in accordance with the requirements of HAVA and the procedures for amendment set forth in the plan. If the plan is amended as provided in this section, the fund may be administered in accordance with that amendment.

SECTION 5. IC 3-11-6.5-3.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.1. (a) This section applies to money received under Title II, Subtitle D, Part I of HAVA (42 U.S.C. 15401 through 15408) and deposited in the account established under section 2 of this chapter for those funds.

(b) ~~Except as provided in subsection (c),~~ Money deposited in the account must be used to comply with the requirements of Title III of HAVA (42 U.S.C. 15481 through 15502).

~~(c) As authorized under 42 U.S.C. 15401(b), money deposited in the account may be used for other purposes authorized under Section 101 of HAVA (42 U.S.C. 15301) if the secretary of state, with the approval of the co-directors of the election division, files the certification required by Section 251(b)(2)(B) of HAVA (42 U.S.C. 15401(b)(2)(B)).~~

~~(d) If the secretary of state makes the certification described in subsection (c), the secretary of state, with the approval of the co-directors of the election division, may transfer amounts that do not in total exceed the amount described in Section 251(b)(2)(B) from the Title II account of the fund to the Section 101 account of the fund.~~

~~(e)~~ **(c)** In conformity with Section 254(a)(7) of HAVA (42 U.S.C. 15404), the state shall maintain expenditures by the state for activities funded by the payment of funds described by this section at a level that is not less than the level of those expenditures maintained by the state for the fiscal year ending June 30, 2000.

SECTION 6. IC 3-11-6.5-4, AS AMENDED BY P.L.108-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) To receive reimbursement for the purchase of voting systems under this chapter, a county must file an application with the election division, in the form required by the election division. The secretary of state ~~with the consent of the co-directors of the election division~~ shall review the application and make a recommendation to the budget committee regarding the

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application. ~~If a county filed an application under section 3 of this chapter (repealed) not later than January 31, 2003, the application may be amended to comply with this chapter or the county may file a new application under this subsection.~~

(b) The budget agency, after review by the budget committee, shall approve a county's application for reimbursement under this chapter if the budget agency determines any of the following:

(1) The county has purchased or will purchase a new voting system or an upgrade or expansion of an existing voting system to comply with HAVA that would be eligible for reimbursement under HAVA and this chapter from any fund account.

~~(2) The county purchased a new voting system or an upgrade or expansion of the county's existing voting system after January 1, 1998, and before July 1, 2001, that would not qualify for reimbursement from federal funds received under HAVA, and the new voting system or upgrade or expansion of the county's existing voting system enhanced all of the following:~~

~~(A) Reliability of the county's voting system.~~

~~(B) Efficiency of the county's voting system.~~

~~(C) Ease of use of the county's voting system by voters.~~

~~(D) Public confidence in the county's voting system.~~

~~(3)~~ **(2)** The county has purchased or will purchase a new voting system to replace a voting system that the county cannot use because the county is unable to obtain technical or other operating support for its current voting system. This subdivision applies only if the purchase of a new voting system is eligible for reimbursement under HAVA.

SECTION 7. IC 3-11-6.5-5, AS AMENDED BY P.L.164-2006, SECTION 95, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) If a county's application is approved under section 4 of this chapter, the secretary of state ~~with the consent of the co-directors of the election division~~ shall, subject to this section, reimburse the county from the fund an amount to be determined by the secretary of state. ~~with the consent of the co-directors of the election division.~~

(b) Payment of money from the fund is subject to the availability of money in the fund and the requirements of this chapter and HAVA.

(c) It is the intent of the general assembly that a county eligible for reimbursement under section 4 of this chapter be reimbursed from federal money received by the state to the maximum extent permitted by federal law.

SECTION 8. IC 3-11-6.5-7.1 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.1. (a) This section applies to money received under Section 102 of HAVA (42 U.S.C. 15302) and deposited in the account established under section 2 of this chapter for those funds.

(b) Money deposited in the account must be used for the purposes set forth in Section 102 of HAVA (42 U.S.C. 15302).

(c) As permitted under 42 U.S.C. 15302, a county may apply to receive reimbursement from the fund.

(d) To receive reimbursement or voting systems under this section, a county must file an application with the election division in the form required by the election division. The secretary of state ~~with the consent of the co-directors of the election division,~~ shall review the application and make a recommendation to the budget committee regarding the application. ~~If a county filed an application under section 3 of this chapter (repealed) not later than January 31, 2003, the application may be amended to comply with this chapter or the county may file a new application under this subsection.~~

(e) The budget agency, after review by the budget committee, shall approve a county's application for reimbursement if the budget agency determines that the county has purchased a voting system to comply with Section 102 of HAVA and is eligible for reimbursement under this section.

(f) The budget agency, after review by the budget committee, shall approve a county's application for disbursement of voting systems to the county if the budget agency determines that the county is entitled to receive voting systems under this section to comply with Section 102 of HAVA.

(g) If a county's application for reimbursement is approved under this section, the secretary of state shall, subject to subsection (h), reimburse the county from the fund in an amount not more than the amount determined by STEP TWO of the following formula:

STEP ONE: Determine the number of precincts in the county that used a voting machine voting system or a punch card voting system at the November 7, 2000, general election.

STEP TWO: Multiply the number determined in STEP ONE by four thousand dollars ($4,000).

(h) Payment of money from the fund under this section is subject to the availability of money in the fund and the requirements of this chapter and HAVA.

SECTION 9. IC 3-11-6.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) This section applies to money received under Section 101 of HAVA (42 U.S.C.

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15301) and deposited in the account established under section 2 of this chapter for those funds.

(b) Money deposited in the account must be used in accordance with the requirements applicable under Section 101 of HAVA (42 U.S.C. 15301).

(c) The money may be used ~~with the approval of the co-directors of the election division~~ for the following purposes:

(1) By the secretary of state for any purpose authorized by this title and permitted under 42 U.S.C. 15301.

~~(2) To reimburse counties for the purchase of new voting systems eligible for reimbursement under section 7.1 of this chapter, to the extent that money received and deposited under section 7.1 of this chapter is insufficient to replace all voting machine systems and punch card voting systems in Indiana.~~

~~(3)~~ **(2)** To reimburse counties for the upgrade or expansion of existing voting systems to comply with HAVA.

(d) As permitted under 42 U.S.C. 15301, a county may apply to receive reimbursement under subsection (c).

(e) To receive reimbursement under this section, a county must make an application to the election division in the form required by the election division. ~~If the county filed an application under section 3 of this chapter (repealed) not later than January 31, 2003:~~

~~(1) the application may be amended to comply with this chapter; or~~

~~(2) the county may file a new application under this section.~~

The secretary of state ~~with the consent of the co-directors of the election division~~ shall review the application and make a recommendation to the budget committee regarding the application.

(f) The budget agency, after review by the budget committee, shall approve a county's application for reimbursement under this section if the budget agency determines that the application complies with the requirements for reimbursement under subsection (c)(2). ~~or (c)(3).~~

~~(g) If a county's application is approved under subsection (c)(2), the secretary of state with the consent of the co-directors of the election division shall, subject to subsection (i), pay the county from the fund an amount not more than the amount determined by STEP TWO of the following formula:~~

~~STEP ONE: Determine the number of precincts in the county that used a voting machine voting system or a punch card voting system at the November 7, 2000, general election that cannot be replaced with funds available under section 7.1 of this chapter.~~

~~STEP TWO: Multiply the number determined in STEP ONE by~~

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~~four thousand dollars ($4,000).~~

~~(h)~~ **(g)** If a county's application is approved under subsection ~~(c)(3),~~ **(c)(2),** the secretary of state ~~with the consent of the co-directors of the election division~~ shall, subject to subsection ~~(i),~~ **(h),** pay the county from the fund in an amount to be determined by the secretary of state. ~~with the consent of the co-directors of the election division.~~

~~(i)~~ **(h)** Payment of money from the fund under this section is subject to the availability of money in the fund and the requirements of this chapter and HAVA.

SECTION 10. **An emergency is declared for this act.**

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