



2021 Indiana Election Legislation Summary

Prepared by the Indiana Election Division

This document summarizes the election-related legislation that passed the Indiana General Assembly and became law in 2021. Bills may be obtained by contacting the Legislative Information Center at 200 West Washington Street, Room 230, Indianapolis, Indiana 46204-2731; (317) 232-9856, or by downloading documents from the General Assembly's website at www.iga.in.gov.

This document is intended to serve as an overview of information concerning Indiana election laws. Although the Election Division takes every effort to ensure the accuracy of the information in this document, **where your legal rights are involved, do not rely on this document. Instead, review the law yourself or consult with your attorney.**

The 2021 Regular Session of the Indiana General Assembly enacted the following election-related bills:

Public Law 108-2021 (Senate Enrolled Act 260): Circuit Court Clerk Matters
Public Law 109-2021 (Senate Enrolled Act 398): Various Election Matters
Public Law 118-2021 (House Enrolled Act 1479): Early Voting
Public Law 133-2021 (House Enrolled Act 1372): 2021 Regular Session of the General Assembly
Public Law 193-2021 (House Enrolled Act 1365): Various Election Matters
Public Law 209-2021 (House Enrolled Act 1485): Voting Matters
Public Law 221-2021 (House Enrolled Act 1581): Redistricting of Congressional, State Senate, State House of Representatives Districts

The following bills made technical or non-election related amendments to election statutes:

Public Law 22-2021 (Senate Enrolled Act 35): Local Government
Public Law 88-2021 (House Enrolled Act 1437): Electronic Meetings and Signatures
Public Law 25-2021 (Senate Enrolled Act 152): Courts and Court Officers
Public Law 32-2021 (House Enrolled Act 1084): Technical Corrections
Public Law 38-2021 (House Enrolled Act 1271): Department of Local Government Finance
Public Law 43-2021 (House Enrolled Act 1564): Secretary of Education
Public Law 107-2021 (Senate Enrolled Act 68): Conservancy District Board Meetings
Public Law 111-2021 (House Enrolled Act 1285): Motor Vehicles
Public Law 123-2021 (House Enrolled Act 1064): Courts and Court Officers
Public Law 136-2021 (Senate Enrolled Act 55): School Referenda
Public Law 137-2021 (Senate Enrolled Act 80): Code Publication Bill
Public Law 152-2021 (Senate Enrolled Act 332): Publications of Notice by Political Subdivisions
Public Law 185-2021 (House Enrolled Act 1255): Probate and Property Matters

ABSENTEE VOTING

Absentee Ballots

Requires that any absentee ballot sent by mail to a voter be sent by nonforwardable U.S. mail.

Provides that a qualified military or overseas voter use the Federal Post Card Application (FPCA), which is the dual voter registration and absentee application form prescribed by the Federal Voting Assistance Program under the U.S. Department of Defense. Removes the phrase “member of the military” as a reason on the ABS-Mail application.

Adds “I am a member of the Indiana National Guard deployed or on assignment in Indiana or a public safety officer” as a reason on the ABS-Mail application. Under state law, an Indiana National Guard member deployed or on assignment in an Indiana county is not eligible to use the FPCA, as the federal form is used by military voters and their eligible dependents deployed outside of Indiana.

Permits a family member (as defined for pollworker eligibility purposes in IC 3-6-6-7(a)(4)) to return a voter’s voted absentee ballot to the county election board. In addition to the voter, a member of the voter’s household or the voter’s designated attorney-in-fact, the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece whose relationship to the voter is the result of birth, marriage, or adoption may hand-deliver a voter’s absentee ballot to the county election board.

Permits a voter who receives an absentee ballot by mail to return the voted absentee ballot by U.S. mail or by personal delivery to the county at a circuit court clerk’s office where in-person absentee voting is occurring, a satellite office of the circuit court clerk established by the county election board to conduct in-person absentee voting, or a vote center location being used as a satellite location to conduct in-person absentee voting. (Under current law, on Election Day, an absentee ballot must be delivered to the county election board before the polls close at 6 p.m. (local prevailing time). As an alternative, a voter may surrender their ballot to Election Day precinct officials to vote in-person or execute the necessary affidavit at the polling place to vote in-person.)

A voter who presents and surrenders a sealed and signed absentee-by-mail ballot return envelope at an early voting location may request a replacement ballot at that location rather than casting the ballot received in the mail by the voter. The voter must complete the ABS-5 before being processed as an in-person absentee voter and receiving a new absentee ballot. Then the voter may cast the requested replacement absentee ballot at the early voting location in the same manner as any other voter who casts an absentee ballot at an early voting location. The absentee voter board working at the in-person absentee voting location must write “rejected” on the outside of the voter’s original absentee-by-mail ballot and place it in the rejected absentee ballot bag.

Specifies that in a primary, a voter may not request a replacement absentee ballot for a different political party from the party indicated on the voter's initial absentee application.

Requires that if a county election board uses a "drop box" for the return of absentee ballots that the "drop box" must be under the physical control and supervision of the county election board. An absentee ballot that is deposited into a "drop box" not under the physical control and the supervision of the county election board must be rejected. The board shall promptly notify the voter of the rejection of the ballot, if possible.

Requires that any drop box or other container that is located in a building under the control of a political subdivision in which a document may be deposited for other purposes related to the circuit court clerk's office or an office of any other political subdivision to have a notice posted by the political subdivision in control of the drop box container in a prominent location adjacent to the drop box or container substantially stating, "Do not deposit a voted absentee ballot into this box or container. The absentee ballot will not be counted."

The Secretary of State, with the approval of the Indiana Election Division, shall develop a system for voters with print disabilities to submit a combined voter registration and absentee ballot application that complies with the web contain guidelines. A voter with print disabilities may vote by using the system developed by the Secretary of State and the Indiana Election Division.

Requires voter marking ballot before an absentee voter board during in-person absentee voting or traveling board to fold each marked absentee ballot separately to conceal the voter's markings.

(SEA 398 § 22, 30, 52, 53, 71; Effective date: July 1, 2021; Citations affected 3-11-4-6, 3-11-10-24, 3-11-10-28, 3-11.5-4-2, 3-11.5-4-3, 3-14-2-16)

(SEA 398 § 36; Effective date: April 23, 2021; Citations affected 3-11-10-28)

Absentee Ballot Central Count Procedures

Repeals obsolete language superseded by the 2019 statute requiring that all counties conduct a central count of absentee ballots and transfers absentee ballot signature comparison to the absentee ballot central count law.

(SEA 398 § 26-28; Effective date: April 23, 2021; Citations affected 3-11-10-4[REPEALED], 3-11-10-4.5[REPEALED], 3-11-10-8.5)

(HEA 1365 § 85, 89, 90, 92, 101; Effective date: July 1, 2021; 3-12-3-1.2, 3-12-3-14[REPEALED], 3-12-3.5-1.5, 3-12-3.5-7[REPEALED], 3-14-4-10)

Absentee Ballot Signature Comparison

Transfers language concerning absentee signature comparison procedures from the former precinct absentee count law to the absentee central count law.

Requires the county election board, or the absentee voter board, upon receipt of an absentee ballot and not later than Election Day, to perform the first signature review, comparing the signature of the voter on the absentee ballot application (or if no application, the electronic poll book) with the signature on the voter's absentee ballot envelope (or if the voter cast their ballot on an electronic voting system, the affidavit created by the county election board under IC 3-11-10-26 or the statewide voter registration system (SVRS)).

If, during the first signature review, the county election board or absentee voter board unanimously finds the signature on the absentee ballot envelope (or transmitted affidavit used by military or overseas voters) is genuine, then the board shall attach the voter's absentee ballot application to the unopened absentee ballot envelope and place it into a large or carrier envelope containing the unopened absentee ballots for designated precinct.

If, during the first signature review, the absentee voter board members cannot agree the signature on the absentee ballot envelope is genuine, then the absentee voter board must send the matter to the county election board for determination. If the county election board does not unanimously determine that the signature on the ballot envelope is genuine, and instead only a majority of the board finds the signature to be genuine, the board shall also write on the absentee ballot return envelope (or the transmitted affidavit used by military or overseas voters) "SIGNATURE DISPUTED" and stored in the envelope with the rest of the absentee ballots of the precinct that will go through the second signature review on Election Day by the absentee ballot counters.

Requires (rather than permits under former law) the county election board to enclose all absentee ballot envelopes and applications for same precinct in same carrier envelope before Election Day. (Under current law, counties are required to sort and store counted absentee ballots by precinct. Marion County has different procedures.)

(SEA 398 § 56; Effective date: April 23, 2021; Citations affected 3-11.5-4-5)

Missing or Mismatched Signatures

Clarifies that an absentee ballot envelope with a missing or mismatched signature (that is, found by a majority of the county election board or by both members of the absentee voter board to be not genuine) is not immediately "rejected" upon the first absentee signature review.

If during the second signature review, both absentee counters or a majority of the county election board find a missing or mismatched signature, then the absentee ballot is not immediately "rejected." Instead, an absentee ballot with a missing or mismatched signature is subject to the cure procedures described below.

Establishes procedures for an absentee voter to cure an absentee ballot security envelope or absentee ballot security envelope affidavit, where the voter's signature is missing or has been determined to be a "mismatch" with the voter's signature on the absentee application, on the electronic poll book, or in the statewide voter registration system that would otherwise result in the voter's absentee ballot being rejected.

Specifies the content of the notice to the voter and requires the affidavit be executed by the voter to cure the mismatched signature or unsigned absentee ballot envelope. Requires that the form be prescribed by the Indiana Election Division and be generated by the statewide voter registration system (SVRS).

Absentee Signature Cure Procedures

Provides that both members of the absentee voter board, both absentee ballot counters, or a majority of the county election board are to perform the first or second signature review to determine that the signature on the absentee voter's security envelope (or if the voter cast the absentee ballot on an electronic voting system the affidavit created by the county election board under IC 3-11-10-26 or the electronic poll list,) does not match the signature on the voter's absentee application, the voter's signature on any electronic poll book, (or in the statewide voter registration system (SVRS), if there is no absentee ballot application), the absentee ballot is subject to the "cure" procedures before the absentee ballot can be processed and counted.

Requires that the date and reasons for the determination of the mismatched or missing signature be documented on the outside of the unopened absentee ballot return envelope and that the county notify the voter of the signature mismatch by producing a notice using a module of the statewide voter registration system (SVRS). The notice will instruct the voter how to complete and file the signature mismatch affidavit or unsigned ballot affidavit, how to file the affidavit with the county election board, that the voter can provide a reason why their signature did not match, including that age or disability of the voter affects how their signature is made or that the absentee affidavit was executed by the person holding the voter's power of attorney or any person assisting a voter under IC 3-11-4-2(b) or a member of the voter's immediate household or power of attorney attesting to the voter's signature on the absentee by mail return envelope under IC 3-11.5-4-13(c), and the deadline when the affidavit has to be filed with the county election board. The notice must also include a blank copy of the signature verification affidavit so that the voter can provide a reason their signature did not match. The legislation does not address how to document the signature mismatch when a voter casts an absentee ballot on an electronic voting system.

Requires notice be sent to a voter where it is determined their absentee ballot has been returned with a signature mismatch or a missing signature on the absentee ballot envelope not later than the close of business, two (2) business days after the signature mismatch or missing signature is determined by the county.

Requires an absentee ballot with a signature mismatch or a missing signature to be treated as a provisional ballot so that the absentee voter can cure the defect by filing an affidavit with the county election board not later than noon (local prevailing time), eight (8) days after Election Day. On the signature mismatch affidavit, the voter would swear that the signature on the absentee ballot security envelope affidavit is in fact that of the voter and sign the affidavit. On the affidavit of unsigned ballot, the voter would swear that the voter requested and returned an absentee ballot and that they are the voter whose name appears on the absentee ballot envelope and sign the affidavit.

Permits the voter to return the mismatch affidavit or the unsigned ballot affidavit in-person, by U.S. mail, email, or fax to the county election board, or on Election Day to the inspector of the precinct or chief election officer at a vote center location.

Provides that the county election board shall compare the voter's signature on the signature mismatch affidavit or the unsigned ballot affidavit returned by the voter with the signature on the absentee ballot affidavit envelope during the post-election provisional ballot process, and if those signatures match, board shall open the envelope and count the provisional ballot, assuming that there are no other issues regarding the validity of the provisional ballot.

Provides that if the county election board, during the provisional ballot hearing, finds that the affidavit signature does not match the signature on the absentee ballot security envelope affidavit, the provisional ballot shall be rejected.

Specifies that the same confidentiality restrictions that apply to other provisional ballots also apply to signature mismatch ballots. Requires that the signature in the voter's registration record in the statewide voter registration system be updated to reflect any matching signature made on the signature mismatch affidavit.

(SEA 398 § 55; Effective date: July 1, 2021; Citations affected 3-11.5-4-4)

(SEA 398 § 60, 61, 62; Effective date: July 1, 2021; Citations affected 3-11.5-4-13, 3-11.5-4-13.5[NEW], 3-11.5-4-13.6[NEW])

Beginning Absentee Ballot Signature Comparison Earlier on Election Day

Requires the county election board or the team of absentee ballot counters to conduct the second absentee signature review upon receipt of the absentee ballot not later than before the absentee ballot is prepared to be tabulated.

Specifies that in a county that using a traditional paper poll list at the polls on Election Day, the second signature review must be a comparison of the signature on the voter's absentee ballot application (or the signature on the electronic poll book used during absentee voting, pursuant to IC 3-7-29-6(a)(2)) against the voter's signature on the absentee ballot return envelope (or the affidavit created by the county election board under IC 3-11-10-26(d)(2), or the statewide voter registration system).

See related entry related to IC 3-11.5-4-10 regarding the 6 p.m. (local prevailing time) deadline for an absentee ballot to be received by the county election board on Election Day.

(SEA 398 § 58; Effective date: July 1, 2021; Citations affected 3-11.5-4-11)

Use of Letter Openers for Absentee Ballots

Permits any county to use a letter opening machine to open absentee ballot envelopes for processing.

(SEA 398 § 59; Effective date: July 1, 2021; Citations affected 3-11.5-4-12.5)

Voter Prohibited from Voting on Polls on Election Day after Returning Absentee Ballot

Clarifies that if a voter has marked and returned an absentee ballot to the county election board, the voter may not vote in-person on Election Day except if permitted to do so when the voter's absentee ballot is rejected for counting on Election Day. The voter must receive a certificate from the county election board by 5 pm (local prevailing time) on Election Day that would allow the voter to cast a ballot at the voter's polling location before the polls close.

(SEA 398 § 63; Effective date: April 23, 2021; Citations affected 3-11.5-4-20)

Additional Residency Documentation for First Time Voter Who Absentee Votes

Provisions in current law requiring an absentee voter to provide additional residence information transferred to central count law from IC 3-11-10-4.5.

Changes reference from precinct inspectors to absentee ballot counters to reflect changes in law requiring all counties to count absentee ballot at a central location.

(SEA 398 § 54; Effective date: April 23, 2021; Citations affected 3-11.5-4-3.5[NEW])

Use of Optical Scan Ballot Marking Device for Absentee by Travel Board

Permits the county election board to adopt a resolution, by unanimous vote of the entire board, to allow a voter voting an absentee ballot by travel board to use a ballot marking device that produces an optical scan paper ballot card when voting before an absentee voting board (in addition to the option of casting a ballot on a direct record electronic voting system).

(SEA 398 § 33; Effective date: July 1, 2021; Citations affected 3-11-10-26.2)

Completing a Voter's Ballot

Establishes a procedure for handling a voter's in-person absentee ballot at an early voting location when the voter has left the early voting location or declines to return to the voting booth to complete and return their ballot to the absentee voting board. This is similar to the procedures used on Election Day when a voter does not cast their ballot.

If the voter is still present at the early voting location, a member of the absentee voter board at the early voting location shall attempt to advise the voter not to leave the early voting location because the voter's absentee ballot has not been cast and permit the voter to return to the voting booth to complete the process of casting the voter's absentee ballot.

If the voter has left the early voting location or declines to return to the voting booth, then the absentee voter board shall use one of the following procedures based on the type of ballot being used by the voter at the early voting location:

Traditional Hand Counted Paper Ballots and Optical Scan Ballot Cards

The absentee voter board at the early voting location shall do the following:

- (1) Enter into the voting booth and place the voter's ballot inside the absentee ballot return envelope provided so none of the voter's marks can be seen.
- (2) Transfer or deposit absentee ballot return envelope to the location where previously cast absentee ballots have been secured.
- (3) Promptly complete a form prescribed by the Indiana Election Division, that is signed by both members of the absentee voter board, containing all the following:
 - a. The name of the voter who left the clerk's office or satellite office without completing the process of casting a ballot if the voter's name is known.
 - b. The approximate time that the voter left the clerk's office or satellite office.
 - c. Whether the voter was advised that the voter could return to the booth to complete the casting of the ballot.
 - d. A statement made under the penalties for perjury indicating that:
 - i. the absentee voter board members jointly transferred or deposited the envelope or folded ballot in the location where previously cast absentee ballots had been secured; and
 - ii. the absentee voter board members (and any other person) did not make any alterations to the choices made by the voter.

Direct Record Electronic (Electronic Voting System)

The absentee voter board shall enter the voting booth, complete the process of casting the absentee ballot for the voter, and complete the form described in the paper ballot/optical scan ballot card section above.

After the absentee ballot has been sealed in an absentee ballot return envelope (paper ballot/optical scan ballot card) or cast (DRE), the absentee voter board shall mark on the electronic poll book (if used) or in the statewide voter registration system (SVRS) that the voter has returned an absentee ballot. Since the absentee ballot is placed into an unsigned absentee ballot envelope, the absentee ballot will be subject to the absentee ballot missing signature procedure found in IC 3-11.5-4-13.6.

(SEA 260 § 9; Effective date: July 1, 2021; Citations affected 3-11-10-26.4[NEW])

(HEA 1365 § 46; Effective date: July 1, 2021; Citations affected 3-11-10-26.4)

Extended Deadline to 6 p.m. for Receipt of Absentee Ballots on Election Day

Provides that the deadline for a county election board in all counties to receive an absentee ballot by mail, fax, or electronic mail is 6 p.m., prevailing local time on Election Day (previously, the deadline to receive an absentee ballot in most instances was noon, prevailing local time).

Provides that if a county uses electronic poll books, the deadline to receive an absentee ballot by mail is 6 p.m. on Election Day. This information must be pushed to the ePollbooks at the Election Day voting locations to determine if any of the absentee voters voted on Election Day. If the voter voted in-person on Election Day, then the absentee ballot must be rejected. If the

voter has not voted, then the absentee ballot can be processed following the absentee central count procedures.

Specifies that if a county uses traditional paper poll lists, the deadline to receive an absentee ballot by mail, fax, or electronic mail is extended to 6 p.m., but if such a ballot is received by the county between noon and before 6 pm on Election Day, the ballot must not be processed or counted until:

- (1) the polls in each precinct have closed;
- (2) the poll list for the precinct with an absentee ballot that was returned between noon and 6 pm on Election Day has been returned to the county election board;
- (3) the county election board confirms whether the voter cast a ballot at the polls on Election Day.

Once it is confirmed the absentee voter did not appear in-person to vote on Election Day, then the absentee ballot can be processed using the absentee central count procedures.

Makes conforming changes to extend the absentee ballot deadline to 6 p.m. (local prevailing time) for counties to receive military and overseas absentee ballots returned by fax or email. The deadline to receive an absentee ballot mailed to a military and overseas voters using an FPCA. State law continues to allow these ballots to be postmarked by Election Day and received not later than noon (local prevailing time), ten days after the election.

Repeals obsolete sections.

(SEA 398 § 57, 66, 67; Effective date: July 1, 2021; Citations affected 3-11.5-4-10, 3-11.5-5-3[REPEALED], 3-11.5-6-3[REPEALED])

Traveling Board and Absentee Application

Clarifies that an absentee voter board may visit a voter who requests an absentee ballot by travel board at the voter's place of confinement or the voter's residence.

Permits an absentee traveling board to visit an individual already determined to be a voter of the county, and with the unanimous approval of the county election board, permit the voter to complete the absentee application and proceed to cast an absentee ballot before the traveling board during that visit if both members of the absentee voter board approve the application.

(SEA 398 § 31; Effective date: July 1, 2021; Citations affected 3-11-10-25)

Absentee Traveling Board Use of Electronic Poll Book

Permits an absentee voter board visiting a voter absentee voting by travel board to use an electronic poll book to obtain the voter's signature.

(HEA 1365 § 44; Effective date: July 1, 2021; Citations affected 3-11-10-25)

Repeal of Obsolete References to Precinct Count of Absentee Ballots

Makes conforming changes to implement 2019 law requiring that all counties conduct a central count of absentee ballots, instead of receiving and processing absentee ballots at a precinct polling place on Election Day.

Repeals the counting of absentee ballots at the precinct polling location statutes superseded by IC 3-11.5-4-18, 3-11.5-4-20, and 3-11.5-4-21.

Removes an obsolete reference to delivery of absentee ballots to precinct polling locations on Election Day. Superseded by IC 3-11.5-4-22.

(SEA 398 § 39, 40, 41, 42, 43; Effective date: April 23, 2021; Citations affected 3-11-10-30[REPEALED], 3-11-10, 31[REPEALED], 3-11-10-32[REPEALED], 3-11-10-36[REPEALED], 3-11-10-38)

Electronic Absentee Ballot Application

Requires that an electronic application to receive an absentee ballot by mail or by traveling board submitted through the Indiana Voter Portal (www.indianavoters.com) must include a telephone number to allow the voter to submit the application for review by the county election board or their designee or an absentee voter board. An applicant may provide an optional e-mail address to permit the county to contact the applicant but the failure to provide an e-mail address on the application is not a reason for denying the applicant's absentee ballot application. The telephone number and email remain optional on the ABS-Mail paper application and is not a reason for denying the applicant's absentee ballot application.

(HEA 1365 § 37; Effective date: July 1, 2021; Citations affected 3-11-4-5.1)

Notice of Denial of Absentee Ballot Application

Requires that a county election board notify any applicant whose absentee ballot application is denied (not only military and overseas applicants under current law). Notice may be given by personal delivery, mailing to the voter, or e-mailing the voter if an email address has been provided.

(HEA 1365 § 38; Effective date: July 1, 2021; Citations affected 3-11-4-17.5)

Absentee Board Member Initials on Absentee Ballots

Prohibits an absentee board member, a county election board member, or the county election board member's representative from placing their initials on an absentee ballot until after the voter's application for that absentee ballot has been approved or not more than twenty-four (24) hours before an absentee ballot is mailed to a voter.

Requires that an initialed absentee ballot be kept under bipartisan control after the ballot is initialed until the ballot is mailed.

(HEA 1365 § 39, 47; Effective date: July 1, 2021; Citations affected 3-11-4-19, 3-11-10-27)

Information Required to be Provided to Voter Who Casts a Provisional In-Person Absentee Ballot During Early Voting

Provides that if a voter who wants to vote an in-person absentee ballot but fails to provide proof of identification, the voter must instead cast a provisional ballot. The absentee voter board, both orally and in writing on a form prescribed by the Indiana Election Division, must provide the voter an explanation of the actions that the voter must take for the provisional ballot to be counted, and to be given an additional notice, prescribed by the Indiana Election Division, from the circuit court clerk by U.S. mail regarding the provisional ballot process and contact information for the county election board.

(HEA 1365 § 45; Effective date: July 1, 2021; Citations affected 3-11-10-26)

BALLOTS, VOTING SYSTEMS AND ELECTRONIC POLL BOOKS

General and Municipal Election Ballot Order

Under current law, for a general or municipal election, a partisan office where more than one candidate can be elected (county council at-large, city common council at-large, or town council at-large) is to be placed on the ballot after all single member partisan offices (i.e., U.S. Senator, Indiana state senator, circuit court clerk, etc.) and before any school board office. An exception is added for whenever candidates are to be elected to a county council, city common council, or town council that includes both at-large and district members on the ballot are to be listed with the at-large members first followed by the district office in the order on the ballot provided in IC 3-11-2-12.

A provision providing that whenever candidate to be elected to a school board office at a general or municipal election that includes both an at-large member and a member representing a district, the at-large school board seats are to be listed on the ballot before district seats is moved to the section specific to school board offices.

If more than one local nonpartisan judicial office is on the general election ballot, the offices are to be placed on the ballot in alphabetical or numerical order, according to the name of the office. Specifies that if there is more than one candidate for a local nonpartisan judicial office, the candidates for the office are to be listed in alphabetical order according to surname.

(HEA 1365 § 34, 50, 55; Effective date: July 1, 2021; Citations affected 3-11-2-14, 3-11-13-11, 3-11-14-3.5)

(SEA 398 § 14, 15, 16, 17, 45, 49; Effective date: July 1, 2021; Citations affected 3-11-2-12, 3-11-2-12.2, 3-11-2-12.4, 3-11-2-12.9, 3-11-13-11, 3-11-14-3.5)

Ballot Card Remake Requirements

Provides that a bipartisan ballot remake team must add their initials to the remade ballot card created when the original ballot was returned by a military or overseas voter by using fax or email. Previously, state law was silent on this matter.

(HEA 1365 § 87; Effective date: July 1, 2021; Citations affected 3-12-3-5)

Ballot Initialing Requirements

Repeals a redundant initialing requirement that is covered in IC 3-11-4-19.

(SEA 398 § 29; Effective date: April 23, 2021; Citations affected 3-11-10-19[REPEALED])

Expanded Definition of Ballot Label

Specifies that the definition of “ballot label” also refers to the digital image of the ballot on the screen of an electronic voting system or the interface of the ballot marking device used with an optical scan voting system (commonly referred to as a “hybrid” voting system, for example).

This expanded definition for the term is used in the voting system certification sections of Indiana state law and provides for a more uniform manner by which to certify these systems.

(SEA 398 § 1; Effective July 1, 2021; Citations affected 3-5-2-5)

Ballot Layout Quotation Marks

A public question on a ballot is to be set forth without including any quotation marks before or after the public question.

(SEA 398 § 18; Effective date: April 23, 2021; Citations affected 3-11-2-15)

(SEA 398 § 46, 50; Effective date: July 1, 2021; Citations affected 3-11-13-11.5[NEW], 3-11-14-3.7[NEW])

Ballot Precinct Designations

Hand counted traditional paper ballots and optical scan ballot cards must contain the precinct number or designation printed on the ballot.

(HEA 1365 § 21, 33, 51; Effective date: July 1, 2021; Citations affected 3-10-1-13, 3-11-2-3, 3-11-13-19)

Ballot Scanning Prior to Election Day

A county election board may scan a voted optical scan ballot cards cast during absentee voting not earlier than seven (7) calendar days before Election Day. However, the county election board may not tabulate the ballots before Election Day and must retract a previously scanned absentee ballot card that is later rejected by the county election board.

A county that uses electronic poll books at the polls on Election Day or that has adopted a vote center plan may adopt a resolution, by unanimous vote of the entire membership of the board, to process and scan returned absentee ballots before Election Day. If the resolution is adopted then absentee ballot counters, in the presence of the county election board, may process the absentee ballot of a voter as follows:

- (1) Beginning at noon, three (3) days before the election for any absentee ballot that has been received by the county election board not later than noon, four (4) days before the election.
- (2) Beginning at noon, two (2) days before the election for any absentee ballot that has been received by the county election board any time after noon, four (4) days before the election and not later than noon, three (3) days before the election.
- (3) Beginning at noon, the day before the election for any absentee ballot that has been received by the county election board any time after noon, three (3) days before the election and not later than noon, two (2) days before the election.

The absentee ballot counters shall do all the following:

- (1) Conduct a review of the absentee ballot required IC 3-11.5-4-12(a)-(c). Marion County and any other county that has adopted a resolution to forgo the second review of the absentee ballot envelope and determining if the voter is a qualified of the precinct for all voters who voted absentee in-person or by travel board apply to this procedure. County election boards cannot pass a resolution to waive the second signature review of absentee ballots sent by mail.
- (2) Determine if the absentee ballot cannot be counted according to IC 3-11.5-4-13.
- (3) Open the envelope containing the absentee ballot in a manner that does not deface or destroy the affidavit and take out each ballot enclosed without unfolding or permitting the ballot to be unfolded or examined.
- (4) Determine if the absentee ballot has been endorsed with the initials of:
 - a. the two (2) members of the absentee voter board in the office of the clerk of the circuit court under IC 3-11-4-19 or IC 3-11-10-27;
 - b. the two (2) members of the absentee voter board visiting the voter under IC 3-11-10-25; or
 - c. the two (2) appointed members of the county election board or the members' designated representatives under IC 3-11-4-19.

If the team of absentee ballot counters determines the absentee ballot can be counted, then the absentee ballot must be stored in an envelope or container kept for ballots of the same precinct. The envelope or container must have the name of the precinct written on the envelope or container and be stored in a secure manner under dual lock controlled by both appointed members of the county election board. (Marion County has separate procedures for storing its absentee ballots.)

An absentee ballot determined to be counted under this pre-Election Day processing procedure can be tabulated on Election Day.

A member of the county election board may challenge a voter under IC 3-11.5-4-15(c) when a team of absentee ballot counters is processing an absentee ballot under this pre-Election Day processing procedure.

(SEA 260 § 10, 11; Effective date: July 1, 2021; Citations affected 3-11.5-4-6, 3-11.5-4-11.5(c))

Printing Universal Pronunciation Symbols as Part of Candidate Name on Ballot

Requires that a voting system initially certified for marketing and use in Indiana after January 1, 2022, by the Indiana Election Commission, must display a universally recognized pronunciation symbol as part of a candidate's name on:

- (1) a ballot;
- (2) voting system screen;
- (3) voting system activation card;
- (4) voting system file; and
- (5) voting system results report.

Specifies that the pronunciation symbol is not required to appear on any of the following:

- (1) A voter verifiable paper audit trail.

- (2) The zero and total tapes printed by the automatic tabulating machine under IC 3-12-3-2.
- (3) The paper zero and total tapes printed from the electronic voting under IC 3-12-3.5-2.
- (4) The name of a candidate printed on a ballot card by a ballot marking device used with an optical scan voting system.

(HEA 1365 § 6; Effective date: July 1, 2021; Citations affected 3-5-7-5.5[NEW])

County Disposal Plans for Voting Systems

Requires that the county disposal plans for a voting system or electronic poll book to include additional details regarding how the system will be disposed of and the person who will dispose of the equipment. Specifies that the county may not dispose of the voting system or electronic poll book by transferring the voting system or electronic poll book to any person other than an Indiana county, VSTOP, a state or local government in the United States for conducting elections, a political party in Indiana entitled to nominate candidates for the general election for the limited purpose of conducting a nominating convention, or by returning the voting system to the vendor who supplied the system.

(HEA 1365 § 62; Effective date: July 1, 2021; Citations affected 3-11-15-59)

Definition of Anomaly with Voting System or Electronic Book

Defines an “anomaly” as an action or response by an electronic poll book or voting system that:

- (1) does not conform with the specifications or perform as certified and is critical to the administration of elections;
- (2) causes a delay or disruption to voting or vote tabulation; or
- (3) occurs due to a root cause that is unable to be determined within 48 hours after its discovery by the county or system vendor.

(HEA 1365 § 1; Effective date: July 1, 2021; Citations affected 3-5-2-1.8 [NEW])

Definition of De Minimis Change to Voting System or Electronic Book

Amends the definition of “de minimis change” with respect to the hardware, software, technical documentation, or data of a voting system certified by the Indiana Election Commission or an electronic poll book certified by the Indiana Secretary of State to refer to a change in the voting system or electronic poll book which will not materially alter the system’s reliability, functionality, capability, or operation. A change is not a de minimis change if the change has a reasonable and identifiable potential to affect the voting system’s electronic poll book’s operation and compliance with applicable Indiana law.

(HEA 1365 § 2; Effective date: April 29, 2021; Citations affected 3-5-2-16.3)

Definition of “Electronic Poll Book”

Extends definition of “electronic poll book” to include the backend structure and services, including cloud platform services used in an electronic pollbook to access and maintain the electronic poll list.

(HEA 1365 § 3; Effective date: April 29, 2021; Citations affected 3-5-2-20.5)

Electronic Pollbook Requirements

Repeals obsolete reference to effective date of amendment to the electronic pollbook requirements law.

(HEA 1365 § 40; Effective July 1, 2021; Citations affected 3-11-8-10.3)

Electronic Pollbook Test Protocol

Updates reference to electronic pollbook test protocol issued by Secretary of State from the January 1, 2020 version to the January 1, 2021 version.

(HEA 1365 § 69; Effective April 29, 2021; Citations affected 3-11-18.1-12)

Generic County Seal used on Ballots

Provides that the Co-Directors of the Indiana Election Division shall prescribe the design of the county seal used on ballots when the incumbent circuit court clerk is a candidate on the ballot (rather than the Indiana Election Commission). A generic seal of the circuit court clerk approved by the Indiana Election Commission before January 1, 2021, is considered to be approved by the Co-Directors of the Indiana Election Division without any further action by the election division.

(SEA 398 § 6; Effective date: July 1, 2021; Citations affected 3-5-4-9)

Marking Device

Changes the definition of “marking device” to remove the reference to a “touch-sensitive” device and include an approved device that automatically registers the voter’s vote on an electronic voting system or produced a marked optical scan ballot indicating the choices of the voter. Specifies that a voter verifiable paper trail (VVPAT) is not a marking device.

(SEA 398 § 2; Effective date: July 1, 2021; Citations affected 3-5-2-31)

Optical Scan Ballot Marking Device and Ballot Card Requirements

Establishes ballot layout and ballot interface requirements for a ballot marking device that contains features of both a ballot card voting system and an electronic voting system and produces a ballot card with the voter’s choices as selected by the voter and marked on the ballot card by the device.

The interface of the marking device used by the voter to make their votes on the voter’s ballot must include all the following:

- (1) The information required by IC 3-11-14-3.5.
- (2) The instructions required by IC 3-11-2-8.
- (3) The information and instructions required by IC 3-11-2-10.

- (4) Comply with the same disability access standards as an electronic voting system under IC 3-11-15-3.6.

A ballot card used with a marking device must have preprinted or printed by the marking device the following:

- (1) When the marking device is used for absentee voting under IC 3-11-10-26, the circuit court clerk's signature and seal required by IC 3-11-10-27.
- (2) When the marking device is used by a voter to cast a provisional ballot, the circuit court clerk's signature and seal required by IC 3-11-7-1-7.
- (3) A line or box for each poll clerk's initial as required by section 19 of this chapter.
- (4) When the marking device is used during a primary election, the name of the political party whose primary the voter is participating in or the word "nonpartisan" if the voter is voting a ballot that contains only a public question certified by the county election board under IC 3-10-9.

If the optical scan voting system produces a marked ballot card from the marking device, then the ballot card must contain a summary ballot scan of the voter's ballot that includes all the following:

- (1) The name or designation of each office on the voter's ballot.
- (2) The name of the candidate and the candidate's political party selected by the voter.
- (3) If the voter selects a straight party ticket, the name of the political party ticket the voter selected.
- (4) A description of the text of any public question or judicial retention question on the voter's ballot that the county election board determines reasonably conveys the content of the public question or judicial retention question and the response the voter selected for each question.

The ballot card may contain additional information that traditional preprinted ballot cards would have printed on the ballot.

The ballot card used with the marking device may be a different dimension or size other than traditional preprinted ballot cards that are approved by the county election board for use in an election and that are not designed to be marked by the marking device.

Specifies that a voter verifiable paper audit trail (VVPAT) is not a marking device.

(SEA 398 § 44; Effective date: July 1, 2021; Citations affected 3-11-13-7.5[NEW])

Political Party Symbols

Provides that a political party's device or symbol is not to be printed on a general election ballot, municipal general election ballot, or special election ballot when: (1) the party has no candidates on the ballot; or (2) the only candidates of the political party on the ballot are the ones for whom a straight party ticket vote will not count as a vote for any individual candidate. (Straight party devices are not used in the primary election.)

(SEA 398 § 13, 47, 51; Effective date: July 1, 2021; Citations affected 3-11-2-9, 3-11-13-14, 3-11-14-14.5[NEW])

Provisional Ballot Voter Notices

Provides that if a voter who registered to vote in Indiana for the first time by mail, who has not previously provided the additional residency documentation or proof of their Indiana residence as required by law and, therefore, is required to cast a provisional ballot to vote on Election Day, must be advised by a member of the precinct election board, both orally and in writing, that the voter may file a copy of the documentation with the county voter registration office to permit the voter's provisional ballot to be counted. The written notice is prescribed by the Indiana Election Division with information explaining the requirement and the procedures to enable to voter's provisional ballot to be counted.

Provides that if a voter is challenged at the polls because the voter's name does not appear on the poll list or the voter's name appears, but the voter is challenged as not qualified to vote in the precinct, must be advised by a member of the precinct election board, both orally and in writing, what actions the voter must take to have the provisional ballot counted. The notice is prescribed by the Indiana Election Division with information explaining the requirement and the procedures to enable to voter's provisional ballot to be counted. The notice provided at the precinct is in addition to the notice mailed to the provisional voter by the circuit court clerk.

(HEA 1365 § 42, 76; Effective date: July 1, 2021; Citations affected 3-11-8-25.2, 3-11.7-2-2)

Provisional Ballot Counting Requirements

Provides that in cases where the only evidence presented to a county election board in a hearing regarding whether to count a provisional ballot is the affidavit challenging the ballot and the voter's response affidavit, then provisional ballot is to be counted if the individual is a registered voter of the precinct.

Requires that not later than three (3) calendar days after Election Day, each circuit court clerk provide a notice by US mail, or other method providing actual notice, to each provisional ballot voter on a form prescribed by the Indiana Election Division providing information regarding:

- (1) the reasons that the voter's ballot is being challenged;
- (2) what actions the voter may take to have the provisional ballot counted;
- (3) the deadline for taking these actions for the voter's provisional ballot to be counted; and
- (4) contact information for the county election board including the address and telephone number that the voter can contact to inquire about the voter's provisional ballot as well as any other information the circuit court clerk considers useful to provide assistance to the provisional voter in inquiring about the provisional ballot.

(HEA 1365 § 77, 81; Effective date: July 1, 2021; Citations affected 3-11.7-5-1.7, 3-11.7-6-4[NEW])

Public Test Requirements

Requires the pre-election public test for an optical scan ballot card voting system must include at least one (1) ballot from three (3) different precincts where the election will be conducted.

Requires that after the pre-election public test for an optical scan ballot card voting system is conducted, the county election board must enter the totals from the voting system tabulator tested during the public test into the component of the voting system used by the county election board to canvass the election results on Election Day to determine if the component is canvassing correctly and reflects the votes cast in each of the precincts, and for each candidate and public question during the public test. This is already a requirement for the public test of an electronic voting system.

Requires the pre-election public test for an electronic voting system include at least ballots from three (3) different precincts where the election will be conducted to test if the system allows voters with disabilities to cast ballots privately and independently, and if the correct number of valid votes are recorded for each candidate and public question.

(HEA 1365 § 52, 53, 58; Effective date: July 1, 2021; Citations affected 3-11-13-24, 3-11-13-24.5[NEW], 3-11-14.5-5)

Security Requirements for Returning Voting Systems from Election Day Voting Locations

Establishes security and inventory requirements for the return of voting systems to the county after the close of the polls, which parallels the requirements in current law for transporting voting systems from the county to the polling location before the polls open. This procedure does not apply to any electronic poll book or voting system subject to an impoundment order issued by a court or a recount commission until the impoundment order is rescinded.

Provides that electronic pollbooks are to be returned to the county by the inspector and opposite party judge with ballots and other paper documents after the close of the polls.

After the polls close on Election Day:

- (1) the county election board;
 - (2) teams consisting of at least two (2) individuals who are designated by the county election board, are affiliated with a political party entitled to nominate an individual to serve as an appointed member of the county election board, and have at least two (2) individuals on the team who are not members of the same political party; or
 - (3) a commercial delivery entity operating under a contract with the county election board;
- shall return all voting systems from the polls for the precinct or from the vote centers to a storage facility to be secured under IC 3-11-15-46.

The county election board may not designate any individual to serve on a team or permit a commercial delivery entity to allow any individual to access or return a voting system if the individual is imprisoned, subject to lawful detention, on probation, on parole, subject to home detention, or placed in a community corrections program.

If a county election board uses the teams comprised of two individuals who are not members of the same political party or a commercial delivery entity to return a voting system from the Election Day polling location, the board shall require that the two (2) members of each team who are not members of the same political party; or the commercial delivery entity execute a certificate and file it with the county election board immediately upon any return of a voting

system. The certificate must be signed by the two (2) members of each team or by an individual authorized to act on behalf of the commercial delivery entity.

The certificate must include the following:

- (1) That the voting systems remained in the custody and control of each individual during the period beginning when the voting systems were received from the county election board and ending when the voting systems were returned to the location designated for securing voting systems under IC 3-11-15-46.
- (2) That no individual other than a team member or an individual acting on behalf of the commercial delivery entity had access to any voting system.
- (3) That an individual documented receipt of the voting system at the location when the system was returned.
- (4) The written name and signature of the individual and date that the voting system was delivered to the custody of that individual.

(HEA 1365 § 86, 91; Effective date: July 1, 2021; Citations affected 3-12-3-2.2[NEW], 3-12-3.5-4.5[NEW])

Use of “Electronic Adjudication” of Scanned Ballot Images Permitted

Permits a voting system certified for use in Indiana to include features that permit the use of electronic adjudication of ballots to review voter intent so long as:

- (1) the adjudication is conducted in compliance with Indiana law; and
- (2) the software is part of the electronic management system (EMS) certified by the Indiana Election Commission as part of the voting system.

According to the Election Assistance Commission’s Voluntary Voting System Guidelines (VVSG) 2.0 adjudication means the process of resolving flagged cast ballots to reflect voter intent. Common reasons for flagging include:

- write-ins,
- overvotes,
- marginal machine-readable mark,
- having no contest selections marked on the entire ballot, or
- the ballot being unreadable by a scanner.

State law does not require any voting system in Indiana to include these features.

(HEA 1365 § 60; Effective date: July 1, 2021; Citations affected 3-11-15-13.8 [NEW])

Voting System Anomaly Reporting Requirements

Provides for an expedited reporting requirement by an electronic poll book or voting system vendor to the Secretary of State and the Indiana Election Division if an anomaly occurs not later than twenty-eight (28) days before Election Day.

Permits the Secretary and the Indiana Election Division to designate a person or entity to aggregate, analyze, make recommendations, and subsequently report anomalies as requested by the secretary and the co-directors of the election division.

The anomaly report made by a voting system vendor must now include all the following:

- (1) The nature of the anomaly or problem.
- (2) The county, precinct, vote center, satellite office, or in-person absentee voting location affected.
- (3) The vendor's preliminary plan to resolve the anomaly or problem by preventing any impediment to voters casting ballots, or to the accuracy and integrity of the election process.
- (4) The date and time an anomaly was first experienced or discovered.
- (5) The name and contact information for the individual discovering or experiencing the anomaly.
- (6) The date and time the vendor first became aware of the anomaly.
- (7) The name and contact information of the vendor representative submitting the report.
- (8) Whether the anomaly involved a voting system, an electronic poll book, or a peripheral component of either a voting system or electronic poll book.
- (9) The system type, make, model, hardware, firmware, and software version involved, as applicable.
- (10) A detailed description of the anomaly and its effect on election administration.
- (11) Any findings related to how and where the current or previously reported anomaly originated.
- (12) Details of any responsive actions, such as investigation, analysis, determinations, and corrective action implemented or recommended, taken to address the anomaly and its effects.

Provides the use of an online module for the vendor to report the anomaly and for additional information to be included in the anomaly report (including actions taken to address any problems resulting from the anomaly along with a corrective plan by the vendor to resolve the anomaly). The reporting process shall be completed as follows:

- (1) The Secretary of State and the Indiana Election Division will request of each voting system and electronic poll book vendor the name and contact information for the vendor representative who will be reporting anomalies.
- (2) The anomaly reporting platform will be made available to each vendor in an online format. Separate reporting locations in the Secretary of State anomaly reporting platform will be provided to each vendor.
- (3) Each vendor will report each anomaly in the online location provided.
- (4) VSTOP will have complete access to the information submitted through the Secretary of State anomaly reporting platform.
- (5) The Secretary of State and the Indiana Election Division shall send an acknowledgment by electronic mail to the vendor upon receiving the anomaly notification.

Requires a vendor to report any anomaly occurring outside of Indiana involving the same type or model of electronic poll book or voting system certified for use in Indiana not later than fourteen (14) days after discovery of the anomaly.

A voting system vendor shall report an anomaly involving a voting system to the Indiana Election Commission and the United States Election Assistance Commission and file a copy with the Secretary of State and the Indiana Election Division documenting receipt of the report.

A vendor must take reasonable measures to ensure a reported anomaly does not reoccur and retain documentation of any investigation, analysis, determinations, and corrective actions implemented or recommended for at least two (2) years after the anomaly is reported. Not later than noon, Eastern Time, fourteen (14) days after reporting the anomaly, a vendor shall file a corrective plan with the Secretary of State and the Indiana Election Division.

An anomaly caused solely by operator error is not required to be reported unless a deficiency in user instructions or training is a contributing factor. The burden of showing an anomaly was the result of operator error and not a deficiency of user instructions or training rests with the system vendor.

Specifies that an anomaly report submitted by the vendor is confidential at the discretion of the Secretary of State and the Indiana Election Division.

(HEA 1365 § 66, 67; Effective date: July 1, 2021; Citations affected 3-11-17-7, 3-11-17-9[NEW])

Voting System Standards

Updates the specific date the certification of voting system expires for the next four-year period. The certification of all voting systems will expire on October 1, 2021, unless recertified by the Indiana Election Commission. A county may continue to use a voting system that is not recertified after October 1, 2021 provided that the following conditions are met:

1. the voting system was certified by the Indiana Election Commission before October 1, 2021;
2. the voting system was acquired by the county before October 1, 2021; and
3. the voting system otherwise complies with Indiana election law and the federal Help America Vote Act.

(HEA 1365 § 59; Effective date: October 1, 2021; Citations affected 3-11-15-13.3)

Voting System “Hashtag Validation” Requirement

Requires that a voting system approved by the Indiana Election Commission for use in Indiana elections must contain a validation method to ensure that the software is tested and that no uncertified software is present on the voting system. For example, the current version of the approved software for Vendor A’s DRE voting system is 1.1. Therefore, the county uses a validation method that requires a review the screen of each DRE unit to ensure it displays the current version of the software as 1.1. This would serve as the county election board’s confirmation that the individual voting system unit has the approved version of the software installed.

The voting system vendor shall provide the instructions for use of the validation method to the voting system technical oversight program (VSTOP) to permit VSTOP to perform this validation before the voting system is certified by the Indiana Election Commission and at any time that the voting system remains certified for use in Indiana.

(HEA 1365 § 61; Effective date: July 1, 2021; Citations affected 3-11-15-13.9[NEW])

Voting System Components Not Permitted to be Connected to Internet

Prohibits a computer or electronic device used to create the layout of a ballot for an election, to program a voting system, electronic voting system, or ballot card voting system, or that has an election management software certified for use as part of a voting system may not be connected to the Internet or any network that connects to another computer or electronic device.

This prohibition does not apply to electronic poll books.

(HEA 1365 § 63; Effective date: July 1, 2021; Citations affected 3-11-15-61[NEW])

Voting System Violation Penalties

Permits the Secretary of State to impose a civil penalty of up to \$300,000 against an electronic poll book or voting system vendor who fails to file a report with the Secretary of State and the Indiana Election Division not later than forty-eight (48) hours after discovering that an anomaly or problem has occurred in a voting system or electronic poll book due to technical or human error. If the anomaly or error is discovered not later than twenty-eight (28) days before Election Day, then the vendor may be imposed a civil penalty by the Secretary of State if the anomaly report is not filed no later than two (2) hours after discovery of the anomaly or problem.

(HEA 1365 § 65; Effective date: July 1, 2021; Citations affected 3-11-17-2)

VSTOP Random Audit Schedule

Requires VSTOP to conduct random audits of voting systems and electronic poll books in odd-numbered years (rather than in every year).

(HEA 1365 § 64; Effective date: July 1, 2021; Citations affected 3-11-16-4)

Voter Verifiable Audit Trail (VVPAT) Requirements

Specifies that on the voter verifiable paper audit trail (VVPAT) of an electronic voting system must contain all the following:

- (1) The name or code of the election as provided by the voting system.
- (2) The date of the election.
- (3) The date the voter verifiable paper audit trail was printed.
- (4) A security code and record number specific to each paper receipt assigned by the voting system.
- (5) The name or designation of the voter's precinct.
- (6) The name or designation of each office on the voter's ballot.
- (7) The name of the candidate and the designation of the candidate's political party selected by the voter.

- (8) If the voter selects a straight party ticket, the name of the political party ticket the voter selected.
- (9) The following information:
- a. A description of the text of any public question or judicial retention question on the voter's ballot that:
 - i. contains not more than thirty (30) characters; and
 - ii. the county election board determines reasonably conveys the content of the public question or judicial retention question.
 - b. The response the voter selected for each question.

Permits the county election board to require that additional information and instructions be included.

(SEA 398 § 48; Effective date: July 1, 2021; Citations affected 3-11-14-2)

Write-in Ballot Counting Rules

Transfers language in current law regarding how to count a write-in vote for one candidate of a two-candidate ticket (President and Vice-President; Governor and Lieutenant Governor) from the law applicable only to votes cast on a federal write-in ballot to the law applicable to all write-in ballot votes.

(HEA 1365 § 82, 83; Effective date: July 1, 2021; Citations affected 3-12-1-1.7, 3-12-1-19)

CANDIDATES AND OFFICEHOLDERS

Candidate Disqualification

A person is disqualified from assuming or being a candidate for an elected office if the person is a nonjudicial court employee who would violate Rule 4.6 of the Indiana Code of Judicial Conduct by being the candidate of a political party for nomination or election to an elected office or political party office.

(HEA 1365 § 16; Effective date: July 1, 2021; Citations affected 3-8-1-5)

County Chairman Certification of Party Affiliation

If a person wishes to be a candidate at a Democratic or Republican political party primary, the candidate may claim to be affiliated with the political party based on the candidate's primary election voting history if the candidate's two most recent primary elections in Indiana in which the candidate voted were the primary elections held by the party with which the candidate claims affiliation. If the candidate does not have this primary voting history, then the candidate must obtain a certificate from the county chairman of the party in the county where the candidate resides stating that the candidate is a member of that political party.

This law does not mean the candidate must have voted in the two (2) most chronologically recent primary elections and requested a Democratic or Republican ballot; instead, the person's vote history must demonstrate that the last two (2) primary elections in which the person voted must align with the party the candidate seeks to affiliate in the primary election. For example, if a candidate pulled a Republican Party primary ballot in 2016, did not vote in the 2018 and 2019 primary election, and requested a Republican Party primary ballot in 2020, then this candidate meets the requirements set forth in state law to file a declaration of candidacy (CAN-2) for the Republican Party primary without attaching the chair's certification.

Alternatively, if a candidate requested a Democratic Party primary ballot in 2019 and a Republican Party primary ballot in 2020, then this candidate would not meet the requirements set forth in state law to file a declaration of candidacy (CAN-2) in the Democratic Party primary in 2022 and would need to attach the chair's certification with their filing. Failure to attach the chair's certification does not result in the filing being rejected, but it may be challenged by a voter of the precinct or a county chair.

If a person wishes to be a candidate for office in either a political party primary or a town convention, a candidate must obtain a statement from the county chairman of the political party for the primary or town convention that the candidate wants to be a candidate at if the candidate cast a "nonpartisan ballot" at the last Indiana primary in which the candidate voted in, instead of the primary ballot of the political party.

This requirement does not apply to filling ballot vacancies or elected office vacancies.

(HEA 1365 § 17; Effective date: January 1, 2022; Citations affected 3-8-2-7)

(SEA 398 § 8; Effective date: January 1, 2022; Citations affected 3-8-2-7)

(SEA 398 § 8, 10; Effective date: July 1, 2021; Citations affected 3-8-5-10.5)

General Election Ballot Vacancy Following Successful Challenge to Candidate Nominated by Political Party Convention.

Permits a political party to fill a general election ballot vacancy that exists before the thirtieth (30th) day before the general, municipal, or special election if:

- (1) a party's candidate nominated at a state, county, or town party convention is disqualified by a successful candidate challenge;
- (2) a statewide or state legislative candidate at the general election is successfully challenged before the Indiana Election Commission; or
- (3) the certification of a candidate to fill a general election ballot vacancy is successfully challenged.

(HEA 1365 § 99; Effective date: July 1, 2021; Citations affected 3-13-1-7)

General Election Ballot Vacancy When Filled by a Committee of County Party Officers

Specifies that if a general election ballot vacancy is to be filled by direct appointment of the four (4) officers of a major political party county committee (the chairman, vice-chairman, secretary, and treasurer), then the candidate to fill the ballot vacancy is not required to file a declaration of candidacy with the county circuit court clerk or the Indiana Election Division (whichever is applicable) and the county chair before the county committee meets to fill the ballot vacancy by direct appointment.

Clarifies the filing requirement does not apply if a county chair makes a direct appointment to fill a general election ballot vacancy.

This law does not apply to an elected office vacancy where a current officeholder resigns or otherwise not able to hold elected office. The statutes pertaining to filling an elected office vacancy are in IC 3-13, generally.

(HEA 1365 § 100; Effective date: July 1, 2021; Citations affected 3-13-1-10.5)

Post-Primary Candidate Vacancy Filling Requirements

Amends current law requiring that a political party take action by noon (local prevailing time), June 30 before the general election to fill a general election ballot vacancy existing because no candidate was nominated by the party in the May primary. Instead, the statute now provides that the party must fill the vacancy not later than the noon (local prevailing time), July 3. However, the deadline to certify the candidate to the appropriate election office remains noon (local prevailing time), July 3.

(HEA 1365 § 98; Effective date: July 1, 2021; Citations affected 3-13-1-2)

School Board Election Vacancy Filling Procedures

Resolves a conflict in current law between the “holdover” provision of the Indiana Constitution and certain statutes regarding the case when not enough candidates file to run for election to positions on a school board. Provides that in that case, the members of the school board determine, not later than December 31 following the general election, which of the incumbent members will continue to serve as holdovers under the Indiana Constitution.

(HEA 1365 § 102, 107; Effective date: July 1, 2021; Citations affected 20-23-4-30, 20-26-4-4)

Unopposed Candidates Serving as Absentee Counters and Couriers

Permits an unopposed candidate for city office, town office, township office, or school board office to serve as an absentee ballot counter or courier.

(SEA 398 § 64; Effective date: July 1, 2021; Citations affected 3-11.5-4-22)

LOCAL ELECTION ADMINISTRATION

Early In-Person Absentee Voting

Permits the county election board to adopt a resolution by majority vote allowing in-person absentee voting at one location of the circuit court clerk's office or an established satellite location on the third Saturday preceding Election Day for at least four (4) hours.

Current law otherwise remains unchanged. The circuit court clerk (not the county election board) must designate one location of the clerk's office to be made available during regular business hours for the twenty-eight (28) days before the election, including the two (2) Saturdays before Election Day. This minimum requirement remains unaffected, and a circuit court clerk retains the ability to conduct early voting during this twenty-eight (28) day window for extended weekday and weekend hours, ending at noon (local prevailing time), the day before Election Day.

(HEA 1479 § 1; Effective date: July 1, 2021; Citations affected: 3-11-10-26)

Municipal Elections and Absentee Voting

Specifies that a county election board can only adopt a resolution to offer reduced in-person absentee voting hours at the circuit court clerk's office during a special election conducted under IC 3-10-8 that is not conducted at the same time as any other election.

Specifies that in a vote center county, the county election board, by unanimous vote of the entire membership of the board, may amend the county voter center plan under IC 3-11-18.1-14 to reduce the number of hours for in-person absentee voting in a municipal election year or for a special election not conducted at the same time as any other election.

(SEA 398 § 34; Effective date: July 1, 2021; Citations affected 3-11-10-26.5)

Legal Notice of an Election

Requires publication of legal notice of an election at least twenty-one (21) days before the election. Previously, the requirement was ten (10) days before the election.

A county election board shall publish notice of the location of each polling location in each precinct at least twenty-one (21) days before the election. Previously, the requirement was ten (10) days before the election.

Requires that the legal notice published prior to the election to include the dates, times, and locations of in-person absentee voting at the clerk's office and any established satellite offices, including those satellite vote center locations in vote center counties.

(SEA 80 § 21; Effective date: July 1, 2021; Citations affected 5-3-1-2)

(SEA 332 § 1; Effective date: July 1, 2021; Citations affected 5-3-1-2)

(SEA 398 § 9, 11, 12, 25 and 73; Effective date: July 1, 2021; Citations affected 3-8-2-19, 3-10-2-2, 3-10-8-4, 3-11-8-3.2, 5-3-1-2)

Entry of Candidate Information into Statewide Voter Registration System

Requires that the circuit court clerk enter information into the statewide voter registration system (SVRS) regarding each candidate who files for an elected office or a political party office with the circuit court clerk, and to enter information regarding each local public question to be placed on a ballot after certification to a county election board.

(HEA 1365 § 4; Effective date: July 1, 2021; Citations affected 3-5-4-1.3)

Review of Ballot Proofs by Political Parties and School Corporations

Requires that a county election board provide written notice to the county chairman of a political party with a candidate on the ballot and the superintendent of each school corporation when the ballot contains a school board candidate or a local public question concerning the school corporation to provide an opportunity for the political party or the school corporation to inspect the ballot proofs at least sixty-seven (67) days before the election. Specifies that after sixty (60) days before the date of the election, the ballot is considered approved and eligible for printing.

(HEA 1365 § 32; Effective date: July 1, 2021; Citations affected 3-11-2-2.1)

Emergency Election Day Absentee Ballots Made Available by County Election Board

Repeals the ability of the Indiana Election Commission to allow a voter to vote by absentee ballot when the Commission determines an emergency prevents the voter from voting in-person at the polls on Election Day.

Provides that if a county election board determines that:

- (1) during the last eleven (11) days before the election the governor has declared a disaster emergency under IC 10-14-3-12, or the county has declared a local disaster emergency under IC 10-14-3-29;
- (2) the disaster emergency prevents voters from voting in-person at the polls on Election Day; and
- (3) an absentee voter board can receive a voter's absentee ballot not later than 6 pm on Election Day;

then the county election board, by unanimous vote of the board, may authorize a voter who is otherwise qualified to vote in-person on Election Day and wishes to vote by absentee ballot, to file an application for an absentee ballot.

The county election board may determine whether the absentee ballot can be transmitted to the voter and be returned by the voter either by mail or by personal delivery by an absentee voter board, or the two appointed members of county election board or their designees.

(HEA 1365 § 36; Effective date: July 1, 2021; Citations affected 3-11-4-1)

BMV Branches Issuing IDs on Election Day

Requires BMV branches to give priority to issuing driver’s licenses and photo ID cards for voting on Election Day when the BMV license branch is open on Election Day and the day before Election Day.

(HEA 1285 § 15; Effective date: January 1, 2022; Citations affected 9-14.1-2-5)

Election Night Determination by County Judge Regarding Ballot Counting Question

Repeals current laws which provide that if there is a disagreement between members of the county election board as to how the vote of a precinct should be counted, the board shall refer the matter to a county judge, who shall hear the dispute and direct the county election board how to count the vote, which is final.

(HEA 1365 § 95, 96; Effective date: July 1, 2021; Citations affected 3-12-4-16[REPEALED, 3-12-4-17[REPEALED])

Entry of Unofficial Election Results by County Election Board on Election Night

Requires that each county election board begin entering unofficial results on the state’s election results website (using a module of the statewide voter registration system (SVRS)) at 8 pm (local prevailing time) on election day, and to do so at least every two (2) hours until midnight, then resume entering unofficial election results at 9 am, local prevailing time, the day following Election Day, at least once an hour, until the unofficial results are published.

(HEA 1365 § 93; Effective date: July 1, 2022; Citations affected 3-12-4-6.3[NEW])

Post-Election Reports by County

Requires that a county election board must submit its post-election statistical reports (referring to the former CEB-9 form), and a copy of the official and certified precinct level results to the Indiana Election Division using the statewide voter registration system (SVRS). A county election board may no longer file the report and certified precinct level results by hand delivery, email, fax, or mail.

(HEA 1365 § 7, 8; Effective date: July 1, 2021; Citations affected 3-6-5-17, 3-6-5-17.5)

MISCELLANEOUS CHANGES

Abolishes Delaware County Circuit Court No. 6

Abolishes the judgeship for Delaware County Circuit Court No. 6, which would have been initially elected in 2022.

(SEA 152 §1 and 2; Effective date: July 1, 2021; Citations affected 33-33-18-2 and 33-33-18-2.1[REPEALED])

(HEA 1064 §2 and 3; Effective date: July 1, 2021; Citations affected 33-33-18-2 and 33-33-18-2.1[REPEALED])

Establishes New Hamilton County Superior Court No. 7

Creates a new superior court No. 7 in Hamilton County and provides for the initial election of the Judge to the Superior Court 7 in 2022.

(HEA 1064 § 4 and 5; Effective date: July 1, 2021; Citations affected 33-33-29-2; 33-33-29.2.2[NEW])

Filing Copies of Annexation Ordinance

Requires a city or town to file a copy of any annexation ordinance adopted with the Department of Local Government Finance.

(HEA 1271 § 24; Effective date: July 1, 2021; Citations affected 6-1.1-17-0.7)

Fundraising by State-Level Candidates

For the calendar year of 2021, a candidate for legislative or statewide office is allowed to conduct fundraising activities after April 29, 2021, even though the first session of the 122nd General Assembly has not adjourned *sine die* by that date but has instead recessed while awaiting to reconvene for redistricting.

(HEA 1372 § 10; Effective date: April 26, 2021; Citation affected: IC 3-9-2-12)

Private Funding of Elections Prohibited

Prohibits a political subdivision that conducts or administers an election from receiving or expending funds received from a person for preparing, administering, or conducting an election, including registering voters. This does not prohibit a political subdivision from receiving or expending funds from the state or from the federal government to prepare for, administer, or conduct an election.

(SEA 398 § 5; Effective date: July 1, 2021; Citations affected 3-5-3-1)

Payment for Votes Cast at a Caucus or Other Candidate Vacancy Filling Procedure

Prohibits payment or promise of payment of any property by a person to vote for or against a candidate at a political party caucus.

(SEA 398 § 72; Effective date: April 23, 2021; Citations affected 3-14-3-19)

Electronic Participation by Members of Governing Body Political Subdivision

A member of a governing body of a public agency of a political subdivision (such as a county election board) who is not physically present at a meeting of the governing body may participate in a meeting by any electronic means of communication that allows all participating members of the governing body to simultaneously communicate with each other and allows the public to simultaneously attend and observe the meeting, except for executive session. The participation of the member by electronic communications must be established by policy adopted by the governing body. A member may not participate in a meeting of the governing body by electronic communication if the governing body will be taking final action on certain matters including initiating a referendum.

(SEA 68 § 1; Effective date: July 1, 2021; Citations affected 5-14-1.5-3.5)

(SEA 80 § 22; Effective date: July 1, 2021; Citations affected 5-14-1.5-3.5)

(HEA 1437 § 5; Effective date: April 20, 2021; Citations affected 5-14-1.5-3.5)

Performing Notarial Acts

A county recorder can perform notarial acts in their respective county.

(HEA 1255 § 59; Effective April 29, 2021; Citations affected 33-42-9-7)

POLLING PLACES, POLL WORKERS AND PARTISAN WORKERS

Electioneering

Specifies that the term “electioneering” means making a verbal statement, displaying a written statement indicating support or opposition to a candidate, political party, or public question appearing on the ballot, or wearing or displaying an article of clothing, sign, button, or placard that states:

- (1) the name of any political party or includes the name, picture, photograph, or other likeness of any candidate or currently elected federal, state, county, or local official; or
- (2) support for the approval or defeat of a public question.

Provides that electioneering is prohibited and a Class A misdemeanor during in person absentee voting before Election Day within the one location designed by the circuit court clerk or any established satellite location used by an absentee voter board to permit an individual to cast an absentee ballot, or within 50 feet of the entrance to the designated clerk’s office location or satellite office.

(HEA 1485 § 11; Effective date: July 1, 2021; Citations affected 3-14-3-16)

Breach of the Peace

Defines “breach of the peace” for election law purposes as breaking or disturbing the public peace, order, or decorum by riotous, forcible, or unlawful proceedings, including fighting or tumultuous conduct.

(HEA 1485 § 1; Effective date: July 1, 2021; Citations affected 3-5-2-5.7 [NEW])

Criminal Trespass

Amends the current definition of this crime to include knowingly entering or refusing to leave the polls or the chute if prohibited from entering or asked to leave by a precinct election officer or a law enforcement officer acting on behalf of a precinct election officer. Provides that a violation of this law is a Class A misdemeanor.

(HEA 1485 § 12; Effective date: July 1, 2021; Citations affected 35-43-2-2)

Law Enforcement in the Polls

Relocates the definition of “Lawful detention” and replaces it with the term of “law enforcement officer” which for election purposes refers to as a police officer, sheriff, constable, marshal, or deputy of any of those persons.

Permits a precinct election sheriff, upon direction from a precinct election officer (meaning an inspector, judge, clerk, or assistant clerk) to request assistance from law enforcement officers if a violation of law or breach of the peace has occurred or appears imminent within the polls or the chute.

Permits a law enforcement officer to be present in the polls when summoned by any precinct election officer, which is defined as the precinct inspector, judge, poll clerk, assistant poll clerk (if used), or election sheriff (if used).

(HEA 1485 § 2, 5, 6, 10; Effective date: July 1, 2021; Citations affected 3-5-2-26.8; 3-6-6-35, 3-6-6-36, 3-14-1-6)

Schools Used as Polling Locations

Provides that a school building that is used as a polling place on Election Day may:

- (1) conduct a virtual instruction day for students who attend school in the school building; or
- (2) conduct in-person instruction to students who attend school in the school building if access to the polling place is secured from access to other areas of the school building, public parking access is maintained, and access to the polling place and parking is in compliance with Americans with Disabilities Act.

(SEA 260 § 8; Effective date: July 1, 2021; Citations affected 3-11-8-4)

Photo ID; Native American Indian Tribal IDs

Expands the definition of “proof of identification” for voting purposes to include Native American Indian tribal IDs issued by tribes or bands recognized by the United States Government, even if the document has no expiration date or states that the expiration date is indefinite, so long as the document satisfies all other requirements for an acceptable photo ID.

(HEA 1485 § 4; Effective date: July 1, 2021; Citations affected 3-5-2-40.5)

16- and 17-Year-Old Poll Workers

Allows a person who is a 16- or 17-year-old nonvoter to serve as a precinct election officer (other than inspector) if appointed, by unanimous vote of the county election board, to fill a vacant precinct election office when a county party chair fails to nominate an eligible voter to that office by noon (local prevailing time), twenty-one (21) days before the election.

Provides that an eligible person who is a 16- or 17-year-old nonvoter may serve in any of the following capacities, as determined by the county election board:

- (1) As any election officer, other than inspector, either before Election Day, on Election Day or both.
- (2) Provide assistance to an election officer, either before Election Day, on Election Day, or both.
- (3) Provide assistance in the preparation of absentee ballots; however, the 16- or 17-year-old nonvoter assisting in this capacity may not initial a ballot or perform other duties specifically prescribed to be performed by the absentee voter board members such as reviewing and approving absentee ballot applications. (See related entry below regarding the use of 16- and 17-year-olds as absentee voter board members.)

An eligible person who is a 16- or 17-year-old nonvoter is not required to have written approval of the person’s school principal to serve as a precinct election officer if school is not in session on Election Day.

(SEA 260 § 1, 2; Effective date: July 1, 2021; Citations affected 3-6-6-13, 3-6-6-39)

16- and 17-Year-Old Students Serving as Absentee Board Members

Permits a county election board, by unanimous vote of its members, to appoint a 16- or 17-year-old student (otherwise eligible to serve as a poll worker under IC 3-6-6-39) as a member of an absentee voter board (other than a traveling board), if the county chair fails to recommend appointment of members to the requested number of absentee voter boards not later than noon, local prevailing time, twenty-one (21) days before the election.

Current law permits a 16- or 17-year-old nonvoter to be appointed to fill vacancies in absentee counter or courier positions.

(SEA 398 § 65; Effective date: July 1, 2021; Citations affected 3-11.5-4-23)

Absentee Ballot Counter and Provisional Ballot Counter

The positions of absentee ballot counter and provisional ballot counter are not considered “lucrative offices,” which would prohibit a person holding an office from also serving in either of these positions.

(SEA 398 § 68; Effective date: July 1, 2021; Citations affected 3-11.7-3-8[NEW])

Accessibility Standards for Circuit Court Clerk Offices and Satellite Voting Locations

Requires that in-person absentee voting locations at the one location of the circuit court clerk’s office designated by the circuit court clerk for in-person absentee voting and any established satellite early voting location must meet federal standards for accessibility for elderly voters and voters with disabilities under 52 U.S.C. § 20101 et. seq. that Election Day polling locations must meet and permits temporary measures to be used to meet the standards.

(SEA 398 § 35; Effective date: July 1, 2021; Citations affected 3-11-10-26.7[NEW])

Inspector Precinct Material Supplies; Provisional Voter Information

Requires the precinct inspector to receive information concerning the provisional ballot process to provide to a voter who cast a provisional ballot at the polls on Election Day. This information will be prescribed on a notice by the Indiana Election Division

(HEA 1365 § 35; Effective date: July 1, 2021; Citations affected 3-11-3-11)

Precinct Election Sheriff Vacancies

If a vacancy exists in the office of precinct sheriff and the county election board has not adopted a resolution to omit appointing precinct sheriffs and designate another precinct election officer (inspector, judge, or clerk) to perform the duties of sheriff, or the vote center plan adopted by the county election board does not specify which precinct election officer is to perform the duties of the sheriff, then the precinct judge of the appropriate political party performs the duties of the precinct sheriff of that party until the vacancy is filled by the county election board.

(HEA 1365 § 9; Effective date: July 1, 2021; Citations affected 3-6-6-38)

Political Party Watchers

Repeals the provision permitting a party watcher to summon a law enforcement officer to the polls. Requires a party watcher to report an election law violation to the inspector, county election board, or county prosecuting attorney.

A watcher may not report to any other precinct election officer concerning an alleged violation of election laws unless the watcher has prior consent of the inspector. A watcher who violates this requirement or engages in other disruptive action in the polls may be removed from the polls and have their watcher credentials revoked upon the unanimous vote of the entire membership of the county election board.

(HEA 1485 § 7, 8, 9; Effective date: July 1, 2021; Citations affected 3-6-8-4, 3-6-8-6, 3-6-9-13)

Time Permitted for Voter to Cast Ballot While in Voting Booth

Increases the time that a voter may remain in a voting booth to cast a ballot from three (3) minutes to five (5) minutes in a primary election, and from two (2) minutes to four (4) minutes in a general, municipal, or special election.

(HEA 1365 § 48, 54, 56, 57; Effective date: July 1, 2021; Citations affected 3-11-11-10.5, 3-11-13-32.5, 3-11-14-26, 3-11-14-27)

U.S. Citizenship Requirement for Presence in Polls on Election Day

Requires that an individual present in the polling place on Election Day be a U.S. citizen (unless the individual is a minor child accompanying a parent who is a voter, is an individual designated to assist a voter who is disabled or who cannot read or write English, or who has been granted an exemption from this requirement by the Secretary of State).

(HEA 1365 § 41; Effective date: July 1, 2021; Citations affected 3-11-8-15)

PRECINCTS AND REDISTRICTING

Precincts with Less Than 600 Active Voters

Provides that a precinct may be established with fewer than 600 active voters if establishing the precinct would avoid establishing a “split precinct,” meaning a precinct in which more than one ballot style must be made available to voters within the same precinct.

(SEA 260 § 3; Effective date: July 1, 2021; Citations affected 3-11-1.5-3.1)

Precinct Boundary Discrepancies and Corrections

Repeals an obsolete statute relating to establishing precincts when voting systems are changed between a primary election and a general election.

Permits a county to submit proposed precinct boundary changes to the Indiana Election Division using a paperless module of the statewide voter registration system (SVRS). When the county uses the paperless module to submit proposed precinct establishment orders, the county must submit a map of each proposed precinct and documentation in an electronic format prescribed by the Indiana Election Division, including any digital aerial photograph necessary to depict a split census block, municipal boundary, state legislative district, municipal legislative district, or visible feature. The Indiana Election Division may use the paperless module to notify the county if the proposed precinct establishment order complies with all precinct establishment laws and notify the county executive in writing. The county must comply with all precinct establishment requirements when submitting proposed precinct establish orders through the paperless module. Counties may continue to submit paperwork such as the IEC-8 form or maps as a paper filing.

Requires the Indiana Election Division to notify a county regarding the county’s precinct boundary information provided to the Indiana General Assembly by the U.S. Census Bureau and for a county to correct any errors or discrepancies in the boundary lines of precincts as depicted in that information. If the county does not file a notice with the Indiana Election Division by January 1, 2022, that the information contains errors or is otherwise incomplete, then the precinct descriptions filed with the Office of Census Data become the county’s precinct boundaries for election purposes after January 1, 2022.

Each county executive is required to correct any precinct boundaries that contain incorrect information because of the enactment of the 2021 Indiana congressional district plan, the 2021 Indiana Senate district plan, and the 2021 Indiana House district plan, and file with the Indiana Election Division any corrections either using the paper IEC-8 form or through the newly established paperless module in the statewide voter registration system (SVRS).

(SEA 260 § 4, 5, 6, 7; Effective date: July 1, 2021; Citations affected 3-11-1.5-11, 3-11-1.5-12[REPEALED], 3-11-1.5-12.1[NEW], 3-11-1.5-38.1[NEW])

Lake and St. Joseph County Executive and Legislative Body Powers

Restores language concerning authority and duties of county commissioners as the county executive and county council as the county legislative body in Lake County and St. Joseph County inadvertently repealed by P.L. 278-2019.

Requires public hearings and adoption of a resolution to adopt a county commissioner redistricting plan in St. Joseph County.

(SEA 35 § 2, 4; Effective Date: July 1, 2019 and April 8, 2021; Citations affected 36-1-2-9, 36-2-2-4.7)

Population Parameters for Local Redistricting and Classification in State Code

The 2020 census population data shall be used when a political subdivision is drawing or recertifying boundaries for a county executive, county fiscal body, municipal legislative body, or other political subdivision district even though the 2020 census data in effect until April 1, 2022.

The 2010 census population data (which is in effect until April 1, 2022) shall be referred to when determining if a statute in the Indiana Code applies to a local political subdivision when the statute classifies a political subdivision by population, unless the statute specifies otherwise.

(HEA 1581 § 1; Effective date: July 1, 2021 [RETROACTIVE]; Citations affected: 1-1-3.5-3)

PUBLIC QUESTIONS (REFERENDUMS)

Eligibility to Vote in School Corporation Controlled Project Referendum.

Provides that if a voter of a school corporation changes their residence from inside the boundaries of the school corporation and to a new residence outside of the boundaries of the school corporation in the final thirty (30) days before a controlled project referendum, the voter is not eligible to return to their former precinct of residence in the school corporation to vote on the public question. This change parallels procedures used in an odd-numbered municipal election year as it relates to moves in to and out of the municipality.

(SEA 398 § 74, 75; Effective date: July 1, 2021; Citations affected 6-1.1-20-1.9, 6-1.1-20-3.9[NEW])

Eligibility to Vote in School Tax Levy Referendum

Provides that if a voter of a school corporation changes their residence from inside the boundaries of the school corporation and to a new residence outside of the boundaries of the school corporation in the final thirty (30) days before the referendum, the voter is not eligible to return to their former precinct of residence in the school corporation to vote on the public question. This change parallels procedures used in an odd-numbered municipal election year as it relates to moves in to and out of the municipality.

(SEA 398 § 76; Effective date: July 1, 2021; Citations affected 20-46-1-16)

Eligibility to Vote in School Safety Tax Levy Referendum

Provides that if a voter of a school corporation changes their residence from inside the boundaries of the school corporation and to a new residence outside of the boundaries of the school corporation in the final thirty (30) days before the referendum, the voter is not eligible to return to their former precinct of residence in the school corporation to vote on the public question. This change parallels procedures used in an odd-numbered municipal election year as it relates to moves in to and out of the municipality.

(SEA 398 § 78; Effective date: July 1, 2021; Citations affected 20-46-9-16)

School Safety Tax Levy Ballot Referenda Certification

Specifies that a school safety tax referendum proposal to be printed on the May primary election ballot must be certified by the school corporation to the county election board by same deadline seventy-four (74) days before a primary election) that applies to controlled project and school tax levy referendums.

(SEA 398 § 77; Effective date: July 1, 2021; Citations affected 20-46-9-14)

School Administrators and Public Questions

Specifies that a school administrator may not be awarded a monetary bonus or other incentive based on the approval of a public question.

(SEA 55 § 5;6; and 7; Effective date: July 1, 2021: Citations affected 20-28-8-13, 20-46-1-8, 20-46-9-6)

Controlled Project Referendum Public Question

The text of a controlled project referendum public question shall be the following:

“Shall _____ (insert the name of the political subdivision) increase property taxes paid to the _____ (insert the type of taxing unit) by homeowners and businesses? If this public question is approved by the voters, the average property tax paid to the _____ (insert the type of taxing unit) per year on a residence would increase by _____% (insert the estimated average percentage of property tax increase paid to the political subdivision on a residence within the political subdivision) and the average property tax paid to the _____ (insert the type of taxing unit) per year on a business property would increase by _____% (insert the estimated average percentage of property tax increase paid to the political subdivision on a business property within the political subdivision as determined under subsection (o)). The political subdivision may issue bonds or enter into a lease to _____ (insert a brief description of the controlled project), which is estimated to cost _____ (insert the total cost of the project) over _____ (insert number of years to bond maturity or termination of lease) years. The most recent property tax referendum within the boundaries of the political subdivision for which this public question is being considered was proposed by _____ (insert name of political subdivision) in _____ (insert year of most recent property tax referendum) and _____ (insert whether the measure passed or failed).”

The estimated average percentage of property tax increase paid to the political subdivision on a residence within the political subdivision that must be included in the text of the public question is determined by the county auditor where the political subdivision is located as follows:

STEP ONE: Determine the average assessed value of a homestead located within the political subdivision.

STEP TWO: For purposes of determining the net assessed value of the average homestead located within the political subdivision, subtract:

- (A) an amount for the homestead standard deduction under IC 6-1.1-12-37 as if the homestead described in STEP ONE was eligible for the deduction; and
- (B) an amount for the supplemental homestead deduction under IC 6-1.1-12-37.5 as if the homestead described in STEP ONE was eligible for the deduction; from the result of STEP ONE.

STEP THREE: Divide the result of STEP TWO by one hundred (100).

STEP FOUR: Determine the overall average tax rate per one hundred dollars (\$100) of assessed valuation for the current year imposed on property located within the political subdivision.

STEP FIVE: For purposes of determining net property tax liability of the average homestead located within the political subdivision:

- (A) multiply the result of STEP THREE by the result of STEP FOUR; and
- (B) as appropriate, apply any currently applicable county property tax credit rates and the credit for excessive property taxes under IC 6-1.1-20.6-7.5(a)(1).

STEP SIX: Determine the amount of the political subdivision's part of the result determined in STEP FIVE.

STEP SEVEN: Determine the estimated tax rate that will be imposed if the public question is approved by the voters.

STEP EIGHT: Multiply the result of STEP SEVEN by the result of STEP THREE.

STEP NINE: Divide the result of STEP EIGHT by the result of STEP SIX, expressed as a percentage.

The estimated average percentage of property tax increase paid to the political subdivision on a business property within the political subdivision that must be included in the text of the public question is determined by the county auditor as follows:

STEP ONE: Determine the average assessed value of a homestead located within the political subdivision.

STEP TWO: Divide the result of STEP ONE by one hundred (100).

STEP THREE: Determine the overall average tax rate per one hundred dollars (\$100) of assessed valuation for the current year imposed on property located within the political subdivision.

STEP FOUR: For purposes of determining net property tax liability of the average business property located within the political subdivision:

- (A) multiply the result of STEP TWO by the result of STEP THREE; and
- (B) as appropriate, apply any currently applicable county property tax credit rates and the credit for excessive property taxes under IC 6-1.1-20.6-7.5 as if the applicable percentage was three percent (3%).

STEP FIVE: Determine the amount of the political subdivision's part of the result determined in STEP FOUR.

STEP SIX: Determine the estimated tax rate that will be imposed if the public question is approved by the voters.

STEP SEVEN: Multiply the result of STEP TWO by the result of STEP SIX.

STEP EIGHT: Divide the result of STEP SEVEN by the result of STEP FIVE, expressed as a percentage.

The county auditor shall certify the estimated average percentage of property tax increase on a homestead to be paid to the political subdivision, and the estimated average percentage of property tax increase on a business property to be paid to the political subdivision determined, in a manner prescribed by the department of local government finance and provide the certification to the political subdivision that proposes to impose property taxes. The political subdivision shall provide the certification to the county election board and include the estimated average percentages in the language of the public question at the time the language of the public question is submitted to the county election board for approval.

NOTE: The quotation marks around the above question (“”) are not to be printed on the ballot. Please see earlier entry in this Legislative Summary for more information.

(HEA 1271 § 35; Effective date: July 1, 2021; Citations affected 6-1.1-20-3.6)

School Tax Levy Referendum Public Question

The text of a school tax levy referendum public question shall be the following:

“Shall the school corporation increase property taxes paid to the school corporation by homeowners and businesses for _____ (insert number of years) years immediately following the holding of the referendum for the purpose of funding _____ (insert short description of purposes)? If this public question is approved by the voters, the average property tax paid to the school corporation per year on a residence would increase by _____% (insert the estimated average percentage of property tax increase paid to the school corporation on a residence within the school corporation) and the average property tax paid to the school corporation per year on a business property would increase by _____% (insert the estimated average percentage of property tax increase paid to the school corporation on a business property within the school corporation). The most recent property tax referendum proposed by the school corporation was held in _____ (insert year) and _____ (insert whether the measure passed or failed).”

The estimated average percentage of property tax increase paid to the school corporation on a residence within the school corporation that must be included in the text of the public question is determined by the county auditor where the school corporation is located as follows:

STEP ONE: Determine the average assessed value of a homestead located within the school corporation.

STEP TWO: For purposes of determining the net assessed value of the average homestead located within the school corporation, subtract:

- (A) an amount for the homestead standard deduction under IC 6-1.1-12-37 as if the homestead described in STEP ONE was eligible for the deduction; and
- (B) an amount for the supplemental homestead deduction under IC 6-1.1-12-37.5 as if the homestead described in STEP ONE was eligible for the deduction;

from the result of STEP ONE.

STEP THREE: Divide the result of STEP TWO by one hundred (100).

STEP FOUR: Determine the overall average tax rate per one hundred dollars (\$100) of assessed valuation for the current year imposed on property located within the school corporation.

STEP FIVE: For purposes of determining net property tax liability of the average homestead located within the school corporation:

- (A) multiply the result of STEP THREE by the result of STEP FOUR; and
- (B) as appropriate, apply any currently applicable county property tax credit rates and the credit for excessive property taxes under IC 6-1.1-20.6-7.5(a)(1).

STEP SIX: Determine the amount of the school corporation's part of the result determined in STEP FIVE.

STEP SEVEN: Multiply:

- (A) the tax rate that will be imposed if the public question is approved by the voters; by
- (B) the result of STEP THREE.

STEP EIGHT: Divide the result of STEP SEVEN by the result of STEP SIX, expressed as a percentage.

The estimated average percentage of property tax increase paid to the school corporation on a business property within the school corporation is determined by the county auditor where the school corporation is located as follows:

STEP ONE: Determine the average assessed value of a homestead located within the school corporation.

STEP TWO: Divide the result of STEP ONE by one hundred (100).

STEP THREE: Determine the overall average tax rate per one hundred dollars (\$100) of assessed valuation for the current year imposed on property located within the school corporation.

STEP FOUR: For purposes of determining net property tax liability of the average business property located within the school corporation:

- (A) multiply the result of STEP TWO by the result of STEP THREE; and
- (B) as appropriate, apply any currently applicable county property tax credit rates and the credit for excessive property taxes under IC 6-1.1-20.6-7.5 as if the applicable percentage was three percent (3%).

STEP FIVE: Determine the amount of the school corporation's part of the result determined in STEP FOUR. STEP SIX: Multiply:

- (A) the result of STEP TWO; by
- (B) the tax rate that will be imposed if the public question is approved by the voters.

STEP SEVEN: Divide the result of STEP SIX by the result of STEP FIVE, expressed as a percentage.

The county auditor shall certify the estimated average percentage of property tax increase on a homestead to be paid to the school corporation, and the estimated average percentage of property tax increase on a business property to be paid to the school corporation in a manner prescribed by the department of local government finance and provide the certification to the governing body of the school corporation that proposes to impose property taxes.

NOTE: The quotation marks around the above question (“”) are not to be printed on the ballot. Please see earlier entry in this Legislative Summary for more information.

(HEA 1271 § 61; Effective date: July 1, 2021; Citations affected 20-46-1-10)

Extension of School Tax Levy Referendum Public Question

The text of the public question to extend school tax levy referendum levy shall be the following:

“Shall the school corporation continue to impose increased property taxes paid to the school corporation by homeowners and businesses for _____ (insert number of years) years immediately following the holding of the referendum for the purpose of funding _____ (insert short description of purposes)? The property tax increase requested in this referendum was originally approved by the voters in _____ (insert the year in which the referendum tax levy was approved) and originally increased the average property tax paid to the school corporation per year on a residence within the school corporation by _____% (insert the original estimated average percentage of property tax increase on a residence within the school corporation) and originally increased the average property tax paid to the school corporation per year on a business property within the school corporation by _____% (insert the original estimated average percentage of property tax increase on a business within the school corporation).”

The estimated average percentage of property tax increase paid to the school corporation on a residence within the school corporation that must be included in the text of the public question is determined by the county auditor where the school corporation is located as follows:

STEP ONE: Determine the average assessed value of a homestead located within the school corporation.

STEP TWO: For purposes of determining the net assessed value of the average homestead located within the school corporation, subtract:

- (A) an amount for the homestead standard deduction under IC 6-1.1-12-37 as if the homestead described in STEP ONE was eligible for the deduction; and
- (B) an amount for the supplemental homestead deduction under IC 6-1.1-12-37.5 as if the homestead described in STEP ONE was eligible for the deduction;

from the result of STEP ONE.

STEP THREE: Divide the result of STEP TWO by one hundred (100).

STEP FOUR: Determine the overall average tax rate per one hundred dollars (\$100) of assessed valuation for the current year imposed on property located within the school corporation.

STEP FIVE: For purposes of determining net property tax liability of the average homestead located within the school corporation:

- (A) multiply the result of STEP THREE by the result of STEP FOUR; and
- (B) as appropriate, apply any currently applicable county property tax credit rates and the credit for excessive property taxes under IC 6-1.1-20.6-7.5(a)(1).

STEP SIX: Determine the amount of the school corporation's part of the result determined in STEP FIVE.

STEP SEVEN: Multiply:

- (A) the tax rate that will be imposed if the public question is approved by the voters; by
- (B) the result of STEP THREE.

STEP EIGHT: Divide the result of STEP SEVEN by the result of STEP SIX, expressed as a percentage.

The estimated average percentage of property tax increase paid to the school corporation on a business property within the school corporation is determined by the county auditor where the school corporation is located as follows:

STEP ONE: Determine the average assessed value of a homestead located within the school corporation.

STEP TWO: Divide the result of STEP ONE by one hundred (100).

STEP THREE: Determine the overall average tax rate per one hundred dollars (\$100) of assessed valuation for the current year imposed on property located within the school corporation.

STEP FOUR: For purposes of determining net property tax liability of the average business property located within the school corporation:

- (A) multiply the result of STEP TWO by the result of STEP THREE; and
- (B) as appropriate, apply any currently applicable county property tax credit rates and the credit for excessive property taxes under IC 6-1.1-20.6-7.5 as if the applicable percentage was three percent (3%).

STEP FIVE: Determine the amount of the school corporation's part of the result determined in STEP FOUR. STEP SIX: Multiply:

- (A) the result of STEP TWO; by

(B) the tax rate that will be imposed if the public question is approved by the voters.

STEP SEVEN: Divide the result of STEP SIX by the result of STEP FIVE, expressed as a percentage.

The county auditor shall certify the estimated average percentage of property tax increase on a homestead to be paid to the school corporation, and the estimated average percentage of property tax increase on a business property to be paid to the school corporation in a manner prescribed by the department of local government finance and provide the certification to the governing body of the school corporation that proposes to impose property taxes.

The number of years for which a referendum tax levy may be extended if the public question is approved may not exceed eight (8) years.

NOTE: The quotation marks around the above question (“”) are not to be printed on the ballot. Please see earlier entry in this Legislative Summary for more information.

(HEA 1271 § 62 and 63; Effective date: July 1, 2021; Citations affected 20-46-1-10.1, 20-46-1-11)

School Safety Levy Referendum Public Question

The text of a school safety levy referendum public question shall be the following:

“Shall the school corporation increase property taxes paid to the school corporation by homeowners and businesses for _____ (insert number of years) years immediately following the holding of the referendum for the purpose of funding _____ (insert short description of purposes)? If this public question is approved by the voters, the average property tax paid to the school corporation per year on a residence would increase by _____% (insert the estimated average percentage of property tax increase paid to the school corporation on a residence within the school corporation) and the average property tax paid to the school corporation per year on a business property would increase by _____% (insert the estimated average percentage of property tax increase paid to the school corporation on a business property within the school corporation). The most recent property tax referendum proposed by the school corporation was held in _____ (insert year) and _____ (insert whether the measure passed or failed).”

The estimated average percentage of property tax increase on a homestead to be paid to the school corporation that must be included in the public question is determined by the county auditor where the school corporation is located as follows:

STEP ONE: Determine the average assessed value of a homestead located within the school corporation.

STEP TWO: For purposes of determining the net assessed value of the average homestead located within the school corporation, subtract:

(A) an amount for the homestead standard deduction under IC 6-1.1-12-37 as if the homestead described in STEP ONE was eligible for the deduction; and
(B) an amount for the supplemental homestead deduction under IC 6-1.1-12-37.5 as if the homestead described in STEP ONE was eligible for the deduction;
from the result of STEP ONE.

STEP THREE: Divide the result of STEP TWO by one hundred (100).

STEP FOUR: Determine the overall average tax rate per one hundred dollars (\$100) of assessed valuation for the current year imposed on property located within the school corporation.

STEP FIVE: For purposes of determining net property tax liability of the average homestead located within the school corporation:

- (A) multiply the result of STEP THREE by the result of STEP FOUR; and
- (B) as appropriate, apply any currently applicable county property tax credit rates and the credit for excessive property taxes under IC 6-1.1-20.6-7.5(a)(1).

STEP SIX: Determine the amount of the school corporation's part of the result determined in STEP FIVE.

STEP SEVEN: Multiply:

- (A) the tax rate that will be imposed if the public question is approved by the voters; by
- (B) the result of STEP THREE.

STEP EIGHT: Divide the result of STEP SEVEN by the result of STEP SIX, expressed as a percentage.

The estimated average percentage of property tax increase on a business property to be paid to the school corporation that must be included in the public question is determined by the county auditor where the school corporation is located as follows:

STEP ONE: Determine the average assessed value of a homestead located within the school corporation.

STEP TWO: Divide the result of STEP ONE by one hundred (100).

STEP THREE: Determine the overall average tax rate per one hundred dollars (\$100) of assessed valuation for the current year imposed on property located within the school corporation.

STEP FOUR: For purposes of determining net property tax liability of the average business property located within the school corporation:

- (A) multiply the result of STEP TWO by the result of STEP THREE; and

(B) as appropriate, apply any currently applicable county property tax credit rates and the credit for excessive property taxes under IC 6-1.1-20.6-7.5 as if the applicable percentage was three percent (3%).

STEP FIVE: Determine the amount of the school corporation's part of the result determined in STEP FOUR.

STEP SIX: Multiply:

(A) the result of STEP TWO; by

(B) the tax rate that will be imposed if the public question is approved by the voters.

STEP SEVEN: Divide the result of STEP SIX by the result of STEP FIVE, expressed as a percentage.

The county auditor shall certify the estimated average percentage of property tax increase on a homestead to be paid to the school corporation and the estimated average percentage of property tax increase on a business property to be paid to the school corporation in a manner prescribed by the department of local government finance and provide the certification to the governing body of the school corporation that proposes to impose property taxes.

NOTE: The quotation marks around the above question (“”) are not to be printed on the ballot. Please see earlier entry in this Legislative Summary for more information.

(HEA 1271 § 64; 65; Effective July 1, 2021; Citations affected 20-46-9-6; 20-46-9-9)

Extension of School Safety Levy Referendum Public Question

The text of the public question to extend a school safety levy referendum levy shall be the following:

“Shall the school corporation continue to impose increased property taxes paid to the school corporation by homeowners and businesses for _____ (insert number of years) years immediately following the holding of the referendum for the purpose of funding _____ (insert short description of purposes)? The property tax increase requested in this referendum was originally approved by the voters in _____ (insert the year in which the referendum tax levy was approved) and originally increased the average property tax paid to the school corporation per year on a residence within the school corporation by _____% (insert the original estimated average percentage of property tax increase on a residence within the school corporation) and originally increased the average property tax paid to the school corporation per year on a business property within the school corporation by _____% (insert the original estimated average percentage of property tax increase on a business within the school corporation).”

The estimated average percentage of property tax increase on a homestead to be paid to the school corporation that must be included in the public question is determined by the county auditor where the school corporation is located as follows:

STEP ONE: Determine the average assessed value of a homestead located within the school corporation.

STEP TWO: For purposes of determining the net assessed value of the average homestead located within the school corporation, subtract:

(A) an amount for the homestead standard deduction under IC 6-1.1-12-37 as if the homestead described in STEP ONE was eligible for the deduction; and
(B) an amount for the supplemental homestead deduction under IC 6-1.1-12-37.5 as if the homestead described in STEP ONE was eligible for the deduction;
from the result of STEP ONE.

STEP THREE: Divide the result of STEP TWO by one hundred (100).

STEP FOUR: Determine the overall average tax rate per one hundred dollars (\$100) of assessed valuation for the current year imposed on property located within the school corporation.

STEP FIVE: For purposes of determining net property tax liability of the average homestead located within the school corporation:

(A) multiply the result of STEP THREE by the result of STEP FOUR; and
(B) as appropriate, apply any currently applicable county property tax credit rates and the credit for excessive property taxes under IC 6-1.1-20.6-7.5(a)(1).

STEP SIX: Determine the amount of the school corporation's part of the result determined in STEP FIVE.

STEP SEVEN: Multiply:

(A) the tax rate that will be imposed if the public question is approved by the voters; by
(B) the result of STEP THREE.

STEP EIGHT: Divide the result of STEP SEVEN by the result of STEP SIX, expressed as a percentage.

The estimated average percentage of property tax increase on a business property to be paid to the school corporation that must be included in the public question is determined by the county auditor where the school corporation is located as follows:

STEP ONE: Determine the average assessed value of a homestead located within the school corporation.

STEP TWO: Divide the result of STEP ONE by one hundred (100).

STEP THREE: Determine the overall average tax rate per one hundred dollars (\$100) of assessed valuation for the current year imposed on property located within the school corporation.

STEP FOUR: For purposes of determining net property tax liability of the average business property located within the school corporation:

- (A) multiply the result of STEP TWO by the result of STEP THREE; and
- (B) as appropriate, apply any currently applicable county property tax credit rates and the credit for excessive property taxes under IC 6-1.1-20.6-7.5 as if the applicable percentage was three percent (3%).

STEP FIVE: Determine the amount of the school corporation's part of the result determined in STEP FOUR.

STEP SIX: Multiply:

- (A) the result of STEP TWO; by
- (B) the tax rate that will be imposed if the public question is approved by the voters.

STEP SEVEN: Divide the result of STEP SIX by the result of STEP FIVE, expressed as a percentage.

The county auditor shall certify the estimated average percentage of property tax increase on a homestead to be paid to the school corporation and the estimated average percentage of property tax increase on a business property to be paid to the school corporation in a manner prescribed by the department of local government finance and provide the certification to the governing body of the school corporation that proposes to impose property taxes.

NOTE: The quotation marks around the above question (“”) are not to be printed on the ballot. Please see earlier entry in this Legislative Summary for more information.

(HEA 1271 § 66; Effective date: July 1, 2021; Citations affected 20-46-9-10)

STATE ELECTION ADMINISTRATION

New Congressional and State Legislative Districts Established

The Indiana General Assembly established new election districts for the offices of U.S. Representative, Indiana Senate, and Indiana House of Representatives.

(HEA 1581 §§ 2-25; Effective date: October 4, 2021; Citations affected 2-1-9-1; 2-1-9-2; 2-1-9-3; 2-1-9-4; 2-1-9-6; 2-1-9-7; 2-1-9-8; 2-1-9-9; 2-1-9-10; 2-1-9-11; 2-1-9-13; 2-1-12 [Expires effective November 8, 2022]; 2-1-12.5 [Expires effective November 8, 2022]; 2-1-13 [Expires effective November 8, 2022]; 2-1-14 [NEW]; 2-1-15 [NEW]; 3-3-4-1; 3-3-4-2; 3-3-4-3; 3-3-4-5; 3-3-4-8; 3-3-4-9; 3-3-5 [Expires effective November 8, 2022]; 3-3-6 [NEW])

Election Division Certification of General Election Ballot Candidates and Questions

Adds cross-references to existing statutes requiring that the Indiana Election Division to certify local judicial retention questions for a circuit or superior court judge who file a statement with the Election Division requesting that their retention question be placed on the ballot.

(HEA 1365 § 18; Effective date: July 1, 2021; Citations affected 3-8-7-16)

Reporting Cyber Incidents

Requires a state agency to report cybersecurity incidents within two (2) days of discovery by the agency and identify designated agency contact persons annually to the office of technology.

(HEA 1064 § 5; Effective date: July 1, 2021; Citations affected 4-13.1-2-9)

Indiana Recount Commission Proxies

Permits an Indiana Recount Commission member to designate a proxy to act on behalf of the member.

(SEA 398 § 70; Effective date: July 1, 2021; Citations affected 3-12-11-10)

Participation by Electronic Communication by a Member of State Board

A member of a public agency of the state, including the Indiana Election Commission, who is not physically present at a meeting of the governing body may participate in a meeting of the governing body by electronic communication only if the member uses a means of communication that permits all members of the governing body to communicate simultaneously. The governing body must establish a policy for how the member of the governing body can participate in the meeting by electronic communication. All votes taken at a meeting where a member participates by electronic communication must be taken by roll call vote.

(SEA 68 § 2; Effective date: July 1, 2021; Citations affected 5-14-1.5-3.6)

(SEA 80 § 23; Effective date: July 1, 2021; Citations affected 5-14-1.5-3.6)

(HEA 1437 § 6; Effective date: April 20, 2021; Citations affected 5-14-1.5-3.6)

VOTERS WITH PRINT DISABILITIES

Voters with Print Disabilities

Defines “voter with print disabilities” to refer to an individual who is unable to independently mark a paper ballot or ballot card due to blindness, low vision, or a physical disability that impairs manual dexterity.

Permits a voter with a print disability to use e-mail, fax, or a web publication to request a voter registration application and absentee ballot application from the Indiana Election Division, county election board or a county voter registration office. Requires the office that receives the request for the application to send the voter registration or absentee ballot application to the voter with print disability not later than the end of the first business day after the office receives the request from the voter by e-mail or fax if an e-mail or fax number is provided to the office. If the e-mail address or fax number is not provided by the voter with print disabilities or the e-mail address or fax number does not permit the office to send the application, then the application shall be sent by mail.

The Indiana Election Division, county election board, board of elections and registration, or county voter registration office shall ensure that the procedures used to receive a request for a voter registration or absentee ballot application and transmitting the application to the voter with print disabilities protects the security and integrity of the application request process, and the voter’s identity and other personal data. Information about how to request a voter registration or absentee ballot application by e-mail, fax, or through a website shall be included with all informational and instruction materials that are sent with a voter registration application or an absentee ballot application to a voter with print disabilities.

Requires the Secretary of State, with approval of the Indiana Election Division, to develop a free access system that permits the voter with print disabilities to determine whether the voter’s absentee ballot has been received by the appropriate county election board. The system must contain reasonable procedures to protect the security of information and shall comply with Web Content Guidelines.

Permits a voter with print disabilities to request and submit a combined voter registration and absentee application using accessible technology developed for persons with print disabilities. Allows voters with print disabilities to use the procedures currently available to military and overseas voters, and voters who are part of the address confidentiality program, to receive and return an absentee ballot.

(SEA 398 § 3, 7, 21, 22, 33; Effective date: July 1, 2021; Citations affected 3-5-2-50, 3-7-16-9.5 [NEW], 3-11-4-5.8 [NEW], 3-11-4-6)

Definition of “Web Content Accessibility Guidelines”

“Web Content Accessibility Guidelines” refers to version 2.1 of the recommendations for making web content accessible for individuals with disabilities published on June 5, 2018, by the Web Accessibility Initiative of the World Wide Web Consortium.

(SEA 398 § 4; Effective July 1, 2021; Citations affected 3-5-2-53.5[NEW])

UPDATING OR CORRECTING REFERENCES IN STATE LAW

Lawful Detention Definition

Transfers current definition of “lawful detention” for election purposes to new Indiana Code citation to preserve alphabetical order of definitions in IC 3-5-2. Lawful detention continues to have the same meaning set forth in IC 35-31.5-2-186.

(HEA 1485 § 3; Effective date: July 1, 2021; Citations affected 3-5-2-26.9[NEW])

County Deployment of Cybersecurity Service

Repeals obsolete application date.

(HEA 1365 § 5; Effective date: April 29, 2021; Citations affected 3-5-4-12)

Election Record Retention

Elections Conducted Before 2004 - Repeals obsolete statute regarding retention requirements for certain election material such as ballots and poll lists for elections conducted before January 1, 2004.

Elections Conducted in 2004 or Later - Repeals reference to obsolete application date. In counties using an electronic poll book, after each election, the county shall save all data recorded on the electronic poll book and any information stored on the dedicated, private server.

The circuit court clerk shall preserve the disc or medium used to record the data for twenty-two months, as required by federal law, after which time the data may be erased or destroyed, subject to the order of the county’s public records commission, unless an order requiring the continued preservation of the data is issued by a judge overseeing an local recount, the state recount commission, or by a federal judge when hearing a matter under 52 USC §10301.

(HEA 1365 § 22, 23, 31; Effective date: July 1, 2021; Citations affected 3-10-1-31[REPEALED], 3-10-1-31.1, 3-10-7-33)

IDEA Implementation

Repeals obsolete dates concerning the implementation of the Indiana Data Enhancement Association.

(HEA 1365 § 13; Effective date: April 29, 2021; Citations affected 3-7-38.2-5.5)

Marion City-County Council

Removes obsolete reference to number of elected council members.

(HEA 1365 § 109; Effective date: July 1, 2021; Citations affected 36-3-4-2)

Porter County Board of Elections and Registration

Adds references to Porter County Board of Elections and Registration created in 2019.

(SEA 398 § 19, 20, 23, 32, 69; Effective date: April 23, 2021; Citations affected 3-11-4-1, 3-11-4-3, 3-11-4-15, 3-11-10-26, 3-12-3-2.5)

Repeals Obsolete Date for Risk Limiting Audit

Repeals obsolete reference to date for implantation of risk limiting audit procedures.

(HEA 1365 § 97; Effective date: July 1, 2021; Citations affected 3-12-13-6)

Repeals Obsolete Cross-Reference to Pre-2004 Election Records

(HEA 1365 § 19, 43, 49, 70, 71, 72, 73, 74, 75, 78, 79, 80, 84, 88, 94; Effective July 1, 2021; Citations affected 3-8-7-24, 3-11-8-30, 3-11-11-18, 3-11.5-5-23, 3-11.5-5-25, 3-11.5-5-26, 3-11.5-6-26, 3-11.5-6-28, 3-11.5-6-29, 3-11.7-5-24, 3-11.7-5-26, 3-11.7-5-27, 3-12-2-12, 3-12-3-10, 3-12-4-13)

Republican Party Precinct Committeemen

Updated election schedule for the election of these committeemen.

(HEA 1365 § 20; Effective date: July 1, 2021; Citations affected 3-10-1-4.6)

Updates Election Schedules

Updated election schedules for statewide offices, school board members, vote center plans, city and town court judges, and municipal elections.

(HEA 1365 § 25-30, 68, 103, 104, 105, 106, 108; Effective date: July 1, 2021; Citations affected 3-10-2-3, 3-10-2-6, 3-10-6-2, 3-10-6-3, 3-10-6-5, 3-10-6-6, 3-11-18.1-5, 20-23-12-9, 20-23-14-9, 20-23-14-9, 20-23-17-8, 20-23-17.2-3.1, 33-35-1-1)

In-person Absentee Voting Ballot Security Envelope

Repeals obsolete application date specifying when an absentee voter board must print their names on an in-person absentee voter's ballot security envelope and corrects a cross-reference to IC 3-11-10-24.

(SEA 398 § 37; Effective date: July 1, 2021; Citations affected 3-11-10-29)

Technical Corrections

Technical correction updating a misnumbering in the Indiana Election Division co-director statute.

(HEA 1084 § 1; Effective date: July 1, 2021; Citation affected: IC 3-6-4.2-3)

Technical correction updating a misnumbering in the straight ticket voting statute.

(HEA 1084 § 2; Effective date: July 1, 2021; Citation affected: IC 3-11-2-10)

Removed reference to Superintendent of Public Instruction from the definition of “State Office”.

(HEA 1564 § 4; Effective date: July 1, 2021; Citation affected: IC 3-5-2-48)

Processing Absentee Ballots on Poll List

Repeals obsolete reference to inspector marking a paper poll list to indicate that an absentee ballot has been received at a precinct as absentee ballots are no longer delivered and counted at the precinct. (This change does not impact the requirement to indicate on a paper poll list or ePollbook that a voter has requested an absentee ballot. For paper poll list counties, this designation can be marked when the poll list is printed and when lists of absentee voters are delivered to the precinct election board.)

(SEA 398 § 63; Effective date: April 23, 2021; Citations affected 3-11.5-4-20)

Absentee Vote History in Vote Centers

Requires that each day after absentee voting concludes in the circuit court clerk's office or a satellite office, the county election board shall direct that the vote history be uploaded from each electronic poll list into the computerized list.

Repeals obsolete reference that uploading vote history to the statewide voter registration system after the end of each day of voting at a vote center. IC 3-11-18.1-10.3(b)(9) requires voting history to be immediately accessible from electronic poll book under IC 3-11-8-10.3(b)(9).

(SEA 398 § 38; Effective date: April 23, 2021; Citations affected 3-11-10-29.5)

VOTER REGISTRATION

Incomplete Voter Registration Applications

Provides that if a voter registration applicant submits an application where the applicant does not answer the question if the applicant is a citizen of the United States, will be at least 18 years of age on or before the next general election, or both, then the omission can be corrected by the applicant submitting a sworn statement under the penalties for perjury to answer those questions.

(HEA 1365 § 12; Effective date: July 1, 2021; Citations affected 3-7-34-3)

Obituaries Published by Funeral Directors on Website

Permits the county voter registration office to cancel a voter's registration if the death of the voter is reported on a website published by a licensed funeral director or embalmer as defined under IC 25-15.

(HEA 1365 § 14; Effective date: April 29, 2021; Citations affected 3-7-45-4)

Law Enforcement Requests for Voter Registration Information

Requires the Indiana Election Division to provide voter registration information from the statewide voter registration system, if the Election Division receives a written request from a law enforcement official conducting an investigation.

Specifies that the Election Division must determine the confidence factor score used for voter list maintenance activities of the voter registration information be requested and respond in the following manner:

- (1) If the confidence score is seventy-five (75) points or more, provide the registration information and a statement regarding the score. The statement must state that the election division is not making a determination that the information is about the same individual the law enforcement official is inquiring about.
- (2) If the confidence score is below seventy-five (75) points, provide the registration information and a statement regarding the low confidence score. The statement must state that the election division is not making a determination that the information is about the same individual the law enforcement official is inquiring about.

(HEA 1365 § 11; Effective date: July 1, 2021; Citations affected 3-7-26.4-4)

Disfranchisement Due to Conviction and Imprisonment In Another State

Requires that when a "correctional department" in another state notifies the NVRA official (the Co-Directors of the Indiana Election Division), that a resident of Indiana has been imprisoned in the other state following conviction of a crime, that the Indiana Election Division notify the appropriate Indiana county voter registration office.

If the information provided to the county voter registration office indicates that the voter is currently imprisoned following the conviction of a crime then then the person is disenfranchised and the county voter registration shall: (1) cancel the voter's voter registration record; and (2) enter information regarding the voter's voter registration cancellation into the statewide voter

registration system (SVRS); and (3) send notice of disenfranchisement (VRG-17) produced by the SVRS to the voter at the last known address of the voter.

(HEA 1365 § 15; Effective date: April 29, 2021; Citations affected 3-7-46-3.5[NEW])

Voter Registration Record Vote History Posting

The statewide voter registration system (SVRS) must allow the county voter registration official, where a voter voted one last time in the county and filed a VRG 4/12 form to transfer the voter's registration to a different county in Indiana immediately after the election, to update the voter's vote history even after the voter's registration is transferred to the other Indiana county and is canceled in the county where the voter formerly resided.

Requires a county voter registration office to add to a voter's registration record in the statewide voter registration system (SVRS) that the voter voted in the election before the record is transferred, using the affidavit on the VRG 4/12, to reflect a change in residence to another county by the voter and the voter's registration record in the voter's former county of residence is canceled.

(HEA 1365 § 10, 24; Effective date: July 1, 2021; Citations affected 3-7-26.3-36[NEW], 3-10-1-31.2)