



2022 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 2022. 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 2022 Regular Session of the Indiana General Assembly enacted the following election-related bills:

Public Law 87-2022 (Senate Enrolled Act 134): Appropriation of Donated Money
Public Law 104-2022 (Senate Enrolled Act 37): Population Parameters
Public Law 115-2022 (House Enrolled Act 1116): Electronic Voting Machines
Public Law 131-2022 (Senate Enrolled Act 328): Elections
Public Law 169-2022 (House Enrolled Act 1285): Redistricting Local Election Districts
Public Law 176-2002 (House Enrolled Joint Resolution 3): Gubernatorial Line of Succession

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

Public Law 9-2022 (Senate Enrolled Act 125): Technical Corrections
Public Law 24-2022 (Senate Enrolled Act 304): Township Trustees and Budgets
Public Law 56-2022 (Senate Enrolled Act 163): Town Fiscal Management
Public Law 105-2022 (Senate Enrolled Act 80): Code Publication Amendments
Public Law 116-2022 (House Enrolled Act 1130): Open Meetings
Public Law 124-2022 (Senate Enrolled Act 83): Open Meetings

ABSENTEE VOTING

Disclaimer When Mailing an Absentee Application to Another Person

Any person sending an absentee ballot application to an individual must print on the envelope that contains the absentee ballot application, using at least 16-point font size, underlined, and clearly legible print:

“(Name of person sending the absentee ballot application) has sent you the enclosed application. This is unsolicited and is not sent by a state or local elections official.”

This requirement does not apply to a county or state election official when the official mails an absentee ballot application form to a voter under IC 3-11-4-4-(b) or the Public Records Law (IC 5-14-3).

(HEA 1116 § 2; Effective date: July 1, 2022; Citations affected IC 3-11-4-2)

Providing Indiana Driver’s License Number or Last Four of Social Security Number for Online Absentee Ballot Application

If an absentee ballot application is submitted electronically using the online application on Indianavoters.com (Indiana Voter Portal), the applicant must provide either their 10-digit Indiana driver’s license number or last 4-digits of their social security number.

This is a codification of a security requirement that was put in place when the online absentee ballot application was released on Indianavoters.com in 2020 and is not new functionality.

NOTE: under current system functionality, a voter with an existing registration will be prompted by the system to provide the 10-digit driver’s license number or last 4-digits of their Social Security Number or both, depending on whether one or both numbers is already associated to the voter’s record. If the voter does not have either number associated to their voter record or there is a mismatch, the voter is prompted to enter their Indiana driver’s license number that is then forwarded to county voter registration officials to correct the voter’s record. Once the correction is made, the voter may then access the online absentee application module.

(HEA 1116 § 2; Effective date: July 1, 2022; Citations affected IC 3-11-4-2)

Absentee Application Deadline for a Voter with Print Disabilities Requesting a Fax or Email Ballot

The deadline for a county to receive an ABS-VPD application from a voter with print disabilities requesting an absentee ballot to be transmitted by email or fax is 11:59 p.m. twelve (12) days before the election. Previously, state law was silent on this deadline. The deadline to receive an ABS-VPD form by a voter with print disabilities who is requesting an absentee ballot by mail, which is 11:59 p.m. twelve (12) days before an election, remains unchanged.

(HEA 1116 § 3; Effective date: July 1, 2022; Citations affected IC 3-11-4-3)

(SEA 328 § 3; Effective date: July 1, 2022; Citations affected IC 3-11-4-3)

(SEA 80 § 44; Effective date: July 1, 2022; Citations affected IC 3-11-4-3)

Absentee Voting Terminology

Absentee voting before an absentee voter board during the 28-day period before Election Day at one location designated by the clerk and any additional satellite voting location must be called “early voting” on all forms prescribed by the Indiana Election Division and in communications to voters.

(HEA 1116 § 8; Effective date: July 1, 2022; Citations affected IC 3-11-10-26.1[NEW])

POST-ELECTION AUDITS

Post-Election Audit Terminology

Risk-limiting audits are now referred to as post-election audits. References to post-election audits being a “pilot” audit program and counties being “pilot” counties are repealed. Otherwise, the procedures to perform a “post-election” audit remain the same as the procedures previously used for risk-limiting audits.

(HEA 1116 § 14-18; Effective date: July 1, 2022; Citations affected IC 3-12-13-3, 3-12-13-4, 3-12-13-5, 3-12-13-6, 3-12-13-7)

Post-Election Audit Access to Materials

The requirement that the circuit court clerk seal all ballots and election materials that are returned to the county election board once the polls close on election day and until the deadline to file a recount or contest and to carefully preserve the sealed ballots and other material for twenty-two (22) months, does not prohibit county election officials from performing post-election audits that are authorized by law.

(SEA 328 § 2; Effective March 15, 2022; Citations affected IC 3-10-1-31.1)

CANDIDATES AND OFFICEHOLDERS

Town Clerk-Treasurer Eligibility

An individual who resides in a territory that is annexed by a town before an election is considered a resident of the town for the purposes of being eligible to serve as a town clerk-treasurer even if the annexation took effect less than one (1) year before the election.

(SEA 163 § 6; Effective date: July 1, 2022; Citations affected IC 36-5-6-3)

Removal of Township Trustee for Failure to Conduct Certain Fiscal and Budget Duties

A township trustee who violations or fails to conduct a duty imposed under IC 5-8-1-35(a)(1), 5-8-1-35(a)(2), 5-11-13-3, 36-6-4-3(12), 36-6-4-3(13), 36-6-4-3(14), 36-6-4-5, or IC 36-6-4-17(b) may be removed from office via a judicial proceeding established under IC 5-8-1-35. An accusation by a written resolution adopted by the county executive and county fiscal body where the township is located must first be filed with the county circuit court clerk and presented to a circuit, superior, or probate court.

To initiate the township trustee removal procedure and request the county executive and county fiscal body adopt the resolutions required under IC 5-8-1-35, the township board, as the township's legislative body, must pass a resolution requesting the county executive to adopt a resolution required under IC 5-8-1-35. At least one (1) public hearing must be held by the township board on the resolution at least ten (10) business days before the resolution is adopted by the township board. The resolution must contain a concise statement of the underlying basic facts that support the township board's finding that the township trustee has committed a violation of one of the statutes listed in above.

Not later than ten (10) business days after the township board adopts the resolution the board must file the resolution with the county executive of the county where the township is located. The resolution is void if it is not filed by the deadline.

When the county executive receives the timely filed resolution from the township board the county executive may initiate the process of passing a resolution required by IC 5-8-1-35. The county executive must hold at least one (1) public hearing on the resolution at least ten (10) business days before the county executive votes to adopt the resolution. The resolution must contain a concise statement of the underlying basic facts that support the county executive's finding that the township executive committed a violation.

If the township is located in Marion County, the Mayor of Indianapolis, as the county executive, adopts the resolution. If the township is located in any other county, a majority of the three-member county board of commissioners, as the county executive, must adopted the resolution.

Not later than ten (10) business days after the resolution is adopted the county executive shall certify the resolution to the county fiscal body, the township board, the township trustee, and the circuit court clerk where the resolutions to be filed with court. The resolution is void if it is not filed by the deadline.

When the county fiscal body receives a timely filed and certified resolution from the county executive, the county fiscal body may initiate the process of passing a resolution required by IC 5-8-1-35. The county fiscal body must hold at least one (1) public hearing on the resolution at least ten (10) business days before the county fiscal body votes to adopt the resolution. The resolution must contain a concise statement of the underlying basic facts that support the county fiscal body's finding that the township executive committed a violation. The findings and statement of underlying basic facts supporting the finding must be identical to those in the resolution adopted by the county executive.

If the township is located in Marion County, at least seventeen (17) members of the Indianapolis City County Council, the county's fiscal body, must vote to adopt the resolution. If the township is located in St. Joseph County, at least seven (7) members of the county council, the county's fiscal body, must vote to adopt the resolution. If the township is located in any other county, at least five (5) members of the county council, the county's fiscal body, must vote to adopt the resolution.

Not later than ten (10) business days after the resolution is adopted by the county fiscal body, the body shall certify the resolution to the county executive, the township board, the township trustee, and the circuit court clerk where the resolutions to be filed with court. The resolution is void if it is not filed by the deadline.

(SEA 304 § 1-2, 4-6; Effective date: July 1, 2022; Citations affected IC 5-8-1-35, 5-11-13-3, 36-6-4-3, 36-6-4-17, 36-6-4.5[NEW])

CYBERSECURITY

Threat Protection Services Agreement

If the federal government provides money or the general assembly appropriates funds to cover the costs of a threat protection service for cybersecurity, each county must enter into an agreement with the Secretary of State for these services to be provided by a security company designated by the Secretary of State through January 1, 2028. Previously, this law expired January 1, 2023. The law will now expire January 1, 2028.

(HEA 1116 § 1; Effective date: July 1, 2022; Citations affected IC 3-5-4-12)

ELECTION ADMINISTRATOR CONFERENCE

Election Conference

The Election Division may call an election instructional meeting when the Election Division determines that a meeting is necessary or advisable in addition to the annual county election administrator conference held in November or December of the year before a general or municipal election year.

Clarifies that each director, assistant director, or co-director of a board of elections and registration must attend the meeting. A member of the county election board may attend the meeting. The law already requires that each circuit court clerk and member of a board of registration must attend the meeting, and permits an individual elected or selected to serve as circuit court clerk but who has not yet taken office to attend.

The meeting may not last more than three (3) days (formerly the meeting was limited to two (2) days).

The Election Division shall certify the number of days of attendance and mileage for each conference to each official, deputy, or assistant attending the conference. Each individual who is required by law to attend the conference or who, under law, may optionally attend the conference, as well as each individual who has been elected or selected to serve as circuit court clerk but has not yet begun serving in that office is entitled to claim reimbursement for the following to be paid from the county general fund without appropriation:

1. The sum of mileage at the rate determined by the fiscal body of the official's unit of government. No matter how many people are in the vehicle, only one person shall receive reimbursement for mileage for the vehicle.
2. A lodging allowance for a multi-day conference in the amount equal to a single room rate. If it is a one-day conference, only people who reside fifty (50) miles or more away from the conference location are eligible for lodging reimbursement.
3. Reimbursement for meals purchased while attending the conference in an amount determined by the fiscal body of the unit.

All payments of reimbursements noted above shall be made by the proper disbursing officers in the manner provided by law on a duly verified claim or voucher which shall be attached to the certificate provided to each attended by the Election Division showing the number of days the attendee attended the conference and the number of miles the attendee travelled. A claim for reimbursement may not be denied by the body responsible for approval of reimbursement claims if the claim complies with IC 5-11-10-1.6 and IC 3-6-4.2-14.

Each director, assistant director, or co-director of a board of elections and registration or member of a county election board is entitled to receive payment of per diem, mileage, reimbursement, or lodging for the election administrators' conference held in December 2021 based on the statutory provisions for payment in effect at that time. The payment of per diems, mileage, reimbursement, and lodging expenses for the December 2021 conference are legalized and validated.

(SEA 328 § 1; Effective date: December 1, 2021 [Retroactive]; Citations affected IC 3-6-4.2-14)

PROVISIONAL BALLOTS

Provisional Ballot Data

Electronic poll books must be able to report to SVRS, for each voter that appears on the electronic poll list, information that a voter cast a provisional ballot. This functionality cannot be disabled.

(HEA 1116 § 5; Effective date: July 1, 2022; Citations affected IC 3-11-8-10.3)

Provisional Ballot Notice

Repeals the requirement that not later than three (3) calendar days after Election Day, each circuit court clerk provide a notice by U.S. 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.

This notice was added to the PRO-9 notice and instructions to provisional voter form.

The county election board may use a module in SVRS that populates provisional ballot information onto a voter's page on Indianavoters.com (Indiana Voter Portal) to comply with the requirement to establish a free access system for provisional ballot voters to see if their ballot was counted and the reason if the ballot was not counted. The county election board is required to input into SVRS the name and address of each voter that complete a provisional ballot, the day and time the county election board will meet to determine the validity of the provisional ballot, whether the voter's provisional ballot was counted, and if the voter's provisional ballot is not counted, the reason the provisional ballot was not counted.

The name and address of each voter that complete a provisional ballot, and the day and time the county election board will meet to determine the validity of the provisional ballot must be entered into SVRS and be added to the voter's profile on Indianavoters.com not later than twenty-four (24) hours before the county election board meeting to determine the validity of the provisional ballots or three (3) days after the election, whichever occurs first.

Once the county election board makes a determination if the voter's provisional ballot can be counted or not counted, and not later than the deadline for the county election board to certified the election results of the county under IC 3-12-4-9, information on whether the voter's provisional ballot was counted or not, and reason(s) the voter's provisional ballot was not counted must be added to SVRS and populate the voter's profile on Indianavoters.com.

(HEA 1116 § 6, 7, 11, 12, 13; Effective date: July 1, 2022; Citations affected IC 3-11-8-25.2, 3-11-10-26, 3-11.7-2-2, 3-11.7-6-3, 3-11.7-6-4[REPEALED])

ELECTION ADMINISTRATION EXPENSES

Private Monetary Donations

A political subdivision that administers an election cannot accept private monetary donations to employ individuals on a temporary basis to prepare, administer, or conduct elections.

(SEA 134 § 1; Effective date: March 11, 2022; IC 3-5-3-1)

LOCAL GOVERNMENT REDISTRICTING

“Special Census” Defined

A special census is defined in IC 1-1-3.5 as a basic enumeration of population, housing units, group quarters and transitory locations conducted by the U.S. Census Bureau at the request of a political subdivision.

(HEA 1285 § 1; Effective date: March 18, 2022; IC 1-1-3.5-2.3 [NEW])

Local Redistricting General Requirements

Current statutes concerning requirements applicable to local government and school board redistricting are recodified into a new election code chapter in Title 3 and repeals those same requirements in other statutes throughout the state code.

If a conflict exists between a map showing the boundaries of a district and a description of the boundaries of that district set forth in the plan, the boundary is the description of the district rather than the map.

If territory in a political subdivision is not included in a district, that territory is included in the contiguous territory that contains the least amount of population of all the contiguous districts in the territory.

If a territory in a political subdivision is included in more than one district, that territory is included in one of the districts that was in the ordinance or resolution, is contiguous to the territory and contains the least amount of population of all the contiguous districts.

(HEA 1285 § 2, 4-8, 10-19; Effective date: March 18, 2022; IC 3-5-10 [NEW], 20-23-4-35, 20-23-7-4.5, 20-23-8-8.5, 20-23-14-4.5, 20-23-15.7.5, 36-2-2-4, 36-2-2-4.5[REPEALED], 36-2-3-4, 36-2-3-4.5[REPEALED], 36-3-4-3, 36-4-6-3, 36-4-6-4, 36-4-6-5, 36-5-2-4.1, 36-6-6-2.5)

When Local Government Redistricting Permitted

An entity responsible for local government redistricting, usually a political subdivision (such as a county, city, town, school corporation, or Marion County township), referred to as a “redistricting authority,” is required to redraw election districts in the year after a federal decennial census for the county executive (the county board of commissioners) or county fiscal body (county council) and the school corporation, or to certify that the boundaries of the existing local government election districts continue to comply with state law.

For municipalities that conduct elections in odd-numbered years, the redistricting authority is required to draw the lines during the second year after the federal decennial census is conducted.

For a municipality that conducts its municipal elections in an even numbered year, or both in an odd-numbered year and even-numbered year, the redistricting authority is required to draw the lines during the first year after the decennial census is conducted.

Other times a local government redistricting authority may redistrict:

- If a federal special census, a special tabulation, or a corrected population count is taken within the boundary of a local government or school corporation then the local government or school corporation can redistrict only during the first year after the federal special census, a special tabulation, or a corrected population count is taken.
- If a county adopts an order declaring a county boundary to be changed under IC 36-2-1-2 that affects the boundaries of the political subdivision, then the political subdivision can redistrict.
- If a local government annexes territory and assigns it to a district, subject to the provisions of IC 36-4-3, then the local government can redistrict to place that territory into a district.
- Whenever the boundary of the local government or school corporation is changed, the local government or school corporation can redistrict after the boundary change takes effect.
- A local government or school corporation must redistrict when required by an order of a court that has found the current redistricting plan unconstitutional or otherwise unlawful.

A local government or school corporation may not redistrict at any other time that is not provided in IC 3-5-10-7.

If a county executive, county fiscal body, school corporation, or municipality has not completed redistricting on March 1, 2022, then the local government or school corporation has until December 31, 2022, to redistrict from the 2020 decennial census.

A local government or school corporation is not required to redistrict if the applicable statute in state law provides that the local government or school corporation may certify that the existing districts continue to satisfy all the requirements of the applicable statute and other applicable law.

Repeals a current law requiring that municipal legislative bodies not redistrict after November 8 before a municipal election is to be held.

(HEA 1285 § 2-3; Effective date: March 18, 2022; IC 3-5-10 [NEW]; 3-11-1.5-32[REPEALED])

Indianapolis Public School Corporation School Board Districts

Repeals restriction that not more than two (2) school board members, who serve on the board, may reside in the same district. Districts must now be established by the board of school commissioners.

(HEA 1285 § 9; Effective Date: Effective March 18, 2022; Citations affected IC 20-25-3-4)

VOTING AND ELECTION EQUIPMENT

Voter Verifiable Paper Audit Trail Units with Direct Record Electronic (DRE) Voting System

After July 1, 2022, a county may not use a direct record electronic (DRE) voting system unless the county election board uses, in an election, a number of DRE voting systems that have a voter verifiable paper audit trail unit (VVPATs) that equals at least ten percent (10%) or more of the total amount of DRE voting systems owned, leased, or otherwise available to the county as of January 1, 2022, and on January 1 of each year after 2022.

In other words, a county using a DRE voting system must have VVPAT units in the county's inventory totaling at least 10% of their total voting system inventory not later than July 1, 2022 in order to use any DRE unit in the November 2022 general election. If the county has met this threshold requirement, then the minimum VVPAT inventory must be used on DRE voting systems deployed in an election.

For example, Cardinal County has one hundred (100) DRE voting system units and needs to use 90 DRE units in an election. The minimum VVPAT requirement for the county is ten (10) (100 units x 10% threshold). This means Cardinal County must deploy ten (10) DRE units with a VVPAT and use eighty (80) DRE units without a VVPAT to meet their ninety (90) total systems needed in an election to comply with state law.

Alternatively, Cardinal County has thirty (30) VVPAT units for their total inventory of one hundred (100) DRE units and needs to deploy ninety (90) DRE units in an election. Cardinal County may choose to deploy thirty (30) DRE units with a VVPAT and sixty (60) DRE units without a VVPAT to meet their ninety (90) unit total needed to run an election. However, the county is only required to deploy the 10% minimum, or 10 VVPAT units, in this example in an election.

On July 1, 2022, and on January 1 of each year after 2022, a county must determine the minimum number of DREs in their county inventory that have a VVPAT and if it is enough to comply with this requirement. The county must file a certification of this determination with the Secretary of State not later than August 11, 2022, and February 11 of each year after 2022.

A county may not continue to use a direct record electronic (DRE) voting system that does not have a VVPAT after July 1, 2024.

(HEA 1116 § 9-10; Effective date: July 1, 2022; Citations affected IC 3-11-14-2, 3-11-15-13.3)

Voting More Than Once

Except for casting a replacement ballot according to the election code, a voter who knowingly or intentionally votes more than once in the same election commits a Level 6 felony.

(SEA 328 § 4-5; Effective March 15, 2022; Citations affected IC 3-14-2-31[NEW]; 35-52-3-43.5[NEW])

MEETINGS AND OPEN DOOR LAW

Public Comment of Public Meetings

If a governing body adopts reasonable rules to govern the taking of oral public comment at a meeting, then the oral public comment on a topic must occur before the governing body takes final action on the topic. Under current law, there are limited circumstances when a county election board or board of elections and registration is required to hear oral public comment at a public meeting. There is not general rule that an oral public comment period has to be made available at all public meetings of the board.

(SEA 83 § 2; Effective July 1, 2022; Citations affected IC 5-14-1.5-3)

Electronic Participation at a Public Meeting When a Disaster Emergency is Declared

The disaster emergency electronic participation law adopted in 2021 is amended to read that a governing body can only use this law to have its members electronically participate in the meeting if the declared disaster emergency is in effect for all or part of the governing body's jurisdiction and meeting in person would be impractical or present an imminent risk to health or safety of the members of the public and the governing body who attend the meeting because of the particular danger, threat, or emergency conditions that are the basis of the declared disaster emergency.

(HEA 1130 § 2; Effective July 1, 2022; Citations affected IC 5-14-1.5-3.7)

(SEA 83 § 5; Effective July 1, 2022; Citations affected IC 5-14-1.5-3.7)

UPDATING OR CORRECTING REFERENCES IN STATE LAW

Population Parameters

Updates the population parameters in several statutes to reflect the 2020 decennial census data. Prohibits boundary changes from occurring in the year before a federal decennial census.

(SEA 1285 § 10, 12; Effective date: March 18, 2022; Citations affected IC 36-2-2-4, 36-2-3-4)

(SEA 37 § 1-6, 120-122, 129, 144-150, 153, 160, 163-169; Effective date: April 1, 2022; Citations affected IC 1-1-3.5-9 [NEW], 3-6-5-1, 3-6-5.4-1, 3-6-5.6-1, 3-8-1-1.5, 3-8-1-28.5, 20-23-4-44, 20-23-8-7, 20-23-8-13, 20-46-8-1, 36-1.5-4-5, 36-2-1-2, 36-2-2-4, 36-2-2-4.7, 36-2-2-5, 36-2-3-2, 36-2-3-4, 36-4-2-9, 36-4-3-19, 36-5-1-7.1, 36-5-1-10.1, 36-5-1-18, 36-5-1.1-9, 36-5-1.1-10, 36-5-1.1-10.5, 36-5-1.1-10.6)

(SEA 80 § 36; Effective date: April 1, 2022; Citations affected IC 36-2-2-4)

Classes of Cities

A city with a population of 34,000 to 599,999 is considered a second class city. Previously a second class city was a city with a population of 35,000 to 599,999.

A city with a population of less than 34,000 is considered a third class city. Previously a third class city was a city with a population of less than 35,000.

Any second or third class city that gained or lost population based on the last decennial census continues to hold the city class they had before the census unless the city legislative body, by ordinance, adopts the city class that applies to the population the city has according to the last decennial census.

(SEA 163 § 3-4; Effective date: July 1, 2022; Citations affected IC 36-4-1-1, 36-4-1-1.1)

Technical and Non-substantive Changes

Updates statutes to make technical corrections and fix drafting errors.

(SEA 125 § 2-3, 5, 7; Effective date: July 1, 2022; Citations affected IC 3-7-39-10, 3-8-2-12.5, 5-8-1-35, 6-1.1-20-1.9)

INDIANA CONSTITUTIONAL AMENDMENT

Statewide Public Question Concerning Gubernatorial Succession

The General Assembly passed a joint resolution proposing to amend Article 5, Section 10 of the Constitution of the State of Indiana to repeal a reference to the Superintendent of Public Instruction in the list of officeholders who discharge the powers and duties of the governor if the offices of Governor and Lieutenant Governor (and other statewide and state legislative offices) are vacant. The statutes establishing the elected office of Superintendent of Public Instruction were repealed, effective January 10, 2021.

NOTE: This proposed amendment has not been previously agreed to by the General Assembly. Before the amendment can be made to the state constitution, the resolution must be approved by the 123rd General Assembly in 2023 or 2024 and ratified by a majority of the state's voters voting on the joint resolution as a public question on the ballot at the November 5, 2024 general election.

(House Enrolled Joint Resolution 3 §§ 1 and 2)