



February 20, 2018

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# ENGROSSED HOUSE BILL No. 1383

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DIGEST OF HB 1383 (Updated February 19, 2018 11:06 am - DI 84)

**Citations Affected:** IC 3-12.

**Synopsis:** Election audit procedures. Provides for the reconciliation of the number of votes cast with the number of voters who have received a ballot in a precinct or vote center using an electronic voting system. Authorizes the county election board to order an audit in precincts or vote centers under certain circumstances.

**Effective:** July 1, 2018.

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## Slager, Hatfield, Richardson

(SENATE SPONSOR — NIEMEYER)

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January 16, 2018, read first time and referred to Committee on Elections and Apportionment.

January 25, 2018, amended, reported — Do Pass.

January 31, 2018, read second time, amended, ordered engrossed.

February 1, 2018, engrossed.

February 5, 2018, read third time, passed. Yeas 91, nays 0.

SENATE ACTION

February 7, 2018, read first time and referred to Committee on Elections.

February 19, 2018, reported favorably — Do Pass.

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EH 1383—LS 7156/DI 75





February 20, 2018

Second Regular Session of the 120th General Assembly (2018)

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

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

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2017 Regular Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1383

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

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

- 1 SECTION 1. IC 3-12-3.5-1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. (a) This chapter  
3 applies to each precinct where voting is by electronic voting system.  
4 (b) **For purposes of this chapter, in a county designated as a vote**  
5 **center county under IC 3-11-18.1, each vote center shall be treated**  
6 **as if it were a single precinct.**
- 7 SECTION 2. IC 3-12-3.5-8, AS AMENDED BY P.L.169-2015,  
8 SECTION 148, IS AMENDED TO READ AS FOLLOWS  
9 [EFFECTIVE JULY 1, 2018]: Sec. 8. (a) **As used in this section,**  
10 **"audit threshold number" refers to the following number:**
- 11 (1) **One (1), if the total number of votes cast, as determined**  
12 **under subsection (c), is not more than twenty (20).**
- 13 (2) **Two (2), if the total number of votes cast, as determined**  
14 **under subsection (c), is:**
- 15 (A) **more than twenty (20); but**  
16 (B) **not more than forty (40).**
- 17 (3) **Three (3), if the total number of votes cast, as determined**

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- 1           **under subsection (c), is:**  
 2           **(A) more than forty (40); but**  
 3           **(B) not more than sixty (60).**  
 4           **(4) Four (4), if the total number of votes cast, as determined**  
 5           **under subsection (c), is:**  
 6           **(A) more than sixty (60); but**  
 7           **(B) not more than eighty (80).**  
 8           **(5) Five percent (5%) of the total number of votes cast,**  
 9           **rounded up to the nearest whole number, if the total number**  
 10           **of votes cast, as determined under subsection (c), is:**  
 11           **(A) more than eighty (80); but**  
 12           **(B) not more than five hundred (500).**  
 13           **(6) Twenty-five (25), if the total number of votes cast, as**  
 14           **determined under subsection (c) is more than five hundred**  
 15           **(500).**  
 16           **(b) As used in this section "judge" refers only to the judge who**  
 17           **is a member of a political party other than the political party of the**  
 18           **inspector.**  
 19           ~~(a)~~ **(c) After each electronic voting system has been secured and the**  
 20           **paper vote total printouts obtained, the inspector and judge shall**  
 21           **announce record the total number of:**  
 22           **(1) votes cast on all electronic voting systems located within the**  
 23           **precinct; including any absentee ballots cast; and**  
 24           **(2) voters who have received a ballot by signing in at the polls**  
 25           **according to the poll lists for each precinct;**  
 26           to determine if the total number of votes cast on the electronic voting  
 27           systems differs from the number of voters shown to have received a  
 28           ballot at the polls ~~or returned an absentee ballot~~, according to the poll  
 29           lists.  
 30           **(d) The inspector and judge shall record the information set**  
 31           **forth in subsection (c) on a form prescribed under IC 3-5-4-8 and**  
 32           **provided to each precinct and vote center under IC 3-11-3-10 by**  
 33           **the county election board. The inspector and judge shall sign the**  
 34           **form before delivering the certificates in accordance with section**  
 35           **4 of this chapter and return the form with the certificates.**  
 36           ~~(b)~~ **(e) If the number of ballots received at the polls and returned as**  
 37           **absentee ballots differs from the total number of voters shown on the**  
 38           **poll lists, the inspector and judge of the opposite party shall report this**  
 39           **fact in writing to the county election board together with the reasons for**  
 40           **the discrepancy, if known, at the time that the inspector and judge**  
 41           **return the precinct poll list to the board on the form required under**  
 42           **subsection (d).**



1 (f) The county election board shall compile the following  
2 information into a single document listing for each precinct:

3 (1) The number of votes cast on the electronic voting systems  
4 in the precinct, as shown on the form required for the precinct  
5 under subsection (d).

6 (2) The number of voters who cast ballots on the electronic  
7 voting systems as shown on the form required for the precinct  
8 under subsection (d).

9 (3) The number of absentee ballots returned by voters of the  
10 precinct.

11 (4) The number of absentee ballots described in subdivision  
12 (3) that were counted.

13 (5) The difference between the number in subdivision (1) and  
14 the number in subdivision (2).

15 Not later than noon on the second Friday following the election, the  
16 county election board shall discuss and publish the document  
17 described in this subsection at a public hearing and immediately  
18 make the document available for inspection and copying by any  
19 voter of the county.

20 (e) (g) If

21 (1) the total number of votes cast, as determined under subsection  
22 (a); and

23 (2) the number of voters who received a ballot at the polls or  
24 returned an absentee ballot according to the poll lists;

25 differs by five (5) or more; the number determined under subsection  
26 (f)(5) is greater than or equal to the audit threshold number, then  
27 the county election board shall may order an audit of all the votes cast  
28 in that precinct under this section. Before ordering an audit, the county  
29 election board shall recheck the computations reported by the inspector  
30 and judge under subsection (b). (c).

31 (d) (h) The county election board shall confirm that the votes cast  
32 in an election:

33 (1) for each candidate and each public question; and

34 (2) on a direct record electronic voting system in the precinct;

35 were correctly counted.

36 (e) (i) The county election board shall conduct an audit by means of  
37 tests and procedures that are approved by the commission and  
38 independent of the provider of the direct record electronic voting  
39 system being audited.

40 (f) (j) The county election board shall certify the results of the audit  
41 not later than noon ~~thirteen (13)~~ thirty (30) days after the election. The  
42 certification must be on the form prescribed by the election division.



1 One (1) copy shall be filed with the election returns, and one (1) copy  
2 must be delivered to the election division.

3 ~~(g)~~ **(k)** Public notice of the time and place of an audit shall be given  
4 at least forty-eight (48) hours before the audit. The notice shall be  
5 published once in accordance with IC 5-3-1-4. However, if publication  
6 in accordance with IC 5-3-1-4 will not allow the county election board  
7 to certify the results of the audit within ~~thirteen (13)~~ **thirty (30)** days  
8 after the election, notice shall be given by posting at or near the office  
9 of the county election board.



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred House Bill 1383, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 7 through 17, begin a new paragraph and insert:

"SECTION 2. IC 3-12-3.5-8, AS AMENDED BY P.L.169-2015, SECTION 148, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 8. **(a) As used in this section, "audit threshold number" refers to the following number:**

**(1) One (1), if the total number of votes cast, as determined under subsection (c), is not more than twenty (20).**

**(2) Two (2), if the total number of votes cast, as determined under subsection (c), is:**

**(A) more than twenty (20); but**

**(B) not more than forty (40).**

**(3) Three (3), if the total number of votes cast, as determined under subsection (c), is:**

**(A) more than forty (40); but**

**(B) not more than sixty (60).**

**(4) Four (4), if the total number of votes cast, as determined under subsection (c), is:**

**(A) more than sixty (60); but**

**(B) not more than eighty (80).**

**(5) Five percent (5%) of the total number of votes cast, rounded up to the nearest whole number, if the total number of votes cast, as determined under subsection (c), is:**

**(A) more than eighty (80); but**

**(B) not more than five hundred (500).**

**(6) Twenty-five (25), if the total number of votes cast, as determined under subsection (c) is more than five hundred (500).**

**(b) As used in this section "judge" refers only to the judge who is a member of a political party other than the political party of the inspector.**

**(c) After each electronic voting system has been secured and the paper vote total printouts obtained, the inspector **and judge** shall ~~announce~~ **record** the total number of:**

**(1) votes cast on all electronic voting systems located within the precinct, including any absentee ballots cast; and**

**(2) voters who have received a ballot by signing in at the polls, including absentee ballots returned according to the poll lists**



**for each precinct;**

to determine if the total number of votes cast on the electronic voting systems differs from the number of voters shown to have received a ballot at the polls or returned an absentee ballot, according to the poll lists.

**(d) The inspector and judge shall record the information set forth in subsection (c) on a form prescribed under IC 3-5-4-8 and provided to each precinct and vote center under IC 3-11-3-10 by the county election board. The inspector and judge shall sign the form before delivering the certificates in accordance with section 4 of this chapter and return the form with the certificates.**

~~(b)~~ **(e)** If the number of ballots received at the polls and returned as absentee ballots differs from the total number of voters shown on the poll lists, the inspector and judge ~~of the opposite party~~ shall report this fact in writing to the county election board together with the reasons for the discrepancy, if known, at the time that the inspector and judge return the precinct poll list to the board **on the form required under subsection (d).**

**(f) The county election board shall compile the information described in subsection (c) into a single document listing for each precinct the difference (if any) between the total number of votes cast and the number of voters who received a ballot at the polls or returned an absentee ballot according to the poll list, as set forth in the form required for the precinct under subsection (d). Not later than noon on the second Friday following the election, the county election board shall discuss and publish the document described in this subsection at a public hearing and immediately make the document available for inspection and copying by any voter of the county.**

~~(c)~~ **(g) If in a precinct:**

(1) the total number of votes cast; ~~as determined under subsection (a);~~ and

(2) the number of voters who received a ballot at the polls or returned an absentee ballot according to the poll lists;

~~differs differ by five (5) the audit threshold number~~ or more, then the county election board ~~shall~~ **may** order an audit of the votes cast in that precinct under this section. Before ordering an audit, the county election board shall recheck the computations reported by the inspector and judge under subsection ~~(b);~~ **(c).**

~~(d)~~ **(h)** The county election board shall confirm that the votes cast in an election:

(1) for each candidate and each public question; and





(2) on a direct record electronic voting system in the precinct; were correctly counted.

(e) (i) The county election board shall conduct an audit by means of tests and procedures that are approved by the commission and independent of the provider of the direct record electronic voting system being audited.

(f) (j) The county election board shall certify the results of the audit not later than noon ~~thirteen (13)~~ **thirty (30)** days after the election. The certification must be on the form prescribed by the election division. One (1) copy shall be filed with the election returns, and one (1) copy must be delivered to the election division.

(g) (k) Public notice of the time and place of an audit shall be given at least forty-eight (48) hours before the audit. The notice shall be published once in accordance with IC 5-3-1-4. However, if publication in accordance with IC 5-3-1-4 will not allow the county election board to certify the results of the audit within ~~thirteen (13)~~ **thirty (30)** days after the election, notice shall be given by posting at or near the office of the county election board."

Delete pages 2 through 3.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1383 as introduced.)

RICHARDSON

Committee Vote: yeas 11, nays 0.

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#### HOUSE MOTION

Mr. Speaker: I move that House Bill 1383 be amended to read as follows:

Page 2, line 23, delete "," and insert ";".

Page 2, line 23, strike "including any absentee ballots cast;".

Page 2, line 24, delete ",".

Page 2, line 25, delete "including absentee ballots returned".

Page 2, line 29, strike "or returned an absentee ballot,".

Page 2, line 37, strike "and returned as".

Page 2, line 38, strike "absentee ballots".

Page 3, delete lines 2 through 22, begin a new paragraph and insert:

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**"(f) The county election board shall compile the following information into a single document listing for each precinct:**

- (1) The number of votes cast on the electronic voting systems in the precinct, as shown on the form required for the precinct under subsection (d).**
- (2) The number of voters who cast ballots on the electronic voting systems as shown on the form required for the precinct under subsection (d).**
- (3) The number of absentee ballots returned by voters of the precinct.**
- (4) The number of absentee ballots described in subdivision (3) that were counted.**
- (5) The difference between the number in subdivision (1) and the number in subdivision (2).**

**Not later than noon on the second Friday following the election, the county election board shall discuss and publish the document described in this subsection at a public hearing and immediately make the document available for inspection and copying by any voter of the county.**

**(c) (g) If**

- (1) the total number of votes cast, as determined under subsection (a); and**
- (2) the number of voters who received a ballot at the polls or returned an absentee ballot according to the poll lists;**

**differs by five (5) or more; the number determined under subsection (f)(5) is greater than or equal to the audit threshold number, then the county election board shall may order an audit of all the votes cast in that precinct under this section. Before ordering an audit, the county election board shall recheck the computations REPORTED by the inspector and judge under subsection (b). (c)."**

(Reference is to HB 1383 as printed January 26, 2018.)

SLAGER



COMMITTEE REPORT

Madam President: The Senate Committee on Elections, to which was referred House Bill No. 1383, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to HB 1383 as reprinted February 1, 2018.)

WALKER, Chairperson

Committee Vote: Yeas 8, Nays 0

