

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.

HOUSE ENROLLED ACT No. 1383

AN ACT to amend the Indiana Code concerning elections.

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

SECTION 1. IC 3-6-5.2-10, AS ADDED BY P.L.262-2017, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) ~~As used in this section, "committee"~~ refers to the small precinct committee established by subsection (b).

(b) ~~Effective May 1, 2017, the small precinct committee is established in the county.~~

(c) ~~The committee consists of the following:~~

(1) ~~The director of the board.~~

(2) ~~The assistant director of the board.~~

(3) ~~Any additional members appointed by unanimous vote of the entire membership of the board. If an additional member is appointed under this subdivision, the following apply:~~

(A) ~~The additional member must be an employee of the board.~~

(B) ~~A second additional member must be appointed under this subdivision who is:~~

(i) ~~an employee of the board; and~~

(ii) ~~a member of the major political party in the county other than the political party of the member described in clause~~

~~(A).~~

(d) ~~The committee Except as provided in subsection (d), not later than August 1, 2018, and not later than July 1 each year immediately following a year in which presidential electors are~~

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chosen, the secretary of state shall determine the following:

- (1) Which precincts within the county had fewer than six hundred (600) active voters (as defined in IC 3-11-18.1-2) as of November 1 ~~2016~~: **of the preceding year.**
- (2) Whether compliance with the precinct boundary standards set forth in IC 3-11-1.5-4 or IC 3-11-1.5-5 would prevent the combination of a precinct described in subdivision (1) with one (1) or more adjoining precincts.
- (3) The potential savings in the administration of elections resulting from the combination of precincts under this section.

~~The committee~~ **Notwithstanding IC 3-11-1.5, the secretary of state** shall ~~establish a proposed plan~~ **issue an order** to consolidate precincts within the county that is consistent with the standards stated in this subsection **and shall file the order with the board and the election division.**

(e) ~~Not later than noon June 1, 2017, the board shall:~~

- (1) ~~adopt a proposed precinct establishment order implementing the committee's proposed plan under subsection (d); and~~
- (2) ~~file the proposed order with the election division not later than noon August 1, 2017.~~

(f) ~~(b) If a proposed precinct establishment order is not filed as provided under subsection (e), the commission shall adopt a precinct establishment order for the county not later than September 1, 2017, based on the committee's proposed plan. If the commission does not have the committee's plan and findings available, the commission shall adopt an~~ **The order the commission considers will issued by the secretary of state must** do both of the following:

- (1) Realize savings for the county.
- (2) Not impose unreasonable obstacles on the ability of the voters of the county to vote at the polls.

(g) ~~(c) If the proposed precinct establishment order is approved under this chapter, the~~ **An order issued under subsection (a)** takes effect January 1, 2018. However, if an objection to the proposed order is filed under IC 3-11-1.5-18, the proposed precinct establishment order takes effect January 1, 2018, unless at least three (3) members of the commission affirmatively vote to sustain the objection.

(h) ~~This section expires January 1, 2020.~~ **January 1, 2019, and September 1 each year following the year in which presidential electors are chosen.**

(d) ~~Not later than July 1, 2018, the commission shall adopt a precinct establishment order for the county that the commission considers will do both of the following:~~



(1) Realize savings for the county.

(2) Not impose unreasonable obstacles on the ability of the voters of the county to vote at the polls.

If the commission adopts an order under this subsection, the order takes effect January 1, 2019. If the commission does not adopt an order under this subsection, the secretary of state shall issue an order as provided in subsection (a).

SECTION 2. IC 3-11.5-4-11, AS AMENDED BY P.L.169-2015, SECTION 138, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 11. (a) Except as provided in subsection (b), **(c), or (d)**, at any time after the couriers return the certificate under section 9 of this chapter, absentee ballot counters appointed under section 22 of this chapter, in the presence of the county election board, shall, except for a ballot rejected under section 13 of this chapter:

- (1) open the outer or carrier envelope containing an absentee ballot envelope and application;
- (2) announce the absentee voter's name; and
- (3) compare the signature upon the application with the signature upon the affidavit on the ballot envelope or transmitted affidavit.

(b) This subsection applies to a county (other than a county described in subsection (c) or (d)) that:

- (1) has adopted an order to use an electronic poll book under IC 3-7-29-6(a)(1); or
- (2) is a vote center county under IC 3-11-18.1.

Immediately after the electronic poll books used at each polling place or vote center have been updated to indicate that the county received, not later than noon on election day, an absentee ballot from a voter, the absentee ballot counters shall, in a central counting location designated by the county election board, count the absentee ballot votes cast for each candidate for each office and on each public question in the precinct.

(c) This subsection applies to a county having a consolidated city, if the county:

- (1) has adopted an order to use an electronic poll book under IC 3-7-29-6(a)(1); or**
- (2) is a vote center county under IC 3-11-18.1.**

After the receipt and processing required under section 12 of this chapter to process an absentee ballot from a voter and after ensuring that the electronic poll books used in each polling place or vote center have been updated to reflect all absentee ballots received by the county not later than 12:01 a.m. on election day,



the absentee ballot counters shall, at any time after 6:00 a.m. on election day, in a central counting location designated by the county election board, count the absentee ballot votes cast for each candidate, for each office, and on each public question.

(d) This subsection applies to a county other than a county having a consolidated city, if the county election board has adopted a resolution by the unanimous vote of the entire membership of the board to use procedures set forth in this subsection, and the county:

- (1) has adopted an order to use an electronic poll book under IC 3-7-29-6(a)(1); or
- (2) is a vote center county under IC 3-11-18.1.

After the receipt and processing required under section 12 of this chapter to process an absentee ballot from a voter and after ensuring that the electronic poll books used in each polling place or vote center have been updated to reflect all absentee ballots received by the county not later than 12:01 a.m. on election day, the absentee ballot counters shall, at any time after 6:00 a.m. on election day, in a central counting location designated by the county election board, count the absentee ballot votes cast for each candidate, for each office, and on each public question.

(e) A resolution adopted under subsection (d) may be repealed or amended only by the unanimous vote of the entire membership of the county election board.

SECTION 3. IC 3-11.5-4-12, AS AMENDED BY P.L.225-2011, SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 12. (a) **Notwithstanding any provision to the contrary in this chapter, in a county described by subsection (e) or (f), the signature review process described in this section may be conducted at any time after receipt of an absentee ballot by the county election board.**

(b) If the absentee ballot counters find under section 11 of this chapter that:

- (1) the affidavit is properly executed;
- (2) the signatures correspond;
- (3) the absentee voter is a qualified voter of the precinct;
- (4) the absentee voter is registered and is not required to file additional information with the county voter registration office under IC 3-7-33-4.5; and
- (5) in case of a primary election, if the absentee voter has not previously voted, the absentee voter has executed the proper declaration relative to age and qualifications and the political



party with which the absentee voter intends to affiliate; the absentee ballot counters shall open the envelope containing the absentee ballots so as not to deface or destroy the affidavit and take out each ballot enclosed without unfolding or permitting a ballot to be unfolded or examined.

~~(b)~~ (c) If the absentee ballot counters find under subsection ~~(a)~~ (b) that the voter has not filed the additional information required to be filed with the county voter registration office under IC 3-7-33-4.5, but that all of the other findings listed under subsection ~~(a)~~ (b) apply, the absentee ballot shall be processed as a provisional ballot under IC 3-11.7.

~~(c)~~ (d) The absentee ballot counters shall then deposit the ballots in a secure envelope with the name of the precinct set forth on the outside of the envelope. After the absentee ballot counters or the county election board has made the findings described in subsection ~~(a)~~ (b) or section 13 of this chapter for all absentee ballots of the precinct, the absentee ballot counters shall remove all the ballots deposited in the envelope under this section for counting under IC 3-11.5-5 or IC 3-11.5-6.

(e) This subsection applies to a county having a consolidated city. For an absentee ballot cast in person by a voter under IC 3-11-10-25, IC 3-11-10-26, or IC 3-11-10-26.3, the absentee ballot counters may, but are not required to, make the findings required under subsection (b)(2) or (b)(3) of this section.

(f) This subsection applies to a county:

- (1) that does not have a consolidated city; and**
- (2) when the county election board has adopted a resolution by the unanimous vote of its entire membership to use the procedures set forth in this subsection.**

For an absentee ballot cast in person by a voter under IC 3-11-10-25, IC 3-11-10-26, or IC 3-11-10-26.3, the absentee ballot counters may, but are not required to, make the findings required under subsection (b)(2) or (b)(3) of this section.

(g) A resolution adopted under subsection (f) may be repealed or amended only by the unanimous vote of the entire membership of the county election board.

SECTION 4. IC 3-11.5-6-3, AS AMENDED BY P.L.169-2015, SECTION 145, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3. (a) Except as provided in subsection (b), **(c), or (d)**, immediately after:

- (1) the couriers have returned the certificate from a precinct under IC 3-11.5-4-9; and



(2) the absentee ballot counters or the county election board has made the findings required under IC 3-11-10 and IC 3-11.5-4 for the absentee ballots cast by voters of the precinct and deposited the accepted absentee ballots in the envelope required under IC 3-11.5-4-12;

the absentee ballot counters shall, in a central counting location designated by the county election board, count the absentee ballot votes for each candidate for each office and on each public question in the precinct with the assistance of any persons required for the operation of the automatic tabulating machine.

(b) This subsection does not apply to a county having a consolidated city. This subsection applies to a county that:

(1) has adopted an order to use an electronic poll book under IC 3-7-29-6(a)(1); or

(2) is a vote center county under IC 3-11-18.1.

Immediately after the electronic poll books used at each polling place or vote center have been updated to indicate that the county received, not later than noon on election day, an absentee ballot from a voter, the absentee ballot counters shall, in a central counting location designated by the county election board, count the absentee ballot votes cast for each candidate for each office and on each public question in the precinct.

(c) This subsection applies to a county having a consolidated city, if the county:

(1) has adopted an order to use an electronic poll book under IC 3-7-29-6(a)(1); or

(2) is a vote center county under IC 3-11-18.1.

After the receipt and processing required under IC 3-11.5-4-11(c) to process an absentee ballot from a voter and after ensuring that the electronic poll books used in each polling place or vote center have been updated to reflect all absentee ballots received by the county not later than 12:01 a.m. on election day, the absentee ballot counters shall, at any time after 6:00 a.m. on election day, in a central counting location designated by the county election board, count the absentee ballot votes cast for each candidate, for each office, and on each public question.

(d) This subsection applies to a county other than a county having a consolidated city, if the county election board has adopted a resolution by the unanimous vote of the entire membership of the board to use procedures set forth in this subsection, and the county:

(1) has adopted an order to use an electronic poll book under



IC 3-7-29-6(a)(1); or

(2) is a vote center county under IC 3-11-18.1.

After the receipt and processing required under IC 3-11.5-4-11(d) to process an absentee ballot from a voter and after ensuring that the electronic poll books used in each polling place or vote center have been updated to reflect all absentee ballots received by the county not later than 12:01 a.m. on election day, the absentee ballot counters shall, at any time after 6:00 a.m. on election day, in a central counting location designated by the county election board, count the absentee ballot votes cast for each candidate, for each office, and on each public question.

(e) A resolution adopted under subsection (d) may be repealed or amended only by the unanimous vote of the entire membership of the county election board.

SECTION 5. IC 3-11.5-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 4. **(a) This subsection does not apply to a county having a consolidated city.** To minimize delay, the absentee ballot counters shall continue to count without interruption until all absentee ballots for the precinct are canvassed and the certificates required by this chapter are prepared and delivered to the person entitled to receive the certificates.

(b) This subsection applies to a county having a consolidated city. To minimize delay, the absentee ballot counters shall continue to count without interruption until all absentee ballots that are not required to be remade and have been accepted by the absentee ballot counters under IC 3-11.5-4-12 are canvassed, and the certificates required by this chapter are prepared and delivered to the person entitled to receive the certificates.

SECTION 6. IC 3-11.5-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 5. **(a) This section does not apply to a county having a consolidated city.**

(b) The absentee ballot counters shall determine if the ballot cards are properly grouped and arranged so that all similar cards from a precinct are together before the ballots are counted on an automatic tabulating machine.

SECTION 7. IC 3-11.5-6-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 21. **(a) As soon as the ballots have been counted, the absentee ballot counters shall, in the presence of the county election board, do the following:**

- (1) Place in a strong paper envelope or bag the following:**
 - (A) All ballots, voted and not voted, together with all protested and uncounted ballots.**



(B) One (1) copy of each of the certificates prepared under IC 3-11.5-4-1 and IC 3-11.5-4-8.

(C) The tally papers.

- (2) Securely seal the envelope or bag.
- (3) Have both absentee ballot counters initial the envelope or bag.
- (4) Plainly mark on the outside of the envelope or bag, in ink, the precinct for which the absentee ballots were cast.
- (5) Deliver the envelope or bag to the circuit court clerk.
- (6) Notify the circuit court clerk of the number of ballots placed in the envelope or bag.

(b) This subsection applies to a county having a consolidated city. Notwithstanding subsection (a)(4), the absentee ballots may be stored in the order in which the absentee ballots were counted and not in order by precinct.

SECTION 8. IC 3-12-3.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. **(a)** This chapter applies to each precinct where voting is by electronic voting system.

(b) For purposes of this chapter, in a county designated as a vote center county under IC 3-11-18.1, each vote center shall be treated as if it were a single precinct.

SECTION 9. 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.

~~(a)~~ **(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 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 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.

~~(e)~~ **(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~~ **or the secretary of state 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).**

~~(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.

(l) Not later than ninety (90) days after each election in which an



audit is conducted under this section, the secretary of state shall publish a report stating whether the results of each audit indicate that the discrepancy was the result of human error, intentional violations of election laws, unknown causes, or a combination of these factors.

SECTION 10. An emergency is declared for this act.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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