

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

SENATE ENROLLED ACT No. 405

AN ACT to amend the Indiana Code concerning elections.

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

SECTION 1. IC 3-12-13 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020]:

Chapter 13. Risk-Limiting Audits

Sec. 1. For purposes of this chapter, a reference to a "county election board" includes the following:

- (1) A county election board established by IC 3-6-5.**
- (2) A board of elections and registration established under IC 3-6-5.2 or IC 3-6-5.4.**

Sec. 2. As used in this chapter, "incorrect outcome" means an outcome that is inconsistent with an election outcome that would be obtained by conducting a full recount.

Sec. 3. As used in this chapter, "risk-limiting audit" means an audit protocol that makes use of statistical methods and is designed to limit to acceptable levels the risk of certifying a preliminary election outcome that constitutes an incorrect outcome.

Sec. 4. (a) The secretary of state may designate counties as risk-limiting audit pilot counties.

(b) For a county to be designated as a risk-limiting audit pilot county, the county election board must adopt a resolution requesting the secretary of state to designate the county as a risk-limiting audit pilot county.

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(c) In designating a county as a risk-limiting audit pilot county, the secretary of state shall seek to designate a variety of counties as pilot counties based on the number of active voters within the county.

(d) A county designated as a risk-limiting audit pilot county shall conduct risk-limiting audits as provided in this chapter.

Sec. 5. (a) The secretary of state shall determine, under rules adopted by the secretary of state under IC 4-22-2, the elections that are subject to a risk-limiting audit.

(b) All contested elections for an elected office and all public questions are eligible for designation by the rules for a risk-limiting audit.

Sec. 6. (a) The secretary of state may waive the requirement of section 5 of this chapter, after a written request by a county election board.

(b) The secretary of state may waive the requirement of section 5 of this chapter only if the county election board shows that the technology in use by the county will not enable the county election board to satisfy the requirements for a risk-limiting audit for an election held after December 31, 2020.

Sec. 7. (a) The secretary of state shall adopt rules under IC 4-22-2 necessary to implement and administer the requirements of this chapter.

(b) In developing rules to be adopted under subsection (a), the secretary of state shall:

(1) consult with recognized statistical experts, equipment vendors, the election division, and county election officials; and

(2) consider best practices for conducting risk-limiting audits.

SECTION 2. IC 3-12-14 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020]:

Chapter 14. Election Procedure Audits

Sec. 1. For purposes of this chapter, a reference to a "county election board" includes the following:

(1) A county election board established by IC 3-6-5.

(2) A board of elections and registration established by IC 3-6-5.2 or IC 3-6-5.4.

Sec. 2. As used in this chapter, "procedure audit" refers to a process by which the procedures of an election are reviewed to determine how well an election was conducted in accordance with Indiana law.



Sec. 3. (a) The secretary of state, with the consent of the co-directors of the election division, may require a procedure audit of an election to be conducted if there is:

- (1) an investigation under IC 3-6 relating to the election; or**
- (2) a recount of the election under IC 3-12.**

(b) The secretary of state, with the consent of the co-directors of the election division, may define the scope of a procedure audit under this chapter.

Sec. 4. (a) The secretary of state shall adopt rules under IC 4-22-2 to develop a procedure audit program that details the documents to be inspected, the procedures to be reviewed, and the process by which a procedure audit is conducted under this chapter.

(b) The following factors may be evaluated by a procedure audit:

(1) Evaluation of voter registration procedures, including the following:

- (A) Proper use of voter registration forms.**
- (B) Entry of data into the statewide voter registration file.**
- (C) Proper use of forms.**
- (D) Ability of procedures to accurately determine eligibility of registrants.**

(2) Evaluation of proper use and operation of electronic poll books and other electronic systems.

(3) Evaluation of voting systems.

(4) Evaluation of compliance with federal and state requirements.

(5) Evaluation of absentee voting requirements and procedures.

(6) Evaluation of provisional ballot voting requirements and procedures.

(7) Evaluation of other factors as determined by the secretary of state.

(c) The secretary of state may require use of sampling and other statistically valid procedures for conducting a procedure audit.

Sec. 5. The secretary of state may develop and administer a training program for county election officials and their staffs for conducting procedure audits.

Sec. 6. The secretary of state shall supervise a county election board in conducting a procedure audit.

Sec. 7. A county election board that conducts a procedure audit under this chapter shall provide the results of the audit to the



secretary of state not later than thirty (30) days after completion of the audit.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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