



March 15, 2019

ENGROSSED
SENATE BILL No. 405

DIGEST OF SB 405 (Updated March 14, 2019 9:56 am - DI 133)

Citations Affected: IC 3-12.

Synopsis: Election audits. Allows the secretary of state to designate counties as risk-limiting audit pilot counties and sets forth a procedure for a county to follow to be designated as a pilot county to conduct risk-limiting audits. Provides for conducting election procedure audits after an election. Authorizes the secretary of state to adopt rules detailing procedures for such audits.

Effective: January 1, 2020.

Spartz, Crane, Houchin, Bohacek,
Zay
(HOUSE SPONSOR — WESCO)

January 14, 2019, read first time and referred to Committee on Elections.
February 5, 2019, amended, reported favorably — Do Pass.
February 7, 2019, read second time, ordered engrossed.
February 8, 2019, engrossed.
February 11, 2019, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

March 5, 2019, read first time and referred to Committee on Elections and Apportionment.
March 14, 2019, reported — Do Pass.

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March 15, 2019

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.

ENGROSSED SENATE BILL No. 405

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

4 **Chapter 13. Risk-Limiting Audits**
5 **Sec. 1. For purposes of this chapter, a reference to a "county**
6 **election board" includes the following:**
7 (1) A county election board established by IC 3-6-5.
8 (2) A board of elections and registration established under
9 IC 3-6-5.2 or IC 3-6-5.4.

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

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

17 **Sec. 4. (a) The secretary of state may designate counties as**

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1 risk-limiting audit pilot counties.

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

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

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

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

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

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

21 (b) The secretary of state may waive the requirement of section
22 5 of this chapter only if the county election board shows that the
23 technology in use by the county will not enable the county election
24 board to satisfy the requirements for a risk-limiting audit for an
25 election held after December 31, 2020.

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

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

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

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

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

38 **Chapter 14. Election Procedure Audits**

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

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

42 (2) A board of elections and registration established by



1 **IC 3-6-5.2 or IC 3-6-5.4.**

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

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

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

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

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

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

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

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

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

30 **(3) Evaluation of voting systems.**

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

33 **(5) Evaluation of absentee voting requirements and**
 34 **procedures.**

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

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

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

41 **Sec. 5. The secretary of state may develop and administer a**
 42 **training program for county election officials and their staffs for**



1 **conducting procedure audits.**

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

4 **Sec. 7. A county election board that conducts a procedure audit**
5 **under this chapter shall provide the results of the audit to the**
6 **secretary of state not later than thirty (30) days after completion**
7 **of the audit.**



COMMITTEE REPORT

Madam President: The Senate Committee on Elections, to which was referred Senate Bill No. 405, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete line 17, begin a new paragraph and insert:

"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.

(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."

Page 2, delete line 1.

Page 2, line 22, after "vendors," insert **"the election division,"**

Page 2, delete lines 37 through 38, begin a new paragraph and insert:

"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."

Page 3, line 2, delete "shall" and insert **"may"**.

Page 3, line 14, after "federal" insert **"and state"**.

Page 3, line 23, delete "shall" and insert **"may"**.

and when so amended that said bill do pass.

(Reference is to SB 405 as introduced.)

WALKER, Chairperson

Committee Vote: Yeas 7, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred Senate Bill 405, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to SB 405 as printed February 6, 2019.)

WESCO

Committee Vote: Yeas 12, Nays 0

