



February 15, 2022

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# ENGROSSED SENATE BILL No. 328

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DIGEST OF SB 328 (Updated February 15, 2022 9:27 am - DI 75)

**Citations Affected:** IC 3-6; IC 3-10; IC 3-11; IC 3-14; IC 35-52.

**Synopsis:** Elections. Requires the director, assistant director, or co-director of a board of elections and registration (rather than a member of the board) to attend a meeting called by the election division. Allows a member of a county election board to attend a meeting called by the election division. Provides reimbursement for the individuals who attend the meeting (current law only provides reimbursement for those required to attend). Makes changes to the county election officials instructional meeting, including duration, compensation and expenses. Provides that record retention under seal does not prevent counties from conducting post-election audits as authorized by statute. Provides that a voter with print disabilities who chooses to vote by electronic mail must have the voter's absentee ballot application submitted to the circuit court clerk not later than 11:59 p.m. 12 days before election day. Provides that except for casting a replacement ballot under election law, a voter who knowingly or intentionally votes more than one ballot in the same election commits a Level 6 felony. Makes a technical correction.

**Effective:** Upon passage; December 1, 2021 (retroactive); July 1, 2022.

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## Ford Jon, Rogers

(HOUSE SPONSORS — WESCO, MORRISON)

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January 11, 2022, read first time and referred to Committee on Elections.  
January 20, 2022, reported favorably — Do Pass.  
January 31, 2022, read second time, amended, ordered engrossed.  
February 1, 2022, engrossed. Read third time, passed. Yeas 41, nays 8.

HOUSE ACTION

February 8, 2022, read first time and referred to Committee on Elections and Apportionment.  
February 15, 2022, amended, reported — Do Pass.

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ES 328—LS 7056/DI 131





February 15, 2022

Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 328

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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 3-6-4.2-14, AS AMENDED BY P.L.141-2020,  
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 DECEMBER 1, 2021 (RETROACTIVE)]: Sec. 14. (a) Each year in  
4 which a general or municipal election is held, the election division  
5 shall call a meeting of all the members of the county election boards,  
6 the boards of registration (subject to IC 3-7-12), and the boards of  
7 elections and registration (as defined in IC 3-5-2-5.3) to instruct them  
8 regarding all of the following:  
9           (1) Their duties under this title and federal law (including HAVA  
10           and NVRA).  
11           (2) Requirements and best practices concerning cybersecurity for  
12           the computerized list, voting systems, and electronic poll books.  
13           (3) Physical security for all aspects of the election process,  
14           including voting systems, electronic poll books, absentee voting,  
15           and polling places.

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- 1 (4) Requirements and best practices to ensure that voting systems,  
 2 precinct polling places, and vote centers are accessible to voters  
 3 with disabilities.
- 4 (5) Best practices in answering voters' questions on how to vote,  
 5 including providing instructions to voters on straight ticket voting.
- 6 (b) The election division may ~~but is not required to~~, call a meeting  
 7 under this section:
- 8 (1) during a year in which a general or a municipal election is not  
 9 held; **and**
- 10 (2) **at other times when the election division determines that**  
 11 **doing so is necessary or desirable.**
- 12 (c) Each circuit court clerk, each member of a board of registration  
 13 established under IC 3-7-12, and each **member director, assistant**  
 14 **director, or co-director** of a board of elections and registration shall  
 15 attend a meeting called by the election division under this section. **A**  
 16 **member of a county election board may attend a meeting called by**  
 17 **the election division under this section.** A circuit court clerk, member  
 18 of a board of registration, or member of a board of elections and  
 19 registration may require the attendance of the following:
- 20 (1) Each of the circuit court clerk's, board of registration  
 21 member's, or board of elections and registration member's  
 22 appointed and acting chief deputies or chief assistants with  
 23 election related responsibilities.
- 24 (2) If the number of deputies or assistants:
- 25 (A) is not more than three (3), one (1) of the clerk's or  
 26 member's appointed and acting deputies or assistants; or  
 27 (B) is greater than three (3), two (2) of the clerk's or member's  
 28 appointed and acting deputies or assistants.
- 29 (d) The election division shall set the time and place of the  
 30 instructional meeting. In years in which a primary election is held, the  
 31 election division:
- 32 (1) may conduct the meeting before the first day of the year; and  
 33 (2) shall conduct the meeting before primary election day.
- 34 The instructional meeting may not last for more than ~~two (2)~~ **three (3)**  
 35 days.
- 36 (e) **This subsection applies to a meeting under subsection (c)**  
 37 **conducted before January 1, 2022.** Each individual required to attend  
 38 the meeting under subsection (c) and an individual who has been  
 39 elected or selected to serve as circuit court clerk but has not yet begun  
 40 serving in that office is entitled to receive all of the following from the  
 41 county general fund without appropriation:
- 42 (1) A per diem of twenty-four dollars (\$24) for attending the



- 1 instructional meeting called by the election division under this  
 2 section.  
 3 (2) A mileage allowance at the state rate for the distance  
 4 necessarily traveled in going and returning from the place of the  
 5 instructional meeting called by the election division under this  
 6 section.  
 7 (3) Reimbursement for the payment of the instructional meeting  
 8 registration fee.  
 9 (4) An allowance for lodging for each night preceding conference  
 10 attendance equal to the lodging allowance provided to state  
 11 employees in travel status.

12 **Payment of a per diem, mileage allowance, reimbursement, or**  
 13 **lodging allowance under this section for a meeting conducted**  
 14 **before January 1, 2022 is legalized and validated.**

15 (f) **This subsection applies to a meeting under subsection (c)**  
 16 **conducted on or after January 1, 2022. Each individual who**  
 17 **attends the meeting under subsection (c) and an individual who has**  
 18 **been elected or selected to serve a circuit court clerk but has not**  
 19 **yet begun serving in that office is entitled to receive all of the**  
 20 **following from the county general fund without appropriation:**

21 (1) **A sum for mileage at a rate determined by the fiscal body**  
 22 **of the unit the official represents for each mile necessarily**  
 23 **traveled in going to and returning from the meeting by the**  
 24 **most expeditious route. Regardless of the duration of the**  
 25 **conference, only one (1) mileage reimbursement shall be**  
 26 **allowed to the official furnishing the conveyance even if the**  
 27 **official transports more than one (1) person.**

28 (2) **An allowance for lodging for each night preceding**  
 29 **conference attendance in an amount equal to the single room**  
 30 **rate. However, lodging expense, in the case of a one (1) day**  
 31 **conference, shall only be allowed for persons who reside fifty**  
 32 **(50) miles or farther from the conference location.**

33 (3) **Reimbursement of an official, a deputy, or an assistant in**  
 34 **an amount determined by the fiscal body of the unit the**  
 35 **official, deputy, or assistant represents, for meals purchased**  
 36 **while attending a conference called under this section.**

37 (g) **This subsection applies to a meeting conducted on or after**  
 38 **January 1, 2022. The election division shall certify the number of**  
 39 **days of attendance and the mileage for each conference to each**  
 40 **official, deputy, or assistant attending any conference under this**  
 41 **section.**

42 (h) **This subsection applies to a meeting conducted on or after**



1 **January 1, 2022. All payments of mileage and lodging shall be**  
 2 **made by the proper disbursing officer in the manner provided by**  
 3 **law on a duly verified claim or voucher to which shall be attached**  
 4 **the certificate of the election division showing the number of days**  
 5 **attended and the number of miles traveled. All payments shall be**  
 6 **made from the county general fund from any money not otherwise**  
 7 **appropriated and without any previous appropriation being made**  
 8 **therefore.**

9 **(i) This subsection applies to a meeting conducted on or after**  
 10 **January 1, 2022. A claim for reimbursement under this section**  
 11 **may not be denied by the body responsible for the approval of**  
 12 **claims if the claim complies with IC 5-11-10-1.6 and this section.**

13 SECTION 2. IC 3-10-1-31.1, AS AMENDED BY P.L.193-2021,  
 14 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 15 UPON PASSAGE]: Sec. 31.1. (a) The inspector of each precinct shall  
 16 deliver the bags required by section 30(a) and 30(c) of this chapter in  
 17 good condition, together with poll lists, tally sheets, and other forms,  
 18 to the circuit court clerk when making returns.

19 (b) Except for unused ballots disposed of under IC 3-11-3-31 or  
 20 affidavits received by the county election board under IC 3-14-5-2 for  
 21 delivery to the foreman of a grand jury, the circuit court clerk shall seal  
 22 the ballots (including provisional ballots) and other material (including  
 23 election material related to provisional ballots) during the time allowed  
 24 to file a verified petition or cross-petition for a recount of votes or to  
 25 contest the election. Except as provided in subsection (c) and  
 26 notwithstanding any other provision of state law, after the recount or  
 27 contest filing period, the election material, including election material  
 28 related to provisional ballots (except for ballots and provisional ballots,  
 29 which remain confidential) shall be made available for copying and  
 30 inspection under IC 5-14-3. The circuit court clerk shall carefully  
 31 preserve the sealed ballots and other material for twenty-two (22)  
 32 months, as required by 52 U.S.C. 20701, after which the sealed ballots  
 33 and other material are subject to IC 5-15-6 unless an order issued  
 34 under:

35 (1) IC 3-12-6-19 or IC 3-12-11-16; or

36 (2) 52 U.S.C. 10301;

37 requires the continued preservation of the ballots or other material.

38 (c) If a petition for a recount or contest is filed, the material for that  
 39 election remains confidential until completion of the recount or contest.

40 (d) Upon delivery of the poll lists, the county voter registration  
 41 office shall unseal the envelopes containing the poll lists, inspect the  
 42 poll lists, and update the registration records of the county. The county



1 voter registration office shall use the poll lists and information on  
2 affidavits executed under IC 3-10-10, IC 3-10-11, or IC 3-10-12 to  
3 update the registration record to include the voter's voter identification  
4 number if the voter's voter identification number is not already  
5 included in the registration record. Upon completion of the inspection,  
6 the poll list and affidavits shall be preserved with the ballots and other  
7 materials in the manner prescribed by subsection (b) for the period  
8 prescribed by subsections (b) and (c).

9 (e) In addition to the poll lists described in subsection (d), the  
10 county voter registration office shall use the affidavits described by  
11 IC 3-10-10-7, IC 3-10-11-4, and IC 3-10-12-3.4 to update the  
12 registration records of the county as soon as the affidavits are delivered  
13 to the county voter registration office.

14 (f) The county voter registration office shall retain a voter's paper  
15 registration records associated with the address at which the voter is  
16 registered to vote until all of the following are satisfied:

17 (1) The voter's registration at the address stated in the voter's  
18 registration application has been canceled.

19 (2) The general election immediately following the cancellation  
20 of the voter's registration under subdivision (1) has occurred.

21 (3) Twenty-four (24) months have elapsed following the general  
22 election described in subdivision (2).

23 (g) This subsection does not apply to ballots, including provisional  
24 ballots. Notwithstanding subsection (b), if a county voter registration  
25 office determines that the inspection and copying of precinct election  
26 material would reveal the political parties, candidates, and public  
27 questions for which an individual cast an absentee ballot, the county  
28 voter registration office shall keep confidential only that part of the  
29 election material necessary to protect the secrecy of the voter's ballot.  
30 In addition, the county voter registration office shall keep confidential  
31 information contained in material related to provisional ballots that  
32 identifies an individual, except for the individual's name, address, and  
33 birth date.

34 (h) After the expiration of the period described in subsection (b) or  
35 (c), the ballots may be destroyed in the manner provided by  
36 IC 3-11-3-31 or transferred to a state educational institution as  
37 provided by IC 3-12-2-12.

38 (i) This subsection applies to a detachable recording unit or  
39 compartment used to record a ballot cast on a direct record electronic  
40 voting system. After the time allowed to file a verified petition or  
41 cross-petition for a recount of votes or to contest the election, the  
42 circuit court clerk shall transfer the data contained in the unit or



1 compartment to a disc or other recording medium. After transferring  
 2 the data, the clerk may clear or erase the unit or compartment. The  
 3 circuit court clerk shall carefully preserve the disc or medium used to  
 4 record the data for twenty-two (22) months, as required by 52 U.S.C.  
 5 20701, after which time the disc or medium may be erased or  
 6 destroyed, subject to IC 5-15-6, unless an order requiring the continued  
 7 preservation of the disc or medium is issued under the following:

8 (1) IC 3-12-6-19.

9 (2) IC 3-12-11-16.

10 (3) 52 U.S.C. 10301.

11 (j) This subsection applies to a county using an electronic poll book.  
 12 After each election, the county shall save all data recorded on the  
 13 electronic poll book and any information stored on the dedicated,  
 14 private server required under IC 3-11-8-10.3(b)(4). The circuit court  
 15 clerk shall carefully preserve the disc or medium used to record the  
 16 data for twenty-two (22) months, as required by 52 U.S.C. 20701, after  
 17 which time the data may be erased or destroyed, subject to IC 5-15-6,  
 18 unless an order requiring the continued preservation of the data is  
 19 issued under the following:

20 (1) IC 3-12-6-19.

21 (2) IC 3-12-11-16.

22 (3) 52 U.S.C. 10301.

23 **(k) This section does not prohibit county election officials from**  
 24 **performing post-election audits, as authorized by statute.**

25 SECTION 3. IC 3-11-4-3, AS AMENDED BY P.L.109-2021,  
 26 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 27 JULY 1, 2022]: Sec. 3. (a) Except as provided in subsection (c) and  
 28 section 6 of this chapter, an application for an absentee ballot must be  
 29 received by the circuit court clerk (or, in a county subject to IC 3-6-5.2  
 30 or IC 3-6-5.6, the director of the board of elections and registration) not  
 31 earlier than the date the registration period resumes under IC 3-7-13-10  
 32 nor later than the following:

33 (1) Noon on election day if the voter registers to vote under  
 34 IC 3-7-36-14.

35 (2) Noon on the day before election day if the voter:

36 (A) completes the application in the office of the circuit court  
 37 clerk under IC 3-11-10-26; or

38 (B) is an absent uniformed services voter or overseas voter  
 39 who requests that the ballot be transmitted by electronic mail  
 40 or fax under section 6(h) of this chapter.

41 (3) Noon on the day before election day if:

42 (A) the application is a mailed, transmitted by electronic mail





- 1 or fax, or hand delivered application from a confined voter or  
 2 voter caring for a confined person; and  
 3 (B) the applicant requests that the absentee ballots be  
 4 delivered to the applicant by an absentee voter board under  
 5 IC 3-11-10-25.  
 6 (4) 11:59 p.m. twelve (12) days before election day if the  
 7 application is:  
 8 (A) a mailed application;  
 9 (B) transmitted by electronic mail;  
 10 (C) transmitted by fax; or  
 11 (D) hand delivered;  
 12 from other voters who request to vote by mail under  
 13 IC 3-11-10-24 **or for a voter with print disabilities to vote by**  
 14 **electronic mail or fax under section 6(h) of this chapter.**  
 15 (b) An application for an absentee ballot received by the election  
 16 division by the time and date specified by subsection (a)(2)(B), (a)(3),  
 17 or (a)(4) is considered to have been timely received for purposes of  
 18 processing by the county. The election division shall immediately  
 19 transmit the application to the circuit court clerk, or the director of the  
 20 board of elections and registration, of the county where the applicant  
 21 resides. The election division is not required to complete or file the  
 22 affidavit required under section 2(h) of this chapter whenever the  
 23 election division transmits an application under this subsection.  
 24 (c) An application for an absentee ballot for the election may not be  
 25 received by the circuit court clerk (or, in a county subject to IC 3-6-5.2  
 26 or IC 3-6-5.6, the director of the board of elections and registration)  
 27 earlier than December 1 of the year before the election.  
 28 SECTION 4. IC 3-14-2-31 IS ADDED TO THE INDIANA CODE  
 29 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**  
 30 **UPON PASSAGE]: Sec. 31. Except for casting a replacement ballot**  
 31 **in accordance with this title, a voter who knowingly or**  
 32 **intentionally votes more than one (1) ballot in the same election**  
 33 **commits a Level 6 felony.**  
 34 SECTION 5. IC 35-52-3-43.5 IS ADDED TO THE INDIANA  
 35 CODE AS A **NEW SECTION TO READ AS FOLLOWS**  
 36 **[EFFECTIVE UPON PASSAGE]: Sec. 43.5. IC 3-14-2-31 defines a**  
 37 **crime concerning voting.**  
 38 SECTION 6. **An emergency is declared for this act.**



## COMMITTEE REPORT

Madam President: The Senate Committee on Elections, to which was referred Senate Bill No. 328, 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 SB 328 as introduced.)

FORD JON, Chairperson

Committee Vote: Yeas 7, Nays 2

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 SENATE MOTION

Madam President: I move that Senate Bill 328 be amended to read as follows:

Page 1, delete lines 1 through 15.  
 Delete page 2.  
 Page 3, delete lines 1 through 38.  
 Page 6, line 17, delete "therefor." and insert "**therefore.**".  
 Page 6, delete lines 22 through 42.  
 Delete pages 7 through 22.  
 Page 23, delete lines 1 through 15.  
 Page 25, delete lines 28 through 42.  
 Delete pages 26 through 27.  
 Page 28, delete lines 1 through 28.  
 Page 29, delete lines 32 through 42.  
 Delete pages 30 through 60.  
 Page 61, delete lines 1 through 31.  
 Page 61, line 35, after "who" insert "**knowingly or intentionally**".  
 Page 61, delete lines 37 through 42.  
 Delete pages 62 through 64.  
 Page 65, delete lines 1 through 5.  
 Page 65, delete lines 10 through 42.  
 Delete pages 66 through 67.  
 Page 68, delete lines 1 through 28.  
 Renumber all SECTIONS consecutively.

(Reference is to SB 328 as printed January 21, 2022.)

FORD JON

ES 328—LS 7056/DI 131



## SENATE MOTION

Madam President: I move that Senate Bill 328 be amended to read as follows:

Page 4, line 24, strike "member" and insert "**director, assistant director, or co-director**".

Page 4, line 26, after "section." insert "**A member of a county election board may attend a meeting called by the election division under this section.**".

Page 5, line 25, delete "required" and insert "**who attends**".

Page 5, line 26, delete "to attend".

(Reference is to SB 328 as printed January 21, 2022.)

FORD J.D.

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 COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred Senate Bill 328, 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 6, line 24, delete "audits." and insert "**audits, as authorized by statute.**".

Page 6, line 40, reset in roman "or fax".

Page 6, line 42, delete "mail," and insert "mail".

Page 7, line 1, reset in roman "or fax,".

Page 7, line 10, reset in roman "(C) transmitted by fax;".

Page 7, line 11, delete "(D) (C)" and insert "(D)".

Page 7, line 14, after "electronic mail" insert "**or fax**".

and when so amended that said bill do pass.

(Reference is to SB 328 as reprinted February 1, 2022.)

WESCO

Committee Vote: yeas 12, nays 0.

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