

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

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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.**



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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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