



2003 Indiana Election Legislation Summary

Prepared by the Indiana Election Division

This document summarizes the election-related legislation that passed the Indiana General Assembly and became law in 2003. Bills may be obtained by contacting the Legislative Information Center at 200 West Washington Street, Room 230, Indianapolis, Indiana 46204-2731; (317) 232-9856, or by downloading documents from the Access Indiana homepage: www.in.gov/legislative.

The 2003 Regular Session of the Indiana General Assembly enacted the following election-related bills:

- **P.L. 24-2003 (House Enrolled Act 1724):** Adoption of Accessibility Standards for Local Government Purchases of Information Technology
- **P.L. 38-2003 (House Enrolled Act 1901):** Marion County School Board Election Ballots
- **P.L. 45-2003 (Senate Enrolled Act 88):** Campaign Finance Reporting Software Distribution
- **P.L. 66-2003 (Senate Enrolled Act 136):** Miscellaneous Election Law Changes
- **P.L. 68-2003 (Senate Enrolled Act 289):** City Status Referendum Ballot Access Requirements
- **P.L. 69-2003 (Senate Enrolled Act 318):** Miscellaneous Election Law Changes
- **P.L. 92-2003 (House Enrolled Act 1902):** Orange County Riverboat Referendum
- **P.L. 116-2003 (Senate Enrolled Act 477):** Accessibility of Polling Places and Voting Equipment
- **P.L. 209-2003 (Senate Enrolled Act 268):** Implementation of Help America Vote Act of 2002
- **P.L. 224-2003 (House Enrolled Act 1001):** The biennial budget, which includes provisions appropriating matching funds to comply with the Help America Vote Act of 2002.
- **P.L. 263-2003 (House Enrolled Act 1980):** Absentee Ballots
- **P.L. 278-2003 (Senate Enrolled Joint Resolution 5):** Proposed Constitutional Amendment: Authorizing Certain Property Tax Exemptions
- **P.L. 279-2003 (House Enrolled Joint Resolution 7):** Proposed Constitutional Amendment: Authorizing Uniform Starting Date for Terms of Certain County Elected Officials
- **P.L. 280-2003 (House Enrolled Joint Resolution 8):** Proposed Constitutional Amendment: Procedures for Filling Vacancies in State and Legislative Offices

NOTES

1. Public Law 107-252 (HR 3295), the Help America Vote Act of 2002, also referred to as "HAVA" was signed into law by President Bush on October 29, 2002. This is federal legislation (not state legislation) and therefore beyond the scope of this summary.

However, this summary does provide detailed information regarding the implementation of HAVA in Indiana. Several Indiana election law changes related to the implementation of HAVA are delayed until January 1, 2006, while other provisions to implement HAVA are effective in 2003 and 2004.

2. The following bills made technical (or non-election related) amendments to the Indiana election code:

P.L. 1-2003 (HEA 1167)- technical corrections.

P.L. 2-2003 (SEA 257)- recodification of military and state police law.

P.L. 195-2003 (HEA 1849)- possession of firearms by individuals whose disfranchisement has ended.

P.L. 261-2003 (HEA 1935)- cross reference to public records law.

VOTER REGISTRATION

Statewide Voter Registration System

The \$5,000,000 appropriation made in 2001 from the Build Indiana Fund for voter registration purposes is canceled. In its place, an amount "sufficient to provide match for federal funds received under... HAVA" is transferred to the voter registration and procedures account within the state general fund for the 2003-2005 biennium. The source of the transferred funds is unclaimed prize money from the Indiana state lottery. (HEA 1001, SECTION 98; Effective date: July 1, 2003; Noncode provision)

The secretary of state (with consent of the election division co-directors) shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, and interactive statewide voter registration system that complies with HAVA. The phrase used in HAVA to describe this system is "computerized list."

The deadline for establishing a statewide voter registration system that complies with HAVA is moved to January 1, 2004 (was July 1, 2004 under former law).

However, this 2004 deadline is subject to the waiver that can be granted under HAVA to extend the deadline until January 1, 2006. Not later than January 1, 2004, the secretary of state and co-directors are authorized to apply to the new federal Election Assistance Commission for this waiver by setting forth the reasons showing why there is good cause that the state cannot meet this deadline. The current state law permitting the Indiana election commission to extend the deadline for establishing the statewide voter registration system is repealed.

The current state laws concerning the annual compilation of the statewide voter registration list and the implementation of the new statewide voter registration system over the Internet expire January 1, 2006. These standards, including the Internet connection requirement, will be replaced by new laws that will apply to the new HAVA statewide voter registration system.

The new HAVA statewide voter registration system must: (1) be defined, maintained, and administered at the state level; (2) contain the name and registration information of every voter in Indiana; and (3) assign a unique identifier to each voter in Indiana.

The statewide voter registration system's list serves as: (1) the single system for storing and managing the official list of voters throughout Indiana; and (2) the official voter registration list for the conduct of all elections in Indiana.

The system must be coordinated with other agency databases within Indiana.

The secretary of state, the election division co-directors, and the bureau of motor vehicles commission (BMV) must enter into an agreement to match information in the statewide voter registration system database with information in the BMV's database to enable the election division to verify the accuracy of the information provided on voter registration applications.

The BMV must enter into an agreement with the Commissioner of Social Security to verify certain information set forth on voter registration applications, including: (1) whether the name (including the first name and any family forename or surname), date of birth (including month, day, and year), and Social Security number of an individual provided to the Social Security Administration match the information contained in the records of the Social Security Administration; and (2) whether the individual is shown in the records of the Social Security Administration as deceased. This agreement must include: (1) safeguards to assure the maintenance of the confidentiality of any information disclosed to the BMV; (2) procedures to permit the BMV to use the information to maintain the BMV's records; and (3) procedures to permit the election division to coordinate the records of the statewide voter registration system with the BMV's database.

The information provided by the Commissioner of Social Security or by an individual to the BMV is confidential, and may be used only for purposes allowed under state law or HAVA.

Each county voter registration office, the election division, and the secretary of state must be able to obtain immediate electronic access to the information contained in the statewide voter registration system. The election division must coordinate with: 1) the department of correction records concerning disfranchised voters; and 2) the state department of health concerning deceased voters.

After December 31, 2005 the statewide voter registration system must coordinate with the state department of health (DOH) to permit a county voter registration office to receive DOH reports (or copies of death certificates) to allow the cancellation of registration records of deceased voters on an expedited basis (instead of after receiving quarterly reports under current law).

After January 1, 2006, the Commissioner of the Department of Correction (DOC) must provide information to the election division to coordinate the DOC's records concerning disfranchised persons with the information in the statewide voter registration file on an expedited basis (rather than on the second Tuesday of each month).

The election division and each county voter registration office shall ensure that voter registration records are accurate and updated regularly. The system must be formatted so that only the county voter registration office of a county may change data in the file concerning the voters registered in that county. A county voter registration office must electronically enter all voter registration information obtained by the county voter registration office into the system on an expedited basis at the time the information is provided to the county voter registration office.

The election division and each county voter registration office must provide adequate security to prevent unauthorized access to the system. The secretary of state and the election division must provide the support required for the county voter registration office to enter the information into the system.

The county voter registration office shall perform system maintenance activities on a regular basis, including the removal of an individual from the system's list when required due to: (1) death; (2) the individual confirming that he or she resides outside the county in which the individual is registered; or (3) an "inactive voter" failing to become an "active" voter by responding to a notice sent in conformity with the federal NVRA (National Voter Registration Act) or take any other action to do so within the period allowed under NVRA.

The system maintenance must ensure that: (1) the name of each voter appears in the list; (2) only voters who are not eligible to vote are removed from the list; and (3) duplicate names of an individual voter are eliminated from the list. The election division and each county voter registration office must perform the list maintenance required to ensure that inactive voters (meaning, voters identified as potential duplicates who fail to respond to a notice) are removed from the official voter list.

Certain voter list maintenance requirements under current law are modified after 2005 to reflect new procedures under the statewide voter registration system. These include phasing out manual paper processing requirements that apply when a county voter registration office makes changes to: (1) a precinct assignment; (2) a ZIP code; or (3) other address information on an original paper voter registration record. Likewise, references in statutes to the format of poll lists produced by a county before the county voter registration office had its records placed on a county computer database are repealed as obsolete.

Other modifications reflect the requirement that the information in the new system be updated on an "expedited basis". These include: (1) permitting the election division to submit ZIP code information to the United States Postal Service more than once a year; (2) requiring the election division to forward information regarding voters disfranchised due to federal court convictions to a county voter registration office; (3) requiring a county voter registration office to forward cancellations to other counties within 15 days before an election; (4) requiring a county voter registration office to mail notices to disfranchised persons once a month; and (5) eliminating the county's annual reporting requirement concerning the number of voters in each precinct.

The duplicate voter registration elimination program required under current law expires after 2005.

To implement the transition to the statewide voter registration system, many technical changes and cross-references were made within the Election Code that will go into effect after December 31, 2005. These include repealing references to existing county voter registration systems, and adding references to the statewide voter registration system.

(SEA 268, SECTIONS 14, 22-23; 31-36, 38-42, 44-49, 53, 57-71; 73-95, 99-100, 106-110, 187, 192-196, 200, and 202-203; Effective Date: July 1, 2003; Citations affected: IC 3-6-5-17; IC 3-7-12-28; IC 3-7-12-28.1 [new]; IC 3-7-26-2; IC 3-7-26-3; IC 3-7-26-8; IC 3-7-26-20 [repealed]; IC 3-7-26-21 [new]; IC 3-7-26.3 [new]; IC 3-7-27-6; IC 3-7-27-20.1 [new]; IC 3-7-27-21; IC 3-7-27-21.1 [new]; IC 3-7-27-22; IC 3-7-27-23; IC 3-7-29-3; IC 3-7-29-4; IC 3-7-30-1; IC 3-7-30-5; IC 3-7-30-6; IC 3-7-33-2; IC 3-7-34-1; IC 3-7-34-12; IC 3-7-35-2; IC 3-7-35-2.1 [new]; IC 3-7-35-3; IC 3-7-35-3.1 [new]; IC 3-7-38.1-11 [new]; IC 3-7-38.2-2; IC 3-7-38.2-3; IC 3-7-38.2-4; IC 3-7-38.2-5; IC 3-7-40-2; IC 3-7-40-4; IC 3-7-40-6; IC 3-7-40-7; IC 3-7-42-4; IC 3-7-43-3; IC 3-7-45-2; IC 3-7-45-2.1 [new]; IC 3-7-45-3; IC 3-7-45-4; IC 3-7-45-5; IC 3-7-45-6; IC 3-7-45-6.1 [new]; IC 3-7-45-8; IC 3-7-46-1; IC 3-7-46-3; IC 3-7-46-4; IC 3-7-46-4.1 [new]; IC 3-7-46-5; IC 3-7-46-6; IC 3-7-46-7; IC 3-7-46-7.5 [new]; IC 3-7-46-8; IC 3-7-46-9; IC 3-10-1-7; IC 3-10-1-7.1 [new]; IC 3-10-1-24.5; IC 3-10-1-24.6 [new]; IC 3-11-3-16; IC 3-11-3-17; IC 3-11-3-19; IC 3-11-3-21; IC 3-12-5-1.5 [new]; IC 3-14-2-6; IC 3-14-3-3.5; IC 3-14-6-1; IC 3-14-6-1.1 [new]; IC 3-14-6-2; IC 11-8-2-5; IC 16-19-3-19; SEA 268, SECTIONS 198, 199, and 210; Effective Date: May 7, 2003. Citations affected: IC 9-24-2.5-12; IC 9-24-2.5-13; [noncode provision])

Changes in Voter Registration List Maintenance Procedures (Before Statewide Voter Registration File Goes Into Operation)

The contractor employed by the Indiana election division to send duplicate elimination voter maintenance mailing postcards is no longer required to send a follow-up postcard to a voter with duplicate registrations who has not responded to the initial postcard, notifying the voter of the effect of the voter's being placed on inactive status. [Instead, the initial postcard mailed to the voter will contain this information.] (SEA 136, SECTION 8; Effective date: July 1, 2003; IC 3-7-38.1-4)

The list of Indiana residents convicted of a crime, and incarcerated in a county jail to be forwarded by the county sheriff to the county voter registration office must contain the names of these individuals incarcerated during the previous three month period. (SEA 136, SECTION 9; Effective date: July 1, 2003; IC 3-7-46-6)

If an individual is permitted to vote at the polls by producing a voter registration application receipt from a "full service" voter registration agency dated during the period while voter registration is open, the county voter registration office must add the name of the voter to the county voter registration records. [Formerly, the name of the voter was only added by the precinct election board to the precinct poll list.] The county voter registration office may unseal the envelope containing the poll lists after the envelopes are returned from the precinct for the purpose of adding this voter's name to the county voter registration records. SEA 136, SECTIONS 10 and 29; Effective date: July 1, 2003; Citations affected: IC 3-7-48-8; IC 3-10-1-31)

When the Indiana election division receives a cancellation of an Indiana registration from outside of Indiana, the division must provide a county voter registration office with a written copy of the notice for processing. (The former law requiring the division to notify the county that a copy of a sign cancellation request was available is repealed.). (SEA 268, SECTION 72. Effective date: July 1, 2003; Citations affected: IC 3-7-43-3)

Voter Identification Number

Under current Indiana law, a voter who is registering to vote (or submitting a change to his or her existing voter registration record) must provide a voter identification number.

The voter identification number is the individual's Indiana driver's license number, or if an individual does not have an Indiana driver's license, the individual must provide the last four (4) digits of the individual's Social Security number when the individual registers to vote.

However, the use of *identification card* number issued by the Indiana Bureau of Motor Vehicles as an alternative voter identification number has been repealed to make Indiana law consistent with HAVA. (*But see below, for other cases in which this number may be used.*)

A voter's voter identification number may not be changed unless: (1) the voter made an error when providing the number when the voter registered to vote; (2) the election division or a county voter registration office made an error when entering the number into the statewide voter registration system; (3) the voter obtains or provides an Indiana driver's license number or a partial social security number after the voter was assigned an identification number by the election division (see below); or (4) the voter ceases to have an Indiana driver's license number after the voter provided that number. (Former law only allowed the voter identification number to be changed in case of an error by the voter.)

Not later than January 1, 2006, the election division shall assign a voter identification number to any existing voter registration record in the statewide voter registration system for a voter who has not already been assigned a voter identification number as described above.

After December 31, 2005, if an individual does not have a voter identification number, the election division shall assign the individual a number to be associated with the individual's registration in the statewide voter registration system. If the individual has been issued a BMV identification card, then the election division shall assign this number on the card as the voter's identification number. If the individual does not have a BMV-issued identification card, the election division shall assign a unique identifying number to the voter's registration record.

After December 31, 2005, if a voter wishes to transfer the voter's registration, and the voter does not have either an Indiana driver's license number or a social security number, the election division must assign a voter identification number to the voter to permit the registration to be transferred. (SEA 268, SECTION 25. Effective July 1, 2003; Citations affected: IC 3-7-13-13; SEA 268, SECTION 211. Effective May 7, 2003; [noncode provision])

After December 31, 2005, if a voter wishes to transfer the voter's registration by using an affidavit designed to permit "fail safe" voting, the voter must include his or her voter identification number in the affidavit. (SEA 268, SECTIONS 103-104. Effective July 1, 2003; Citations affected: IC 3-10-11-5; IC 3-10-12-3.5 [new])

After December 31, 2005, a voter who submits an absentee ballot application which shows that the voter has moved, but remains within the precinct, must provide a voter identification number on the application to permit transfer of registration and obtain an absentee ballot. (SEA 268, SECTION 114. Effective July 1, 2003; Citations affected: IC 3-11-4-17.5)

After the poll clerks obtain the voter's name (and political party in a primary election), the poll clerk is required to ask the voter to provide **or update** the voter's voter identification number. (SEA 268, SECTIONS 98, 137, and 138. Effective July 1, 2003. Citations affected: IC 3-10-1-24; IC 3-11-8-26; IC 3-11-8-26.1 [new])

After an election, the county voter registration office may unseal the precinct election material and record on the county voter registration record that the voter identification number provided or updated by the voter. (SEA 268, SECTION 101. Effective July 1, 2003. Citations affected: IC 3-10-1-31)

The voter registration application acknowledgement notice sent to a voter after the county voter registration office has processed the voter's registration application must include the voter's voter identification number. (SEA 268, SECTION 52. Effective July 1, 2003. Citations affected: IC 3-7-33-5)

New Identification Requirements for Certain Voters

HAVA requires that, beginning *January 1, 2003*, certain individuals who register to vote must provide additional identification documents to a county voter registration office. Although the county office can proceed to process the voter registration application without first receiving these documents from the voter, the voter cannot proceed to vote and have the voter's ballot be counted unless the voter provides the documents to the county voter registration office first.

The federal HAVA law applies only to voting in federal elections, and there are no federal elections scheduled in 2003. However, since Indiana law does not provide for two different voter registration lists (one for voters who can vote in federal elections only, and another list of voters who can vote in all elections), Indiana law requires that this additional documentation be obtained from these voters during 2003 and before the 2004 primary and general elections.

Not later than December 31, 2003, each county voter registration office shall identify each registered voter in the county who registered by mail after December 31, 2002 and is required to provide additional identification documents under HAVA before voting at an election conducted after December 31, 2003.

Not later than March 1, 2004, the county voter registration office shall mail a notice to each voter identified that (1) informs the voter regarding the additional identification documents required by federal law before the voter casts a ballot in person or by mail; and (2) encourages the voter to submit photocopies of the required documentation to the county voter registration office before election day in 2004.

Not later than July 1, 2003, the election division shall provide each county voter registration office with a sample notice for purposes of these mailings. The county election board may mail notices at any time after receiving the sample notice and is not required to mail all the notices as part of the same mailing. (SEA 268, SECTION 204. Effective May 7, 2003. [noncode provision])

After December 31, 2003, an individual who submits an application to register to vote by mail and has not previously voted in a general election (or a special election for federal office) in the *county* as of the date the registration application is received, must provide additional identification documentation prior to voting in the general election (or a special election for federal office).

[Note: After the statewide voter registration system goes into operation by January 1, 2006, this additional documentation requirement will only apply to a voter who registers to vote by mail, and has not previously voted in a general election *in Indiana* (or a special election for federal office in Indiana).

The individual may provide this documentation when the individual submits an application to register and includes with that mailing a copy of: (1) a current and valid photo identification; or (2) a current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter.

Even among the group of voters who register by mail, this additional documentation requirement does not apply to everyone.

The documentation requirement does not apply to:

- 1) an absent uniformed services voter or overseas voter; or
- 2) an individual entitled to vote absentee under federal law due to a determination by the election division that a permanent or temporarily accessible polling place cannot be provided for the individual, or for any other reason under federal law.

Likewise, after the statewide voter registration system is in operation, this requirement will not apply to an individual who submits a registration application that includes the individual's Indiana driver's license number of the last four digits of the individual's Social Security number if the county voter registration office or election division matches this information with an existing Indiana identification record bearing the same number, name, and date of birth set forth in the voter registration application.

When a county voter registration office receives a voter registration application by mail, the office shall determine whether the applicant is required to provide this additional documentation. If the county voter registration office determines that the applicant: (1) is not required to submit the additional documentation; or (2) has provided the additional documentation, the county voter registration office shall process the application in the normal course of business.

However, if the county voter registration office determines that the applicant is required to submit additional documentation, but has not done so, the office shall process the application but make a notation in the county voter registration computerized database that additional documentation is required for that voter. The county voter registration office shall remove this notation after the voter votes in an election for a federal office. (The voter will be required to submit this additional documentation before doing so). (SEA 268, SECTION 51. Effective July 1, 2003. Citations affected: IC 3-7-33-4.5)

If the additional documentation has been provided by the voter, the entry in the county voter registration database must include the following: (1) The date the documentation was filed with the county voter registration office; (2) Whether the documentation was filed with the county voter registration office: (A) by a precinct election board after the person voted in person at the polling place; (B) by the county election board after the person applied to cast an absentee ballot; or (C) by the applicant as part of the original filing of the application to register to vote, or in a subsequent filing received by the county voter registration office; (3) A brief description of the type of documentation provided.

The election division shall provide each county voter registration office with a suggested coding system for identifying the types of documentation. (SEA 268, SECTION 37. Effective July 1, 2003. Citations affected: IC 3-7-27-20)

After December 31, 2003, the county voter registration office shall indicate on each precinct's poll list whether any voter on the list is required to provide additional identification documents before voting in person or by absentee ballot. (SEA 268, SECTIONS 43 and 108. Effective July 1, 2003. Citations affected: IC 3-7-29-1; 3-11-3-18)

After December 31, 2003, when processing absentee ballot applications, the county election board shall also determine whether: (1) the applicant is a voter who is required to file additional identification documents; and (2) the applicant has filed this documentation according to the records of the county voter registration office.

If the applicant has not filed the required documentation, the county election board shall approve the absentee application if the application otherwise complies with this chapter. However, the board shall add a notation to the application and to the county's absentee ballot public record indicating that the applicant will be required to provide additional documentation to the county voter registration office before the absentee ballot may be counted. (SEA 268, SECTION 114. Effective July 1, 2003. Citations affected: IC 3-11-4-17.5)

Not later than July 1, 2003, the Indiana election commission shall approve absentee ballot application forms that include a notice to voters who are required to provide additional identification documents before voting an absentee ballot by mail. An absentee ballot application form approved by the commission before December 31, 2003, that does not contain this notice, may not be accepted by a county election board after December 31, 2003. (SEA 268, SECTION 205. Effective May 7, 2003. [noncode provision]).

If the county election board mails an absentee ballot to a voter required to file additional identification documents with the county voter registration office before the absentee ballot can be counted, the board shall include a notice in the absentee ballot envelope (inner envelope with the ballots ABS-6 mailed to the voter). This notice must inform the voter that the voter must file the additional documentation with the county voter registration office not later than noon election day for the absentee ballot to be counted. The Indiana election commission shall prescribe the form of this notice. (SEA 268, SECTION 116. Effective July 1, 2003. Citations affected: IC 3-11-4-18)

If the voter who is voting before an absentee voter board (either in the clerk's office or a traveling board) is required to present additional identification documents, the absentee voter board, shall, upon accepting the completed absentee ballot from the voter, provide the voter with the notice described above.

If the voter does not present the required identification documents before receiving the absentee ballot, the absentee ballot will be processed (at least initially) as a provisional ballot. (SEA 268, SECTION 148. Effective July 1, 2003. Citations affected: IC 3-11-10-28)

When the county election board receives an absentee ballot from a voter required to provide additional identification documents, the county election board shall contact the county voter registration office to determine if the additional identification documents have been filed with the county voter registration office by the voter.

If the voter has filed the documents, the county election board shall add a notation to the voter's absentee ballot application indicating that the required documents have been filed and that the absentee ballot may be counted if the ballot otherwise complies with this article. If the voter has not filed the documents with the county voter registration office, the county election board shall add a notation on the absentee ballot application reading substantially as follows:

"INSPECTOR: AS OF (insert date absentee ballot application approved) THIS VOTER WAS REQUIRED TO FILE ADDITIONAL DOCUMENTATION WITH THE COUNTY VOTER REGISTRATION OFFICE BEFORE THIS BALLOT MAY BE COUNTED. CHECK THE POLL LIST AND COUNTY ELECTION BOARD CERTIFICATION TO SEE IF THE VOTER HAS FILED THIS INFORMATION. IF NOT, PROCESS AS A PROVISIONAL BALLOT IF THIS BALLOT OTHERWISE COMPLIES WITH INDIANA LAW."

(SEA 268, SECTION 140. Effective July 1, 2003, Citations affected: IC 3-11-10-4.5 [new])

Not later than noon on election day, the county voter registration office shall visit the appropriate post office to accept delivery of mail containing identification documentation submitted by voter who has, up to that point, failed to submit identification documents. The county voter registration office shall immediately notify the county election board of the names of voters who have filed additional identification documents so that the county election board can provide this information to precinct election boards prior to the closing of the polls at 6 p.m. (SEA 268, SECTION 141. Effective July 1, 2003. Citations affected: IC 3-11-10-11)

Each county election board shall prepare a list certified by the circuit court clerk that states the name of each voter subject to the identification requirements who filed the required documents with the county voter registration office after the printing of the poll list and, as a result, is entitled to have the voter's absentee ballot counted if the ballot otherwise complies with Indiana election law. This list shall be delivered to the precinct election boards with the absentee ballots.

The county election board shall transmit a supplemental certified list to the appropriate precinct election board identifying any additional voters not on the original certified list delivered with the absentee ballots to the precinct. The supplemental list shall contain the names of voters who have submitted the required documents to the county voter registration office. The county voter registration office must provide the county election board with these names not later than 3 p.m. election day to be included in a supplemental certified list.

If the board determines that the precinct election board may not receive the supplemental list before the closing of the polls, the county election board shall attempt to contact the precinct election board to advise the board regarding the content of the supplemental list. The county election board shall file a copy of the supplemental list for that precinct as part of the permanent records of county election board. (SEA 268, SECTION 142. Effective July 1, 2003, Citations affected: IC 3-11-10-12)

When processing absentee ballots at the polls, the inspector shall hand the ballots to the judges for deposit into the ballot box and enter the absentee voter's name on the poll list only after the inspector determines the voter is not required to file additional identification documents with the county voter registration office. If the inspector finds that the voter has not filed the additional identification documentation with the county voter registration office but that the absentee ballot otherwise complies with law, the inspector shall direct that the absentee ballot be processed as a provisional ballot. (SEA 268, SECTIONS 143-144. Effective July 1, 2003. Citations affected: IC 3-11-10-16; IC 3-11-10-16.5 [new])

In a county that counts absentee ballots at a central location, if the absentee ballot counters find that the voter has not filed the additional identification documents required to be filed with the county voter registration office, but the ballot otherwise complies with law, the absentee ballot shall be processed as a provisional ballot. (SEA 268, SECTION 169. Effective July 1, 2003. Citations affected: IC 3-11.5-4-12)

At the polls on election day, after the voter tells the poll clerk the voter's name, the poll clerk shall examine the poll list (or the certification concerning absentee voters), to determine if the voter is required to provide additional identification documents before voting. If the list indicates that the voter is required to present this identification before voting in person, the poll clerk shall advise the voter that the voter must present one of the pieces of identification identified above. If a voter presents the required document, the poll clerk shall add a notation to the poll list indicating the type of document presented by the voter. The election division shall prescribe a standardized coding system to classify identification documents presented to the poll clerk for entry into the county voter registration system.

If a voter who is required to present identification documentation fails to present identification documents to the poll clerk while present in the polls, the voter may vote a provisional ballot. The precinct election board shall advise the voter that the voter must file a copy of the required identification documentation with the county voter registration office to permit the provisional ballot to be counted. (SEA 268, SECTIONS 134-135. Effective July 1, 2003. Citations affected: IC 3-11-8-25; IC 3-11-8-25.1)

A provisional ballot cast by a voter who was required to provide additional identification documents to the county voter registration office is valid and shall be counted if the county election board determines, during processing provisional ballots, that the voter filed the documentation required with the county voter registration office not later than the closing of the polls on election day. (SEA 268, SECTION 176. Effective July 1, 2003. Citations affected: IC 3-11.7-5-2)

After an election, the county voter registration office may unseal the precinct election material and record on the county voter registration record that a voter provided any required identification documents before voting. (SEA 268, SECTION 101. Effective July 1, 2003. Citations affected: IC 3-10-1-31)

County Voter Registration Records

A county voter registration office is no longer required to prepare "triplicate" copies of each original voter registration application. (SEA 136, SECTION 6; Effective date: July 1, 2003; IC 3-7-27-8)

A county voter registration office is required to provide copies of the inspector's list of voters in a precinct to a political party's county chairman or a candidate's committee only upon written request from the chairman or committee. (SEA 136, SECTION 7; Effective date: July 1, 2003; IC 3-7-28-5)

After December 31, 2003, if the county voter registration office receives a registration application that is incomplete as a result of the failure of the applicant to answer either of the questions required on the new voter registration application: 1) Are you a U.S. Citizen? or 2) Will you be 18 years of age on or before the election day?, the county voter registration office shall process the registration application if the applicant submits a written statement answering any question that was not answered on the original application not later than the twenty-ninth day before the date of the next general election. (SEA 268, SECTIONS 54-55. Effective July 1, 2003. Citations affected: IC 3-7-34-2; IC 3-7-43-3)

Under current law, if a registration form contains all of the information required to be supplied by the voter, but does not include the information required to be supplied by the bureau of motor vehicles commission or a voter registration agency, the county voter registration office shall promptly make one (1) effort to contact the officer, commission, or agency to obtain the information.

After December 31, 2005, if the county voter registration office receives a registration application from an agency with all the information required from the voter but without all of the information required to be supplied by the agency, and the agency fails to provide the missing information after one contact by the vote registration office, then, not later than seven (7) days after the county voter registration office contacted the agency, the county voter registration office shall notify the election division. The election division shall contact the agency to request that the information be provided to the county voter registration office or that the agency file a statement with the county voter registration office indicating why the information is not available. (SEA 268, SECTION 56. Effective July 1, 2003. Citations affected: IC 3-7-34-5)

Revised Mail Voter Registration Form; Obsolete Forms Phased Out

After December 31, 2003, a county voter registration office shall accept and use a revised version of the mail voter registration forms prescribed by the federal Election Assistance Commission and the Indiana election commission. The revised voter registration forms will include the following:

- a) The question "Are you a citizen of the United States of America?" with a box by the question to check to indicate whether the applicant is or is not a citizen of the United States of America;
- b) The question: "Will you be 18 years of age on or before election day?" with a box by the question to check to indicate whether the applicant will, or will not, be eighteen (18) years of age on or before election day;
- c) a statement informing the individual that certain voters registering by mail must submit additional identification documents with the mail-in registration form to avoid providing additional identification documents before voting for the first time. (SEA 268, SECTIONS 26-30. Effective July 1, 2003. Citations affected: IC 3-7-22-1; IC 3-7-22-2; IC 3-7-22-3; IC 3-7-22-4; IC 3-7-22-5)

A registration by mail form approved by the Indiana election commission before January 1, 2003, may not be filed by an applicant or processed by a county voter registration office after December 31, 2003.

The election division shall: (1) notify the offices and entities designated as mail-in registration form distribution sites under state law or a county NVRA plan that the registration forms previously furnished to those offices and entities will be obsolete after December 31, 2003; and (2) provide each office or entity with mail-in registration forms that comply with the new form requirements, not later than December 31, 2003 in the quantity that the election division determines should be sufficient for the office or entity to supply voter registration applications to voters until December 31, 2004. The election division shall attempt to reduce costs by publicizing the availability of a downloadable voter registration application on the election division's web site. (SEA 268, SECTION 209. Effective May 7, 2003. [noncode provision])

CAMPAIGN FINANCE AND CAMPAIGNING

False Representation that a Candidate is an Incumbent

Provides that a person who knowingly or intentionally authorizes, finances, sponsors, or participates in the preparation, distribution, or broadcast of paid political advertising or campaign material that falsely represents that a candidate in any election is (or has been) a person who holds elected office.

Specifies that this prohibition does not apply to either: (1) a communication relating to an election for federal office; or (2) a person whose only act in this matter is to prepare, print, broadcast, or distribute the communication in the normal course of the person's business.

Permits the Indiana election commission to impose a penalty if the commission determines by a unanimous vote of its entire membership that the person has violated this prohibition. Specifies that the penalty assessed may not exceed \$500, plus any investigative costs incurred and documented by the election division.

Permits a county election board to impose a penalty if the board determines by a unanimous vote of its entire membership that the person has violated this prohibition. Specifies that the penalty assessed may not exceed \$500, plus any investigative costs incurred and documented by the board.

(SEA 136, SECTIONS 21 and 23-24; Effective Date: July 1, 2003; Citations affected: IC 3-9-3-5; IC 3-9-4-16; IC 3-9-4-17)

Corporation or Labor Union Failing to Designate a Contribution Towards Applicable Subcategory Limit on Contributions to a Corporation or Labor Union

Permits the Indiana election commission to impose a penalty if the commission determines that a corporation or labor organization has failed to designate a contribution received by the corporation or labor organization as credited towards one or more of the subcategory limits on contributions to a corporation or labor organization. Specifies that the penalty assessed may not exceed: (1) two times the amount of the undesignated contributions, or (2) \$1,000, whichever is greater, plus any investigative costs incurred and documented by the election division. (Formerly, the designation of a subcategory was required by law, but no penalty was provided for violations.)

Permits a county election board to impose a penalty if the board determines that a corporation or labor organization has failed to designate a contribution received by the corporation or labor organization as credited towards one or more of the subcategory limits on contributions to a corporation or labor organization. Specifies that the penalty assessed may not exceed: (1) two times the amount of the undesignated contributions, or (2) \$1,000, whichever is greater, plus any investigative costs incurred and documented by the election division. (Formerly, the designation of a subcategory was required by law, but no penalty was provided for violations.)

(SEA 136, SECTIONS 23-24; Effective Date: July 1, 2003; Citations affected: IC 3-9-4-16; IC 3-9-4-17)

Filing Supplemental Reports of Aggregates of Large Contributions

Specifies that a treasurer of a candidate's committee must file a supplemental campaign finance report listing aggregates of contributions of at least \$1,000 received after the close of the pre-primary or pre-election reporting period, and not less than 48 hours before an election. (Formerly, the reporting of a large contribution in this manner was required, but the law did not require supplemental reports to be filed when the contributions, in the aggregate, equaled or exceeded \$1,000.)

Specifies that supplemental large contribution reports by candidates for state legislative office must also be filed with the county election board of the county where the candidate resides.

(SEA 136, SECTION 27; Effective Date: July 1, 2003; Citations affected: IC 3-9-5-20.1)

“Disclaimer” Requirements for Candidates for Precinct Committeeman or State Convention Delegate

Specifies that the requirement to include a “disclaimer”, such as “Paid for and authorized by...” in certain campaign advertisements does not apply to a candidate for precinct committeeman or state convention delegate. (SEA 136, SECTION 20; Effective Date: July 1, 2003; Citations affected: IC 3-9-3-1)

Distribution of Sample Ballots

The printing or circulation of a sample ballot or the reproduction of an official ballot is not prohibited by the law making it a Class D felony to forge or falsely make the official endorsement of a ballot, or to print or circulate an imitation ballot, so long as the sample ballot or reproduction contains any required disclaimer, and does not violate the slating law. (SEA 136, SECTION 51; Effective Date: July 1, 2003; Citations affected: IC 3-14-2-19)

Campaign Finance Reporting Schedule for Libertarian Candidates Nominated by County, City, or Town Convention

Specifies that any candidate for nomination at a convention who becomes a candidate less than 25 days before the convention is not required to file a pre-convention campaign finance report. Instead, the candidate must file the first report no later than noon 20 days after the convention convenes. The reporting period for this report begins on the day the individual became a candidate and ends on the day after the adjournment of the convention. (Formerly, this reporting schedule only applied to late candidates for nomination at a state convention.) (SEA 136, SECTION 25; Effective Date: July 1, 2003; Citations affected: IC 3-9-5-8)

Indiana Election Division Campaign Finance Reporting Software

The Indiana Election Division is required to notify each candidate’s committee that the Election Division will provide (at the candidate’s request, and at no cost) a standardized software program to permit the committee to install the software on a computer and generate an electronic version of the campaign finance reports and statements required to be filed with the Election Division. However, the Election Division is not required to provide or alter the software program to make the program compatible for installation or operation on a specific computer. (SEA 88, SECTION 1; Effective Date: July 1, 2003; Citations affected: IC 3-9-4-4)

VOTING SYSTEMS

Voting System County Reimbursements

The \$4,000,000 appropriation made in 2001 from the Build Indiana Fund for local voting equipment matching grant purposes is canceled. In its place, an amount “sufficient to provide match for federal funds received under... HAVA” is transferred to the voter system improvement account within the state general fund for the 2003-2005 biennium. The source of the transferred funds is unclaimed prize money from the Indiana state lottery. (HEA 1001, SECTION 98; Effective date: July 1, 2003; [noncode provision])

Election Administration Assistance Fund and Voting Equipment Reimbursement

The Election Administration Assistance Fund (“EAAF”) is established to replace the state Voting System Improvement Fund and Voting System Education Fund established under 2001 legislation.

The EAAF is established for the following purposes: (1) to carry out activities to improve the administration of elections for federal office; (2) to meet the requirements of HAVA, including reimbursement for costs to obtain voting equipment that complies with federal law, if obtained by the state after November 7, 2000; (3) reimburse costs to obtain voting equipment that complies with federal law under a multi-year contract incurred after December 31, 2000; (4) reimburse counties for the purchase, upgrade, or expansion of a voting system that do not qualify under (2) or (3).

The EAAF consists of:

- (1) all money allocated to the state under Section 101 of HAVA;, Section 102 of HAVA; and Title II of HAVA
- (2) money allocated by the federal government under any other program for the improvement of election administration;
- (3) money appropriated by the Indiana General Assembly; or
- (4) proceeds of bonds issued by the Indiana Bond Bank (IBB) for improvement of voting systems.

The Auditor of State will establish an account within the fund for money appropriated by the General Assembly and accounts for each federal allocation listed above. Proceeds of bonds from the IBB may be deposited into any account of the EAAF.

The secretary of state and co-directors of the Indiana election division will administer the EAAF. Expenses for administering the EAAF will be paid from the Section 101 account. If money is not available for this purpose in the Section 101 fund account, the expenses of administering the fund will be paid from money appropriated by the General Assembly. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund. The interest that accrues from these investments shall be deposited in the fund and allocated among the accounts within the fund according to the balances of the respective accounts. (SEA 268. SECTION 121. Effective May 7, 2003. Citations affected: IC 3-11-6.5-2)

Section 101 Account

Money received under Section 101 of HAVA and deposited in the account established for those funds must be used in accordance with the requirements applicable under Section 101 of HAVA.

The money may be used with the approval of the co-directors of the election division for the following purposes: (1) By the secretary of state for any purpose authorized by Indiana election law and permitted under Section 101 of HAVA; (2) To reimburse counties for the purchase of new voting systems eligible for reimbursement as part of the Section 102 fund punch card and lever machine buy-out to the extent that money in the 102 fund is insufficient to replace all voting machine systems and punch card voting systems in Indiana; and (3) To reimburse counties for the upgrade or expansion of existing voting systems to comply with HAVA. (SEA 268, SECTION 127. Effective May 7, 2003. Citations affected: IC 3-11-6.5-8)

Section 102 Account

Money received under Section 102 of HAVA must be used for the purchase, lease or lease-purchase, either directly by the state or as reimbursement, including as reimbursement for costs incurred on or after January 1, 2001, under multiyear contracts, to replace punch card voting systems or lever voting systems in qualifying precincts with a voting system that complies with federal law.

A “qualifying precinct” is a precinct in which punch card or lever voting systems were used in the November 7, 2000 general election. (SEA 268, SECTION 126. Effective May 7, 2003. Citations affected: IC 3-11-6.5-7.1 [new])

Requirements Payments Account

Money received under Title II of HAVA (“requirements payments”) must be used to comply with the requirements of Title III of HAVA, except when, as authorized under HAVA, money deposited in the requirements payments account may be used for other purposes authorized under Section 101 of HAVA if the secretary of state with the approval of the co-directors of the election division files the certification required by HAVA indicating that the state has implemented Title III of HAVA and the amount to be transferred does not exceed minimum payment to state under 252(c) of HAVA.

If the secretary of state makes this certification, the secretary of state, with the approval of the co-directors of the election division, may transfer amounts that do not in total exceed the minimum payment to the state under 252 (c) of HAVA from the requirements payments account of the fund to the Section 101 account of the fund. In compliance with HAVA, the state must maintain expenditures by the state for activities funded by the requirements payment account at a level that is not less than the level of those expenditures maintained by the state for the fiscal year ending June 30, 2000. (SEA 268, SECTION 122. Effective May 7, 2003. Citations affected: IC 3-11-6.5-3.1 [new])

Voting System Reimbursement

“Purchase” includes the purchasing, leasing, and lease-purchasing of voting systems.

The purchase of new voting systems or upgrades or expansions of existing voting systems by a county or under a quantity purchase agreement entered into by the department of administration is considered an acquisition by the state for purposes of HAVA if the voting system, upgrade, or expansion complies with HAVA.

The state department of administration may enter into quantity purchase agreements with voting system vendors. It is not a requirement for reimbursement that the county purchase a system from a vendor with a quantity purchase agreement with the state.

Not later than December 31, 2005, each county shall purchase at least one (1) voting system accessible to voters with disabilities for each polling place in the county. (SEA 268, SECTIONS 118-120. Effective May 7, 2003). Citations affected: IC 3-11-6.5-0.3 [new]; IC 3-11-6.5-0.7 [new]; IC 3-11-6.5-1)

A county may receive reimbursement for the purchase of voting systems from the Section 102 account. To receive reimbursement from this account, a county must file an application with the election division in the form required by the election division. If the county previously filed an application under the 2001 legislation, not later than January 31, 2003, then the previously filed application may be amended to comply with new application requirements or the county may file a new application.

The secretary of state, with the consent of the co-directors of the election division, shall review the application and make a recommendation to the budget committee regarding the application.

The budget agency, after review by the budget committee, shall approve a county's application for reimbursement if the budget agency determines that the county has purchased a voting system that is eligible for reimbursement and complies with federal law. If a county's application for reimbursement is approved, the secretary of state shall, reimburse the county from the fund in an amount not more than \$4,000 for each precinct in the county that used a voting machine or punch card voting system at the November 7, 2000, general election. Payment from the fund is subject to the availability of money in the fund. (SEA 268, SECTION 126. Effective May 7, 2003. Citations affected: IC 3-11-6.5-7.1 [new])

A county may receive reimbursement for the purchase of voting systems from the Section 101 account, as permitted by Section 101 of HAVA and state law, by making an application to the election division in the form required by the election division. If the county previously filed an application under the 2001 legislation not later than January 31, 2003 then the previously filed application may be amended to comply with new application requirements or the county may file a new application.

The secretary of state, with the consent of the co-directors of the election division, shall review the application and make a recommendation to the budget committee regarding the application. The budget agency, after review by the budget committee, shall approve a county's application for reimbursement if the budget agency determines that the application complies with the requirements for reimbursement.

If a county's application is approved, the secretary of state, with the consent of the co-directors of the election division, shall pay the county from the fund in an amount to be determined by the secretary of state, with the consent of the co-directors of the election division. However, the payment from this account shall not exceed \$4,000 for each precinct in the county that used a voting machine or punch card voting system at the November 7, 2000, general election that cannot be replaced with money from the Section 102 account. (SEA 268, SECTION 127. Effective May 7, 2003. Citations affected: IC 3-11-6.5-8)

To the extent that Section 102 or 101 payments are not available or sufficient, other funds in the EAAF may be available to reimburse counties for the purchase of voting systems. As with other reimbursements, the county must file an application with the election division, in the form required by the election division. The secretary of state, with the consent of the co-directors of the election division, shall review the application and make a recommendation to the budget committee regarding the application. If a county has previously filed an application under the 2001 legislation not later than January 31, 2003, the application may be amended to comply with the new application requirements or the county may file a new application.

The budget agency, after review by the budget committee, shall approve a county's application for reimbursement if the budget agency determines either of the following:

- 1) The county has purchased or will purchase a new voting system or an upgrade or expansion of an existing voting system to comply with HAVA that would be eligible for reimbursement under HAVA and state law from any fund account.
- 2) The county purchased a new voting system or an upgrade or expansion of the county's existing voting system after January 1, 1998, and before July 1, 2001, that would not qualify for reimbursement from federal funds received under HAVA, and the new voting system or upgrade or expansion of the county's existing voting system enhanced all of the following: (1) Reliability of the county's voting system; (2) Efficiency of the county's voting system; (3) Ease of use of the county's voting system by voters; (4) Public confidence in the county's voting system.

When approving applications for reimbursement for voting systems, the budget agency shall give priority to approving applications to replace a punch card voting system or voting machine system.

If a county's application for reimbursement is approved, the secretary of state, with the consent of the co-directors of the election division, shall reimburse the county from the fund an amount to be determined by the secretary of state, with the consent of the co-directors of the election division. Payment of money from the fund is subject to the availability of money in the fund and the requirements of state law and HAVA. (SEA 268. SECTIONS 124-125. Effective May 7, 2003. Citations affected: IC 3-11-6.5-5; IC 3-11-6.5-6)

A voting system purchased with funds made available under HAVA requirements payments after December 31, 2006 must comply with the HAVA requirements for disability access (and the FEC Voting System Standards) to be used in an election. (SEA 268, SECTION 165. Effective July 1, 2003. Citations affected: IC 3-11-15-13.5)

Voting System Definition Expanded

After December 31, 2005, the definition of “voting system” includes all components used to program, control, and support the voting system equipment that is used: (1) to define ballots; (2) to cast and count votes; (3) to report or display election results; and (4) to maintain and produce any audit trail information. It also includes the practices and associated documentation used: (1) to identify system components and versions of those components; (2) to test the system during its development and maintenance; (3) to maintain records of system errors and defects; (4) to determine specific system changes to be made to a system after the initial qualification of the system; and (5) to make available any materials to the voter (such as notices, instructions, forms, or paper ballots). (SEA 268, SECTION 3. Effective July 1, 2003. Citations affected: IC 3-5-2-53)

Adoption of Federal Voting System Standards

After December 31, 2005, and in accordance with the Help America Vote Act of 2002, the voting system used in each polling place must include a voting system that is accessible to individuals with disabilities, including nonvisual accessibility for the blind and visually impaired in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters. Specifies that a county complies with this requirement if each polling place in the county has at least one voting system equipped for individuals with disabilities that complies with these standards.

Provides that to be approved for use in Indiana, a voting system must meet the Voting System Standards approved by the Federal Election Commission on April 30, 2002 (the former law adopting the voting system standards issued by the FEC on January 25, 1990 is repealed).

Updates references to the 2002 FEC voting system standards in the definition of a voting system independent “testing authority”.

(SEA 136, SECTION 2; Effective date: July 1, 2003; SEA 136, SECTION 58; Effective April 28, 2003; SEA 268, SECTION 167. Effective date: July 1, 2003. Citations affected: IC 3-11-15-32; SEA 477, SECTION 10, Effective date: July 1, 2003; Citations effected: IC 3-5-2-48.5; IC 3-11-15-13; Noncode provision)

Voting system “error rate” standards and paper record manual audit capacity

"Error rate" is defined as the error rate of the voting system in counting ballots (determined by taking into account only those errors that are attributable to the voting system and not attributable to an act of the voter). A voting system must comply with the error rate standards established under by the Federal Election Commission on April 30, 2002, as those standards were in effect on October 29, 2002. (SEA 268, SECTION 166. Effective July 1, 2003. Citations affected: IC 3-11-15-20)

A voting system must: (1) produce a permanent paper record with a manual audit capacity for the system; and (2) provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced. The paper record must be made available as an official record for a recount or contest conducted with respect to any election in which the voting system was used. (SEA 268, SECTION 168. Effective July 1, 2003. Citations affected: IC 3-11-15-43)

Voting System Requirements Concerning Access by Voters With Disabilities

After December 31, 2005, a county or town election board that provides at least one electronic voting system or other voting system equipped for individuals with disabilities at each polling place meets the requirements of HAVA and state law for having an accessible voting system for persons with disabilities, including accessibility for the blind and visually impaired in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters. (SEA 268, SECTIONS 163-164. Effective July 1, 2003. Citations affected: IC 3-11-15-13; IC 3-11-15-13.3 [new])

Definition of Vote

The current Indiana statutes defining what constitutes a vote on a paper ballot, on a ballot card, on a direct record electronic voting system, and at the election canvass or in a contest or recount proceeding, are reenacted without substantive change to comply with HAVA. (SEA 268, SECTIONS 152, 156, 159, 161, 162, 180, 181, 183, 184, 186, 188-191. Effective July 1, 2003. Citations affected: IC 3-11-11-7; 3-11-13-18; IC 3-11-13-28.7; IC 3-11-13-31.7; IC 3-11-14-23; IC 3-12-1-1.2 [new]; 3-12-2-1; IC 3-12-3-1.1[new]; IC 3-12-3.5-1 [new]; IC 3-12-4-5.5 [new]; IC 3-12-6-1.2 [new]; effective July 1, 2003); IC 3-12-8-2.5 [new]; IC 3-12-11-1.5 [new]; IC 3-12-12-1.5 [new])

Voter Education Concerning Overvoting; Opportunity to Correct Ballot

After December 31, 2005, a county election board must establish a voter education program specific to the use of a paper ballot, an optical scan ballot card used as an absentee ballot, or an optical scan ballot card processed at a location other than the precinct. The voter education program must notify a voter of the effect of casting multiple votes for a single office. (SEA 268, SECTIONS 145, 150, 155. Effective July 1, 2003. Citations affected: IC 3-11-10-24.5 [new]; IC 3-11-11-1.2; IC 3-11-13-4.5 [new])

After December 31, 2005, when an absentee ballot is mailed, the mailing must include: (1) information concerning the effect of casting multiple votes for an office; and (2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots. (SEA 268, SECTION 116. Effective July 1, 2003. Citations affected: IC 3-11-4-18)

After December 31, 2005, in counties using paper voting systems and optical scan voting systems, a precinct election board, an absentee ballot board in the office of the clerk, or an absentee traveling board, must provide the voter with: (1) information concerning the effect of casting multiple votes for an office; and (2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots. This requirement does not apply to direct record electronic voting systems.

With respect to paper ballot, optical scan and electronic voting systems, the voter must also be: (1) permitted to verify in a private and independent manner the votes selected by the voter before the ballot is cast and counted; (2) provided with the opportunity to change the ballot or correct any error in a private and independent manner before the ballot is cast and counted, including the opportunity to receive a replacement ballot if the voter is otherwise unable to change or correct the ballot; and (3) notified before the ballot is cast regarding the effect of casting multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted. (SEA 268, SECTIONS 146, 147, 151, 153, 158, 160, 162. Effective July 1, 2003. Citations affected: IC 3-11-10-25; IC 3-11-10-26; IC 3-11-11-6; IC 3-11-11-9; IC 3-11-13-28.5; IC 3-11-13-29; IC 3-11-14-23)

Elimination of Lever Voting Machine and Punch Card Voting Systems

The state laws that set forth procedures for using and counting votes on lever voting machines expire January 1, 2006. (SEA 268, SECTIONS 154 and 182. Effective July 1, 2003. Citations affected: IC 3-11-12-40 [new]; IC 3-12-2.5-10 [new])

The state laws that set forth certain procedures for using punch card voting systems expire January 1, 2006. (SEA 268, SECTIONS 156-157. Effective July 1, 2003. Citations affected: IC 3-11-13-18; IC 3-11-13-20)

Voting machine voting systems and punch card voting systems may not be used in an election in Indiana after December 31, 2003. However, lever voting machine voting systems and punch card voting systems may be used in elections in Indiana after December 31, 2003, and before January 1, 2006 if the secretary of state, with the consent of the co-directors of the election division, certifies to the federal Administrator of General Services under Section 102 of HAVA, not later than December 31, 2003, that the state cannot replace all voting machine systems, punch card voting systems, or both, in Indiana before January 1, 2004. (SEA 268, SECTION 214. Effective May 7, 2003. [noncode provision])

The census data advisory committee shall prepare legislation for the 2004 session of the Indiana general assembly to amend Indiana statutes to remove remaining references to voting machine systems and punch card voting systems. (SEA 268, SECTION 215. Effective May 7, 2003. [noncode provision])

Information Technology Purchases by Local Governments

The state information technology oversight commission shall promulgate administrative rules adopting standards concerning the purchase of information technology. The rules must comply with Section 508 of the federal Rehabilitation Act of 1973. Specifies that the standards will apply to local government. (HEA 1724, Effective date: July 1, 2003)

Direct Recording Electronic Voting Systems and Voting by Absentee Ballots in the Office of the Circuit Court Clerk

Specifies that a county election board (or a county board of elections and registration) may adopt a resolution (by unanimous vote of the board's entire membership) to authorize the circuit court clerk to use an electronic voting system for voting by absentee ballot in the office of the clerk.

Requires that the resolution must provide procedures to secure absentee ballots cast on the voting system to provide comparable protection to the protection provided to absentee voters cast by paper ballot, along with other provisions considered useful by the board. The procedures set forth in the resolution must be substantially the same as the procedures for casting an absentee ballot in the clerk's office.

Permits the clerk to use as many electronic voting systems to record absentee ballots as considered necessary by the clerk, subject to any terms of the election board's resolution.

The absentee ballots used under this procedure are not required to contain the clerk's seal and signature or the initials of the absentee voter board members.

(SEA 318, SECTION 6; Effective Date: July 1, 2003; Citations affected: IC 3-11-10-26.2 [new])

CANDIDATES

Democratic and Republican Party Primary Candidate Affiliation

Requires that the declaration of candidacy form filed by candidates who wish to be nominated in a Democratic or Republican Party primary must inform candidates how the party affiliation of primary candidates is determined.

The declaration of candidacy form must permit the candidate to indicate that the candidate claims affiliation with the party because: (1) in the most recent primary in which the candidate voted, the candidate voted for the nominees of that political party; (2) the candidate has never voted in a previous primary election, and now claims affiliation with that political party; or (3) the county chairman of the political party with which the candidate claims affiliation, and of the county in which the candidate resides, certifies that the candidate is a member of the political party.

If a candidate claims party affiliation based on a county chairman's certification, the candidate must attach a copy of the certificate to the declaration of candidacy form. (SEA 318, SECTION 2; Effective date: July 1, 2003; Citations affected: IC 3-8-2-7)

Candidate Requirements for Precinct Committeemen and State Convention Delegate

Requires that a Democratic or Republican Party candidate for election as a precinct committeeman or state convention delegate at a primary must comply with any candidate requirement set forth in the state rules of the applicable political party. [Former law required the candidate to have voted, at the candidate's most recent vote at a primary election, for the candidates of the political party with which the candidate "seeks affiliation", and specified that a candidate was not disqualified for not having previously voted in a primary election.] (SEA 136, SECTION 12; Effective date: July 1, 2003; Citations affected: IC 3-8-1-32)

Certification Deadline for Libertarian Party Candidates for County Offices

Provides that the certification of the nomination of a Libertarian Party candidate by a county convention must be filed with the circuit court clerk of the appropriate county no later than noon July 15 (rather than noon August 1). (SEA 136, SECTION 31; Effective Date: July 1, 2003; Citations affected: IC 3-10-2-15)

Enforcing Petition Requirements for Independent and Certain Minor Party Candidates

Provides that when a candidate files a petition for general election ballot access with the Indiana election division or the circuit court clerk, the election division or clerk shall determine if the petition has a sufficient number of signatures, and either certify the petition or deny the certification.

If the petition of nomination with insufficient signatures is filed with the election division, the secretary of state shall deny the certification of the candidate and notify the appropriate county election board.

The Indiana election division or circuit court clerk shall notify the candidate by certified mail if a petition has been denied.

A candidate may contest the denial of a petition based on the county voter registration office's failure to certify the signatures of qualified petitioners, or the denial of the certification by the Indiana election division or circuit court clerk.

Permits the Indiana election commission (and a county election board) to resolve a contest when a candidate seeking ballot access by petition contests the denial of the petition. Requires that a contest be filed by a candidate no later than noon 74 days before the general or municipal election for the office.

Provides that before the commission or county election board can consider the contest, a candidate (or person authorized by state law to act on the candidate's behalf) must file a sworn statement with the Indiana election division or county election board. Specifies that the sworn statement must state specifically the basis for the contest, and the facts known to the candidate in support of the contest.

Requires that the commission or county election board rule on the validity of the denial of certification no later than noon 60 days before the general or municipal election for the office.

(SEA 136, SECTIONS 11, 14-15, and 56; Effective date: July 1, 2003; Citations affected: IC 3-8-1-2; IC 3-8-6-12; IC 3-8-6-14; Noncode provision)

Challenges to School Board Candidates to be Elected at a General Election

Specifies that a challenge to a school board candidate to be elected at a general election must be filed with the appropriate county election board no later than noon 67 days before the general election. Requires the county election board to rule on the validity of the candidate challenge no later than noon 54 days before the general election. (SEA 136, SECTION 15; Effective date: July 1, 2003; Citations affected: IC 3-8-6-14)

Party Affiliation of Write-in Candidates

Specifies that if a write-in candidate claims affiliation with a political party, the candidate must have: (1) in the most recent primary in which the candidate voted, voted for the nominees of that political party; (2) never voted in a previous primary election, and now claims affiliation with that political party; or (3) the county chairman of the political party with which the candidate claims affiliation, and of the county in which the candidate resides, certify that the candidate is a member of the political party. If a candidate claims party affiliation based on a county chairman's certification, the candidate must attach a copy of the certificate to the declaration of intent to be a write-in candidate form.

Repeals an incorrect reference to the names of write-in candidates appearing on the ballot. (SEA 136, SECTION 13; Effective date: July 1, 2003; Citations affected: IC 3-8-2-2.5)

Certification of Presidential and Vice-Presidential Candidates for a General Election

Provides that the current law requiring the filing of a certificate of nomination with the election division no later than noon July 15 does not apply to the certification of presidential and vice-presidential nominees of a major political party. Specifies that the current laws requiring the election division to certify the names of candidates for federal, state legislative, and judicial offices, and prosecuting attorney, to the county election board no later than noon August 20 before the general election does not apply to the certification of presidential and vice-presidential nominees of a major political party.

The names of the presidential electors and nominees for President and Vice-President of the United States must be certified to the election division by Democratic, Libertarian, and Republican parties, (and by other parties and independent candidates nominated by petition) no later than noon on the second Tuesday in September. The Indiana election division will certify the names of the presidential and vice-presidential candidates to each county election board no later than noon on the second Thursday in September. (Formerly, these candidates were certified to the election division no later than noon September 1.) (SEA 136, SECTIONS 18, 19, and 32; Effective date: July 1, 2003; Citations affected: IC 3-8-7-14; IC 3-8-7-16; IC 3-10-4-5)

Certification of Candidates to be Elected at a General Election

Provides that the Indiana election division must certify the results of the primary election not later than noon 74 days before the general election (rather than by August 20). Repeals an obsolete reference to the certification of certificates of nomination by the election division. (SEA 136, SECTIONS 16-17; Effective date: July 1, 2003; Citations affected: IC 3-8-7-2; IC 3-8-7-12)

Certification of General Election Major Political Party Candidate Vacancies

Requires that the certificate of candidate selection filed to fill a candidate vacancy by a major political party on the general election ballot must include the residence address of the candidate. (SEA 136, SECTIONS 48 and 50; Effective date: July 1, 2003; Citations affected: IC 3-13-1-15; IC 3-13-2-8)

Notice of General Election Libertarian Party Candidate Vacancies

Specifies that if a candidate vacancy exists following the Libertarian Party state convention, the vacancy shall be filled by the party's state committee. Requires that the chairman of the state committee file a notice of intent to fill the candidate vacancy with the Indiana election division (or the county election board, as appropriate) not later than 10 days before the chairman fills the vacancy. (SEA 136, SECTION 49; Effective date: July 1, 2003; Citations affected: IC 3-13-1-20)

BALLOT REQUIREMENTS AND DESIGN

Color of Primary Election Ballot

Requires that a paper ballot or ballot card used at a primary election may be either distinctively marked or of different colors so that each major party ballot is easily distinguishable. (Former law required paper primary ballots to be of different colors.) (SEA 136, SECTION 28; Effective date: July 1, 2003; Citations affected: IC 3-10-1-13)

Local Office and Public Question Ballot Design

Permits the names of all candidates for United States Representative, state legislative offices, and local offices, and all local public questions to be printed on a single paper ballot. Repeals the former law requiring separate paper ballots to be printed for each type of office and local public question.

If a voting system has the capability, the voting system must display on the medium used by the voter to cast the voter's ballot, the following information for each candidate: (1) the candidate's name; and (2) the ballot number or other candidate designation uniquely associated with the candidate.

(SEA 136, SECTIONS 34-35; Effective date: July 1, 2003; Citations affected: IC 3-11-2-2; IC 3-11-2-4; SECTION 43; Effective date: April 28, 2003; Citations affected: IC 3-11-15-13.1)

Circuit Court Clerk's Name and Signature

If the individual who serves as circuit court clerk is a candidate for *any* office on the ballot at an election, then the name or signature of the circuit court clerk may not appear on any ballot used at the election (including absentee ballots), except to indicate that the individual is a candidate for the specified office.

Instead, the circuit court clerk must substitute a uniform device or symbol prescribed by the Indiana election commission for the clerk's printed name or signature in those locations where the name or signature would normally be required to authenticate the ballot.(HEA 1980, SECTIONS 1-3;Effective date: July 1, 2003; Citations affected: IC 3-5-4-9 [new];IC 3-11-4-19; 3-11-10-27)

Marion County School Board Ballots

Specifies that when voting for school board members of any school corporation in Marion County, voters must cast their ballots on a voting system or paper ballot (rather than on a lever voting machine).

Provides that the same method used to cast votes for all other offices on the election ballot must be used to cast ballots for school board offices. Applies to school board elections held after December 31, 2003. (HEA 1901, SECTIONS 1-4; Effective date: July 1, 2003; Citations affected: IC 20-3-11-3.1; IC 20-4-1-26.10 [new]; IC 20-4-1-27.2 [new]; IC 20-4-8-18.5 [new])

BALLOT QUESTIONS

State Constitutional Amendments for 2004 General Election

As required under Article 16, Section 2 of the Constitution of the State of Indiana, three proposed constitutional amendments will be submitted to the voters for ratification at the November 2004 general election. The amendments concern: (1) authorizing certain property tax exemptions; (2) authorizing a uniform starting date for the terms of the offices of clerk of the circuit court, auditor, recorder, treasurer, sheriff, coroner, and surveyor; and (3) the procedures for filling vacancies in state and legislative offices. The precise wording for the summaries of these amendments that will appear on the 2004 general election ballot is to be determined by the General Assembly. (SEJR 5 [authorizing certain property tax exemptions]; HEJR 7 [authorizing a uniform starting date for terms for certain county elected officials]; HEJR 8 [procedures for filling vacancies in state and legislative offices] Effective Date: November 2, 2004, if approved by voters; Citations affected: Indiana Constitution, Article 5, Section 10; Article 6, Section 2; Article 10, Section 1)

Petition Requirements for Referendum for a Town to become a City

A town council is required to place a question on the ballot to determine whether a town should become a city if a petition to do so is signed by a number of voters in the town equal to 10% of the registered voters of the town who cast a ballot in the last election for the office of secretary of state. (Former law required the petition to be signed by 2% of that number). (SEA 289, SECTIONS 1-2; Effective Date: July 1, 2003; Citations affected: IC 36-4-1-4; 36-4-1-4.1 [new])

School Corporation Tax Levy Referendum Special Election

Specifies that if the tax control board authorizes a school corporation to conduct a tax levy referendum that would be held at a primary or general election more than six months after the certification by the tax control board, the referendum shall instead be held at a special election conducted not less than 90 days after the question is certified to the circuit court clerks by the tax control board. (Former law required that a special election be held in this case not less than 60 days after certification.) (SEA 136, SECTION 54; Effective Date: July 1, 2003; Citations affected: IC 6-1.1-19-4.5)

Orange County Riverboat Referendum

If the board of county commissioners adopts an ordinance to permit docking of riverboats in the county, or at least 5% of the registered voters of the county sign a petition submitted to the circuit court clerk requesting that a ballot question concerning riverboat gambling be placed on the ballot, then the county election board shall place the question on the ballot for the voters of the county in a special election held in 2003.

However, any special election for this purpose in 2003 may be held at the same time as the November 2003 municipal elections only if an applicant to operate a riverboat pays in advance an amount determined by the county election board. The amount must equal the difference between the cost to hold a special election and the sum of the costs to hold the 2003 municipal elections in the county.

Generally speaking, the procedures and requirements of Indiana election law apply to the special election. However, at least as many polling places that were used in the county in November 2002 must be used for the special election. A riverboat licensee (or a person with an interest in a licensee) may not give any property to a member of a political party's precinct committee to act or refrain from acting with respect to the approval of the public question.

The public question must be certified to the county election board in accordance with the deadlines and other procedures set forth in the law governing local public questions (IC 3-10-9). The text of the question to appear on the ballot is specified by state law.

The circuit court clerk must certify the results of the election to the Indiana gaming commission and the department of state revenue. If the voters of the county do not approve the public question, another vote on the public question may not be held in the county for at least two years.

If a special election is not held in the county in 2003, the special election may be held if:

- 1) the county council (rather than the county commissioners) adopts an ordinance to permit riverboat docking; or
- 2) a petition signed by a number of registered voters of the county equal to at least 2% of the total vote cast for secretary of state at the last election for that office in the county (rather than 5% of the registered voters) is submitted to the county election board.

The county election board must then place the local public question on the ballot at the next primary or general election (subject to meeting the certification deadlines and other procedures under the law governing local public questions [IC 3-10-9]).

The circuit court clerk's post-election certification requirements, and prohibition against holding another special election within two years following the defeat of the local public question apply to a special election held after 2003 as well.

(HEA 1902, SECTIONS 29, 30, and 64; Effective Date: July 1, 2003; Citations affected: IC 4-33-6-18; 4-33-6-19; [noncode provision])

VOTING QUALIFICATIONS AND PROCEDURES

Voting for Precinct Committeemen and State Convention Delegates

If a registered voter will be 18 years of age on general election day, but is not yet 18 as of primary election day, the voter may not cast a ballot in the primary election for candidates for precinct committeeman or state convention delegate. (SEA 136, SECTION 5; Effective date: July 1, 2003; Citations affected: IC 3-7-13-3)

Overseas Voters Who Do Not Reside in a Precinct in Indiana.

Specifies that if an overseas voter who resides outside of the United States is no longer the resident of an Indiana precinct, the voter is considered to be a voter of the precinct where the county voter registration office is located. (SEA 136, SECTION 36; Effective date: July 1, 2003; Citations affected: IC 3-11-4-8)

ABSENTEE BALLOT VOTING PROCEDURES

Absentee Voter Board Member Training

A county election board shall conduct a training session for members of the absentee voter boards. A member of an absentee voter board must receive this training before the member begins performing the member's duties. (Former law permitted [rather than required] these training sessions no later than the fourth day before election day.) (SEA 136, SECTION 42; Effective date: July 1, 2003; Citations affected: IC 3-11-10-39)

Processing FAXed Ballots from Military Voters; Remake Teams

If a county uses ballot cards at an election, the county election board may FAX a paper ballot (rather than a ballot card) to an absent uniformed services voter entitled to receive an absentee ballot by FAX. The paper ballot must conform with the requirements set forth in state law regarding the format and content of paper ballots. After the voter returns the FAXed ballot, a bipartisan remake team shall prepare a ballot card for processing that accurately records the intention of the voter, as indicated on the paper ballot. The replacement ballot card must be marked and counted as a duplicate in the same manner as a replacement card issued to replace a spoiled ballot. (HEA 1980; Effective date: May 8, 2003; Citations affected: IC 3-12-3-5)

Printing and Delivering Absentee Ballots for a Presidential Election

Provides that the printing of absentee ballots for a Presidential election by the Indiana election division shall be completed, and the ballots delivered to the appropriate circuit court clerk not later than 38 days before the general election (rather than 45 days under former law).

Provides that the printing of absentee ballots for a Presidential election by a county election board shall be completed, and the ballots delivered to the circuit court clerk (or Lake County board of elections) not later than 38 days before the general election (rather than 45 days under former law).

(SEA 136, SECTIONS 37-39; Effective date: July 1, 2003; Citations affected: IC 3-11-4-13; IC 3-11-4-14; IC 3-11-4-15)

MILITARY VOTERS (Absent Uniformed Services Voters)

Whenever a voter files an application for an absentee ballot and indicates on the application that the voter: (1) is an absent uniformed services voter or an overseas voter; and (2) does not expect to be in the county on the next general election day following the date the application is filed and expects to remain absent from the county *until at least the date of the second general election following the date the application is filed* (formerly 12 months), the application is an adequate application for an absentee ballot for all general elections and any municipal or special election conducted during the period through the second general election following the date of the absentee ballot application.

The circuit court clerk and county election board shall process this application and send general election absentee ballots to the voter in the same manner as other absentee ballot applications. (SEA 268, SECTION 113. Effective July 1, 2003. Citations affected: IC 3-11-4-6)

After December 31, 2003, if the absentee ballot application submitted by an absent uniformed services voter or an overseas voter is denied, the county election board shall provide the voter with the reasons for the denial. Unless the voter is present when the board denies the application, the board shall send a written notice stating the reasons for the denial to the voter. The notice must be sent: (1) not later than forty-eight (48) hours after the application is denied; and (2) to the voter at the address at which the voter requested that the absentee ballot be mailed. (SEA 268, SECTION 114. Effective July 1, 2003. Citations affected: IC 3-11-4-17.5)

The election division shall submit a report to the federal Election Assistance Commission not later than ninety (90) days after each general election setting forth the combined number of absentee ballots: 1) transmitted to absent uniformed services voters and overseas voters for the election; and 2) returned by absent uniformed services voters and overseas voters and cast in the election. (SEA 268, SECTIONS 8 and 9. Effective May 7, 2003. Citations affected: IC 3-6-4.2-2.5 [new]; IC 3-6-4.2-12)

After each general election, each county election board shall submit a report to the election division setting forth the combined number of absentee ballots: (1) transmitted by the county election board to absent uniformed services voters and overseas voters for the election; and (2) returned by absent uniformed services voters and overseas voters and cast in the election. The report must be: (1) postmarked or hand delivered to the election division not later than fourteen (14) days after the election; and (2) in the form prescribed by the federal Election Assistance Commission under HAVA. (SEA 268, SECTION 15. Effective July 1, 2003. Citations affected: IC 3-6-5-17.5 [new])

The election division is designated as the single office in Indiana responsible for providing information regarding voter registration procedures and absentee ballot procedures used by absent uniformed services voters and overseas voters who wish to register to vote or vote in any jurisdiction in Indiana. (SEA 268, SECTION 112. Effective July 1, 2003. Citations affected: IC 3-11-4-5.5 [new])

The election division shall study the congressional recommendation that the election division be authorized to accept valid voter registration applications, absentee ballot applications, and absentee ballots from all military and overseas voters who wish to register to vote or vote in Indiana. The election division shall consult with circuit court clerks and county voter registration officers and shall publish a report containing the results of this study not later than June 1, 2004. The election division shall submit the report to the census data advisory committee along with recommendations for legislation and shall consider incorporating applicable recommendations into the statewide voter registration system. (SEA 268, SECTION 206. Effective May 7, 2003. [noncode provision])

Before January 1, 2004, the Indiana election commission shall make any revision required to the absentee ballot application form and mailing envelope affidavit to conform the application and the envelope to the standard oath prescribed for absent uniformed services voters and overseas voters. An absentee ballot application form or mailing envelope approved by the commission before January 1, 2004, that does not comply with any requirement under HAVA or state law may not be used for any election conducted after December 31, 2003. (SEA 268, SECTIONS 207 and 208. Effective May 7, 2003. [noncode provision])

Provisional Voting

After December 31, 2003, a person entitled to cast a provisional ballot includes a person: 1) who is challenged and whose name does not appear on the voter registration record or poll list, and who is not entitled to vote under the fail-safe provisions; 2) who seeks to vote in an election as a result of a court order (or any other order) extending the time established for closing the polls; 3) who is challenged by a member of the precinct election board based upon identity of the voter; and 4) who has registered to vote but has not provided the additional identification documents required by HAVA to the county voter registration office or to the poll clerk before voting. (SEA 268, SECTION 139. Effective January 1, 2004. Citations affected: IC 3-11-8-27.5 [new])

A voter who is challenged at a primary election due to party affiliation is not subject to the provisional ballot procedures, but may vote after executing the affidavit prescribed by current law. (SEA 268, SECTION 97. Effective July 1, 2003. Citations affected: IC 3-10-1-10.5 [new])

After December 31, 2003, the inspector shall identify those person eligible to vote after the closing of the polls due to a court order (or other order) and provide a provisional ballot to the voter. This procedure does not apply to voters who are in the act of voting, or have signed the poll book, or who are standing in the chute at 6:00 p.m. who are entitled to vote under other provisions of Indiana election law. (SEA 268, SECTION 129. Effective July 1, 2003. Citations affected: IC 3-11-8-11)

After December 31, 2003, a person who is challenged, whose name does not appear on the registration list, and who is not entitled to vote under the fail-safe provisions, may vote a provisional ballot if the person's affidavit states that the person registered to vote and where the person believes the person registered to vote either: 1) during the normal registration period described by IC 3-7-13-10 (at least 29 days before the election); or 2) during the late registration period for military and overseas voters. (SEA 268, SECTIONS 131-133. Effective July 1, 2003. Citations affected: IC 3-11-8-22; IC 3-11-8-23; IC 3-11-8-23.5 [new])

When the county election board delivers ballots and other precinct supplies to the inspector or the inspector's representative, the supplies must include copies of the instructions for a provisional voter required by HAVA. The county election board shall provide at least the number of copies of the instructions as the number of provisional ballots provided. (SEA 268, SECTION 105. Effective July 1, 2003. Citations affected: IC 3-11-3-11)

After December 31, 2003, and before casting a provisional ballot, a person must sign an affidavit proscribed by IC 3-11-8-23 (for a general or municipal election) or IC 3-11-10-9 (for primary). The affidavit must state that: 1) the person registered to vote, including the location where the person believes the person registered to vote; and 2) that the person registered during the regular registration period (or for certain absent uniformed services voters, during the extended registration period). A precinct election officer shall inform an individual about the right to cast a provisional ballot and the applicable procedures for casting a provisional ballot. (SEA 268, SECTIONS 96, 131-133, 171, 172. Effective July 1, 2003. Citations affected: IC 3-10-1-8; IC 3-11-8-22; IC 3-11-8-23; IC 3-11-8-23.5 [new]; IC 3-11.7-2-1; IC 3-11.7-2-2)

After December 31, 2003, and after a provisional voter has marked a provisional ballot and sealed it in the provisional ballot envelope, a precinct election officer shall give the provisional voter a copy of the written instructions prescribed by the county election board that advises the provisional voter how the provisional voter can determine whether the provisional voter's ballot has been counted. (SEA 268, SECTION 172. Effective July 1, 2003. Citations affected: IC 3-11.7-2-2)

The inspector shall keep two different types of provisional ballots, with attached affidavits, in two separate envelopes or containers. Provisional ballots, with attached affidavits, cast as a result of a court order (or any other order) extending the time established for closing the polls shall be kept in a separate envelope or container from other provisional ballots. The container or envelope must be labeled "Provisional Ballots Issued After Regular Poll Closing Hours." All other provisional ballots shall be kept in an envelope or container labeled "Provisional Ballots." (SEA 268, SECTION 173. Effective July 1, 2003. Citations affected: IC 3-11.7-2-3)

Both containers of provisional ballots, including spoiled ballots of either type, shall be sealed at the close of the polls and returned to the circuit court clerk. (SEA 268, SECTION 174. Effective July 1, 2003. Citations affected: IC 3-11.7-2-4)

After the provisional ballots are delivered to the county election board, the board shall promptly make an inquiry with regard to a voter's alleged registration to the voter registration agency identified by the voter as the location where the voter applied for registration. The agency shall respond to the board not later than noon of the first Friday after the election, indicating whether the agency's records contain any information regarding the registration. If the agency does not respond to the board's inquiry, or if the agency responds that the agency has no record of the alleged registration, the board shall reject the provisional ballot and 1) document on the ballot the inquiry and response, if any, by the agency; and 2) endorse the ballot with the word "Rejected" and the inquiry and response, if any, by the voter registration agency. (SEA 268, SECTION 176. Effective July 1, 2003. Citations affected: IC 3-11.7-5-2)

After December 31, 2003, and except for a ballot with no set of poll clerk initials, a provisional ballot cast by a voter required to present identification documents is valid and shall be counted if the county election board determines that the voter filed the documentation required with the county voter registration office not later than the closing of the polls on election day. (SEA 268, SECTION 176. Effective July 1, 2003. Citations affected: IC 3-11.7-5-2)

If the county election board determines that the affidavit executed by the provisional voter has not been properly executed, that the provisional voter is not a qualified voter of the precinct, or that the provisional voter did not register to vote at a registration agency within the registration period, the board shall not open the provisional ballot envelope and shall find that the provisional ballot is invalid and may not be counted. The board shall make a notation on the provisional ballot envelope: "Provisional ballot determined invalid." (SEA 268, SECTION 177. Effective July 1, 2003. Citations affected: IC 3-11.7-5-3)

A county election board shall establish a free access system, such as a toll-free telephone number or an Internet web site, that enables a provisional voter to determine: (1) whether the individual's provisional ballot was counted; and (2) if the provisional ballot was not counted, the reason the provisional ballot was not counted. The person who cast a provisional ballot is the only person who may access information about the disposition of the person's provisional ballot on this free access system. The county election board shall establish and maintain reasonable procedures to protect the security, confidentiality, and integrity of personal information collected, stored, or otherwise used on the free access system. The county election board shall prescribe written instructions to inform a provisional voter how the provisional voter can determine whether the provisional voter's ballot has been counted. (SEA 268, SECTION 179. Effective July 1, 2003. Citations affected: IC 3-11.7-6-3 [new])

Other technical amendments were made to implement HAVA's requirements regarding provisional voting, or to correct errors or omissions in current Indiana law. These included adding referencing ballot questions on provisional ballots, and specifying the deadline for county chairmen to appoint provisional ballot counters. Cross-references to provisional ballots were also added to current laws regarding the opening of absentee ballots and when a voter leaves a polling place without first casting a ballot. (SEA 268. SECTIONS 136, 149, 170, 175, and 178. Effective July 1, 2003. Citations affected: IC 3-11-8-25.5; IC 3-11-10-35; IC 3-11.7-1-5; IC 3-11.7-3-5; IC 3-11.7-5-8)

POLLING PLACES AND POLL WORKERS

Voter's Bill of Rights

Beginning January 1, 2004, the Indiana voter's bill of rights statement must be posted by the precinct election board in a public place in each polling place on election day. (SEA 268, SECTION 6. Effective July 1, 2003. Citations affected: IC 3-5-8-3)

Beginning January 1, 2004, in addition to information previously required by law, the voter's bill of rights must include the following information: (1) the date of the election and the hours during which the polls will be open; (2) instructions on how to vote, including how to cast a vote and how to cast a provisional ballot; (3) instructions for mail-in registrants and first time voters required to submit identification documents under HAVA; (4) general information on voting rights under applicable federal and state laws, including the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated; (5) general information on federal and state laws regarding prohibitions on acts of fraud and misrepresentation. (SEA 268, SECTION 5. Effective July 1, 2003. Citations affected: IC 3-5-8-2)

When the county election board delivers ballots and other precinct supplies to the inspector or the inspector's representative the supplies must include copies of the voter's bill of rights for posting in the polling place. (SEA 268, SECTION 105. Effective July 1, 2003. Citations affected: IC 3-11-3-11)

Accessibility Requirements for Polling Places

Defines a “facility” as the facility in which the polling place is located, and specifies that it is an “accessible facility” for elderly voters and voters with disabilities if the facility:

- (1) meets the accessibility standards established under federal law (the Voting Accessibility for the Elderly and Handicapped Act).
- (2) has all of the following accessible to these voters in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters:
 - (A) Parking spaces marked and available to conform with the Indiana law concerning parking spaces for disabled persons (IC 5-16-9).
 - (B) The path to the facility that an individual must travel on the property where the facility is located.
 - (C) The entrances to the facility to be used by voters.
 - (D) The paths of travel within the facility to the rooms or areas where voting systems are located.
 - (E) The rooms or areas in the facility where the voting systems are located.

These requirements are satisfied if a facility complies by implementing temporary measures.

Requires the board of commissioners (and the Mayor of Indianapolis) to secure an “accessible facility” as defined above.

Specifies that if there is no accessible facility within a precinct, then the polls can be located in an accessible facility in a public building in an adjoining precinct that is either: (1) not more than one mile from the closest precinct boundary; or (2) in the same township as the precinct without an accessible facility.

Provides that if the county election board determines that there is no accessible facility in an adjoining precinct, then the board by unanimous vote of its entire membership can locate the polls at the most convenient accessible facility in the county.

Repeals the former law providing that if there is one or more towns in a township with only one precinct, then the polling place for that precinct must be located within the town with the largest population in the township.

Specifies that if the county election board orders the relocation of precinct polling place during the final two days before the election, the order expires after the election.

Provides that the legal notice of the place of voting published by the board of commissioners or Mayor of Indianapolis must state, for each precinct, whether the polls are located in an accessible facility, and, if a special polling place has been designated for elderly voters, and voters with disabilities, the location of the special polling place and the procedures for voters to apply to vote at the special polling place.

Requires that the board of commissioners and Mayor of Indianapolis file a report with the co-directors of the Indiana election division no later than 29 days before election day, listing each precinct in the county for which the commissioners or Mayor was unable to secure an accessible facility for election day, and including any other information required by the co-directors.

If the co-directors determine that there are no accessible facilities that the county can secure for a polling place, the co-directors shall authorize the commissioners or Mayor to designate at least one special polling place in the county. (The former law requiring the commissioners or

Mayor to establish a special polling place for elderly voters and voters with disabilities without authorization by the co-directors is repealed.)

Requires that a special polling place established for elderly voters and voters with disabilities must be located in an accessible facility and comply with all other election law requirements concerning precincts and polling places. Provides that the circuit court clerk (rather than the county election board under former law) assigns these voters to a special polling place.

(SEA 477, SECTIONS 3-9, and 11; Effective date: July 1, 2003; Citations affected: IC 3-11-8-1.2 [new]; IC 3-11-8-2; IC 3-11-8-3; IC 3-11-8-3.1; IC 3-11-8-3.2; IC 3-11-8-4.2; IC 3-11-8-6; IC 3-11-8-6.5 [new])

County Application for HHS Grants

[Note: Under the federal omnibus budget bill, counties will not be eligible to apply for these grants during 2003.]

A county election board may apply on behalf of a county to the Secretary of Health and Human Services for payments under HAVA to do the following: (1) make polling places (including the path of travel, entrances, exits, and voting areas of each polling place) more accessible to individuals with disabilities, including the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as other voters; and (2) provide individuals described in (1) above with information about the accessibility of polling places, including outreach programs to inform the individuals about the availability of accessible polling places and training election officials, poll workers, and election volunteers on how best to promote the access and participation of individuals with disabilities in elections.

If a county election board submits an application, the application must comply with HAVA and be filed with the election division not later than the submission of the application to Secretary of Health and Human Services.

If a county election board receives payments from the Secretary of Health, the payments shall be deposited in the county general fund and appropriated to the county election board for the purposes described in the application. The county election board shall spend the money for the purposes described in the application.

The county election board shall file a report with the Secretary of Health and Human Services regarding the activities conducted with these funds and the expenditures made. The county election board shall file a copy of the report with the election division and the state board of accounts not later than the date the report is filed with the Secretary of Health and Human Services. (SEA 268, SECTION 128. Effective May 7, 2003. Citations affected: IC 3-11-8-3.4 [new])

Change in Definition of “Chute” at Polling Place

The definition of the “chute” leading from the polls has been changed. The “chute” now begins at “the position where the poll worker closest to the door or entrance to the polls is stationed by the inspector”, rather than at the door or entrance to the polls.

If the property line of the polling place is less than 50 feet from the door or entrance to the polling place, the chute extends “from the exterior door or entrance to the polling place to one-half the distance from the property line to the polling place.”

If there are two or more doors or entrances to the polls, the inspector must designate one door or entrance as the door for voters to enter for the purpose of voting.

Provides that the inspector must post a voter instruction card at or close to the outer end of the chute. (The former law prohibiting the posting of the card not closer than 50 feet from the polls is repealed.)

Requires the board of county commissioners (or Mayor of Indianapolis) to provide a chute with a railing, rope, or wire on each side beginning “a distance equal to the length of the chute...” (rather than beginning 50 feet under former law) leading away from and leading to the door for challenge and to the room in which the election is held.

Provides that, except for challengers, no person may remain within “a distance equal to the length of the chute”, (rather than within 50 feet under former law) except for the purpose of offering to vote.

(SEA 318, SECTIONS 1 and 3-5; Effective date: July 1, 2003; Citations affected: IC 3-5-2-10; IC 3-11-3-24; IC 3-11-8-7; IC 3-11-8-16)

Training Requirements for Inspectors and Judges

Provides that after December 31, 2003, a county election board must conduct a training and educational meeting for inspectors, judges, poll clerks, assistant poll clerks, and sheriffs. Specifies that the meeting must be held not later than the day before election day.

Specifies that the election board shall require inspectors and judges to attend this meeting, and may require the other precinct election officers to attend as well. (Under former law, this requirement only applied in counties using ballot card voting systems.)

Requires that the training and educational meeting include information concerning:

- (1) making polling places and voting systems accessible to elderly voters and disabled voters; and
- (2) relating to the voting systems used in the county.

Provides that the meeting may include other information concerning the duties of precinct election officers, as determined by the county election board.

(SEA 136, SECTIONS 4 and 55; SEA 477, SECTION 1; Effective date: July 1, 2003; Citations affected: IC 3-6-6-40; IC 3-11-13-4 [repealed])

Students Serving as Poll and Election Workers

The county election board may, by unanimous vote of the entire membership of the board, permit an individual who is not a voter to serve as any precinct election officer other than inspector, or to assist a precinct election officer. The individual must: (1) be at least sixteen (16) years of age but not more than seventeen (17) years of age; (2) be a citizen of the United States; (3) be a resident of the county; (4) have a cumulative grade point average equivalent to not less than 3.0 on a 4.0 scale; (5) have the written approval of the principal of the school the individual attends at the time of the appointment or, if the student is educated in the home, the approval of the individual responsible for the education of the student; (6) have the approval of the individual's parent or legal guardian; (7) have satisfactorily completed any training required by the county election board; and (8) is otherwise eligible to serve as a precinct election officer under this chapter.

After January 1, 2004, an individual appointed to a precinct election office or assistant under this procedure must serve in a nonpartisan manner in accordance with the standards developed by the Help America Vote Foundation.

No later than December 31, 2003, each county election board shall determine whether the board will adopt an order authorizing the appointment of a precinct election officer under this procedure. If the county election board adopts an order, the order remains in effect until repealed by the unanimous vote of the entire membership of the county election board. (SEA 268, SECTIONS 19, 130, and 217. Effective July 1, 2003. Citations affected: IC 3-6-6-39 [new]; IC 3-11-8-15; [noncode provision]

If a county election board has the right to fill a vacancy in a precinct election office because a county chairman has failed to make a nomination for the office on or before noon 14 days before the election, the board may, by unanimous vote of its entire membership, fill the vacancy in a precinct election office by appointing a student: (1) enrolled at an institution of higher education (including a community college); and (2) who is a registered voter of the county. The student must serve as a nonpartisan precinct election officer.

A county election board may also employ students meeting these qualifications in the administration of elections by serving as nonpartisan assistants, in accordance with the requirements of the Help America Vote College Program conducted by the Election Assistance Commission under HAVA. (SEA 268, SECTIONS 16 and 18. Effective July 1, 2003. Citations affected: IC 3-6-5-23; IC 3-6-6-13)

A county election board may, by unanimous vote of the entire membership of the board, employ a student in a nonpartisan manner to assist the board under in canvassing the votes after an election if the student is: (1) enrolled at an institution of higher education (including a community college); and (2) a registered voter of the county. Using a student in this manner is an exception to requirement that not more than one-half (1/2) of the clerical assistants may be members of the same political party.(SEA 268, SECTION 185. Effective July 1, 2003. Citations affected:IC 3-12-4-4)

Individuals and Service Animals Authorized to be Present in Polling Place

A voter who requires the assistance of a “service animal” is entitled to bring the animal into the polls and the voting booth.

(SEA 136, SECTIONS 40-41; Effective date: July 1, 2003; Citations affected: IC 3-11-8-15; IC 3-11-9-5)

Precinct Forms Standards

After December 31, 2005, all forms, papers, certificates, and oaths that are required to be furnished to precinct election boards must be the most current version of the form approved by the Indiana election commission. (SEA 268, SECTION 106. Effective July 1, 2003. Citations affected: IC 3-11-3-16)

Penalty for Electioneering in Polling Place

An individual who commits “electioneering” within a polling place commits a Class A misdemeanor (rather than a Class D felony).

An election officer who disclosed whom a voter voted for, or how a voter voted on a public question commits a Class A misdemeanor (rather than a Class D felony).

(SEA 136, SECTIONS 52-53; Effective date: July 1, 2003; Citations affected: IC 3-14-3-16; IC 3-14-4-9)

RECOUNTS AND CONTESTS

Notice of Local Recounts and Contests

Provides that the judge of a court in which a local recount petition has been filed shall issue notice of the recount petition to the county election board, and to the Indiana election division if the petition concerns a recount for the office of judge or prosecuting attorney. (SEA 136, SECTION 45; Effective date: July 1, 2003; Citations affected: IC 3-12-6-9)

Provides that the judge of a court in which a local contest petition has been filed shall direct the county sheriff to issue notice of the petition to the county election board, and to the Indiana election division if the petition concerns a contest for the office of judge or prosecuting attorney. (SEA 136, SECTION 47; Effective date: July 1, 2003; Citations affected: IC 3-12-8-8)

Court Order After Conclusion of Work by Local Recount Commission; Appeals from Recount Commission Findings

Specifies that after a local recount commission files a certificate setting forth the results of the local recount, the court that appointed the commission shall issue an order acknowledging the filing of the certificate, discharging the commission, and releasing impounded election materials.

An appeal from the determination of a local recount commission to the court that appointed the commission must be filed not later than 30 days after the court issues the order acknowledging the filing of the certificate. (SEA 136, SECTION 46; Effective date: July 1, 2003; Citations affected: IC 3-12-6-22.5)

CITY AND TOWN ELECTIONS

Town Election Records

Town election boards, after completion of the canvass in an election, shall immediately file the poll lists, ballots, tally sheets, and other election forms with the circuit court clerk of the county containing the greatest percentage of population of the town for preservation and voter list maintenance. (SEA 268, SECTION 102. Effective July 1, 2003. Citations affected: IC 3-10-7-33)

Municipal Primaries

Provides that a primary election may not be held in May 2003 to nominate a candidate of a political party for a municipal office if the party has only one candidate for nomination for the office. Notwithstanding the deadline for a candidate to file a withdrawal of a declaration of candidacy for a municipal primary, a candidate for the May 2003 municipal primary may withdraw as a candidate at any time. Specifies that this provision expires July 1, 2003. (SEA 136, SECTION 57; Effective date: April 28, 2003; Citations affected: Noncode)

Adds a missing cross-reference to small towns which adopt an ordinance to nominate candidates by primary election. (SEA 136, SECTION 33; Effective date: July 1, 2003; Citations affected: IC 3-10-7-4)

LOCAL GOVERNMENT ELECTION DISTRICTS AND PRECINCTS

Use of Population Determined by Special Census, Special Tabulation, or Corrected Population Count

Provides that in establishing county commissioner districts, county council districts, city-county council districts, city common council districts, town council districts, and any other political subdivision districts to meet any applicable requirements regarding district population, the term "population" refers to the population determined according to the most recent special census, special tabulation, or corrected population count established by the Census Bureau for the political subdivision district. (Former law provided for the term "population" to refer to the population according to the most recent federal decennial census, notwithstanding any later special census, special tabulation, or corrected population count.) (SEA 136, SECTION 1; Effective date: July 1, 2003; Citations affected: IC 1-1-3.5-3)

STATE ELECTION ADMINISTRATION

Implementation of HAVA at State Level

Secretary of State as State's Chief Election Official

The secretary of state (SOS) is the state's chief election official, except for certain functions related to NVRA.

In addition to performing specific duties related to elections in the Indiana election laws, the secretary of state, with the consent of the co-directors of the election division shall do the following:

- (1) Work with the federal Election Assistance Commission to encourage students enrolled at institutions of higher education (including community colleges) to assist state and local governments in the administration of elections by serving as nonpartisan poll workers or assistants;
- (2) Consult with the federal Election Assistance Commission in the development of materials, seminars, and advertising targeted at students to implement the Help America Vote College Program conducted by the Election Assistance Commission under HAVA;
- (3) Consult with the Help America Vote Foundation established under HAVA in developing programs to encourage secondary school students (including students educated in the home) to participate in the election process in a nonpartisan manner as poll workers or assistants to local election officials in precinct polling places;
- (4) Consult and coordinate with (and provide administrative support to) the co-directors of the election division in the development and implementation of the state plan under HAVA;
- (5) Perform all duties required to be performed by the state or the chief state election official under HAVA.

The secretary of state may also develop programs to encourage Indiana secondary school students and students in institutions of higher education in Indiana to assist state and local governments in the administration of elections. (SEA 268, SECTION 7. Effective July 1, 2003. Citations affected: IC 3-6-3.7 [new])

The election division shall assist the secretary of state in the implementation of HAVA. In addition to its duties under current law, the election division shall implement the state plan in accordance with HAVA requirements and the Indiana election laws, appoint members of the state planning committee established under HAVA, and submit reports required under HAVA to the federal Election Assistance Commission concerning the use of federal funds under Title II of HAVA. (SEA 268, SECTIONS 8 and 9. Effective May 7, 2003. Citations affected: IC 3-6-4.2-2.5 [new]; IC 3-6-4.2-12)

State HAVA Plan Committee Members

An individual appointed to serve on the state plan committee is entitled to receive a per diem and reimbursement for traveling expenses. However, if the individual is a state employee (including state office holder), the individual is entitled only to reimbursement for traveling expenses. The expenses of the state plan committee shall be paid from the Section 101 account of the state election administration assistance fund. (SEA 268, SECTION 10. Effective May 7, 2003. Citations affected: IC 3-6-4.2-12.1 [new])

HHS Polling Place Grant Application by Secretary of State

The secretary of state and co-directors of the election division shall apply to the Secretary of Health and Human Services for payments under HAVA to: (1) make polling places (including the path of travel, entrances, exits, and voting areas of each polling place) more accessible to individuals with disabilities, including the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as other voters; and (2) provide individuals with disabilities with information about the accessibility of polling places, including outreach programs to inform the individuals about the availability of accessible polling places and training election officials, poll workers, and election volunteers on how best to promote the access and participation of individuals with disabilities in elections. If payments are received, the election division shall expend the money as described in the application. (SEA 268, SECTION 11. Effective May 7, 2003. Citations affected: IC 3-6-4.2-12.5 [new])

Indiana Protection and Advocacy Services Commission

The Indiana protection and advocacy services commission shall ensure full participation in the electoral process in individuals with disabilities, including registering to vote, casting a vote, and accessing polling places. (SEA 268, SECTION 201. Effective July 1, 2003. Citations affected: IC 12-28-1-12)

Census Data Advisory Committee to Study HAVA Implementation

The Census Data Advisory Committee is directed to study and make recommendations concerning changes or amendments to IC 3 (the elections code) to the general assembly, including legislation for the implementation and administration of HAVA. (SEA 268, SECTION 1. Effective May 7, 2003. Citations affected: IC 2-5-19-19)

HAVA Certifications to Federal Government

Not later than April 7, 2003, the governor, in consultation and coordination with the secretary of state and the co-directors of the election division, shall notify the federal Administrator of General Services that the state of Indiana intends to use payments under Section 101 of HAVA in accordance with Section 101 of HAVA. (SEA 268, SECTION 212. Effective April 1, 2003 (retroactive). [noncode provision])

Not later than April 7, 2003, the governor, in consultation and coordination with the secretary of state and the co-directors of the election division, shall give the notice to the federal Administrator of General Services required under Section 102(b) of HAVA in accordance with Section 102 of HAVA. (SEA 268, SECTION 213. Effective April 1, 2003 (retroactive). [noncode provision])

Not later than June 30, 2003, the secretary of state with the consent of the co-directors of the election division shall file a statement with the federal Election Assistance Commission. The statement, which concerns the state plan, must certify that the state is in compliance with the requirements referred to in Section 253(b) of HAVA and be in the form authorized by Section 253 of HAVA. (SEA 268, SECTION 216. Effective May 7, 2003. [noncode provision])

Administrative Complaint Procedure at State level for HAVA grievances

Beginning January 1, 2004, a new administrative complaint processes is established for the Indiana election division, the Indiana election commission and county election boards to address grievances concerning Title III of HAVA.

A complaint filed with the election division must be written, signed, and sworn to before an individual authorized to administer an oath under IC 33-16-4 and must state: (1) the name and mailing address of the person alleged to be committing the violation of Title III described in the complaint; (2) whether the person filing the complaint has filed a complaint concerning the violation with a county election board; and (3) the nature of the injury suffered (or about to be suffered) by the person filing the complaint.

The election division shall promptly provide a copy of the complaint by first class mail to the members of the Indiana election commission and the persons identified in the complaint.

A person entitled to file a complaint with the election division may file a complaint with the county election board where the violation allegedly occurred. If a person filed a complaint with the county election board, the election division shall not begin enforcement procedures under this chapter regarding the complaint until the person filing the complaint files a complaint with the election division under this chapter. If the complaint alleges that either co-director of the election division has committed the violation, the complaint shall be filed with the chair of the commission and the chair of the commission shall perform the duties otherwise performed by the election division concerning a complaint.

After a complaint is filed with the election division, the election division shall determine whether the complaint, assuming all facts stated in the complaint to be true, describes a violation of Title III. If the election division determines that: (1) even assuming the facts in complaint to be true, there is no violation of Title III; or (2) the person did not file the complaint in the proscribed format; the election division shall dismiss the complaint and publish the order dismissing the matter in the *Indiana Register* and provide a copy of this determination by certified mail to: (1) the person who filed the notice; (2) the person alleged to have committed the violation; (3) the members of the commission; and (4) the attorney general.

If the election division determines that the complaint was properly filed and contains sufficient allegations that, if true, describes a violation of Title III, the election division shall conduct an investigation. Different complaints may be consolidated for purposes of investigation or hearing. Upon completing the investigation, the election division shall submit the results of the investigation to the commission and the commission shall then issue a written report. The election division shall provide a copy of the report by certified mail to: (1) the person who filed the complaint; (2) the person alleged to have committed the violation; (3) the members of the commission; and (4) the attorney general. The report must: (1) indicate the date when the complaint alleging the violation was received by the election division; (2) contain findings of fact regarding the alleged violation and state whether a violation of Title III has occurred, or appeared to be likely to occur when the complaint was filed; (3) state what steps, if any, the person alleged to have committed the violation has taken to correct the violation or to prevent a reoccurrence of the violation; (4) suggest any additional measures that could be taken to correct a violation; (5) indicate the date when a violation was corrected or is expected to be corrected; and (6) provide any additional information or recommendations useful in resolving this complaint.

At the request of the person filing a complaint, or at the request of a member of the commission, the commission shall conduct a hearing on the complaint and prepare a record of the hearing. A request for a hearing must be filed with the election division not later than noon seven (7) days after the report prepared by the election division is mailed. After concluding the hearing, the commission shall: (1) affirm the report; (2) amend the report; or (3) refer the matter to the election division for further investigation and submission of a subsequent report to the commission.

If the commission determines that based on the evidence presented, there is no violation of any provision of Title III or that the person has not filed a complaint in the form prescribed by statute, the commission shall dismiss the complaint and publish the order dismissing the matter in the *Indiana Register*. If the commission determines that there is a violation of Title III, the commission shall determine and provide the appropriate remedy if authorized by law to do so. If providing the remedy would require additional or amended Indiana legislation, the commission shall notify the census data advisory committee and provide recommendations regarding the form and content of this legislation. The commission shall make the final determination regarding the complaint not later than ninety (90) days after the date the complaint is filed. The person filing the complaint may file a written consent permitting the commission to take a longer period to make the final determination regarding the complaint.

If the commission fails to make the final determination by this ninety (90) day deadline, then the complaint shall be referred to an arbitrator selected jointly by the commission and the person who filed the complaint and resolved not later than sixty (60) days after this deadline. The record and other materials from any proceedings conducted by the commission shall be made available for use by the arbitrator. The arbitrator shall file a report with the election division setting forth the resolution of the complaint. The report must specify the following: (1) whether a violation of Title III has occurred or was about to occur when the complaint was filed; (2) the appropriate remedy to correct any violation; (3) whether providing the remedy would require additional or amended Indiana legislation or a civil action for declaratory or injunctive relief; (4) any other information and recommendations necessary to fully provide any appropriate relief under this chapter.

The secretary of state may file a civil action seeking declaratory or injunctive relief to secure or implement a remedy determined by the commission. The commission shall forward a written summary of any action taken by the commission to: (1) the person who filed the complaint; (2) the person alleged to have committed the violation; and (3) the attorney general. (SEA 268, SECTION 13. Effective July 1, 2003. Citations affected: IC 3-6-4.5 [new])

County Election Board Administrative Complaint Process for Title III HAVA Complaints

A person who files a complaint with the county election board retains the right to file a complaint with the election division. However, if the county election board is notified at any time that the person who filed a complaint with the county election board has filed a complaint with the election division regarding the same matter, the county election board shall dismiss the complaint filed with the board.

A complaint filed with the county election board must be written, signed, and sworn to before an individual authorized to administer an oath under IC 33-16-4 and must state the following: (1) the name and mailing address of the person alleged to be committing the violation of Title III described in the complaint; (2) whether the person filing the complaint has filed a complaint concerning the violation with the election division; and (3) the nature of the injury suffered (or about to be suffered) by the person filing the complaint.

The circuit court clerk shall promptly provide a copy of the complaint by first class mail to the members of the county election board and the persons identified in the complaint. If the complaint alleges that the circuit court clerk has committed the violation, the complaint shall be filed with the chair of the county election board and the chair shall perform the duties otherwise performed by the circuit court clerk concerning a complaint.

After the complaint has been filed with the circuit court clerk, the clerk shall determine whether the complaint, assuming the facts set forth in the complaint are true, describes a violation of Title III. The circuit court clerk may consult with the election division in making this determination. If the circuit court clerk determines: 1) that, even assuming that the facts set forth in the complaint are true, there is no violation of Title III; or (2) that the person has not filed the complaint in the form required by statute; the circuit court clerk shall dismiss the complaint and publish a legal notice of the order dismissing the matter. If the circuit court clerk dismisses a complaint, the circuit court clerk shall provide a copy of this determination by certified mail to: (1) the person who filed the notice; (2) the person alleged to have committed the violation; (3) the members of the county election board; and (4) the election division.

If the circuit court clerk determines, after assuming the facts alleged in the complaint are true, that the complaint alleges a violation of Title III, and the complaint is in the form required by statute, the circuit court clerk shall conduct an investigation. Upon completing the investigation, the circuit court clerk shall submit the results of the investigation to the county election board and the county election board shall then issue a written report. The circuit court clerk shall provide a copy of the report by certified mail to: (1) the person who filed the complaint; (2) the person alleged to have committed the violation; (3) the members of the county election board; and (4) the election division. The report must: (1) indicate the date when the complaint alleging the violation was received by the county election board; (2) contain findings of fact regarding the alleged violation and state whether a violation of Title III has occurred or appeared to be likely to occur when the complaint was filed; (3) state what steps, if any, the person alleged to have committed the violation has taken to correct the violation or to prevent a reoccurrence of the violation; (4) suggest any additional measures that could be taken to correct a violation; (5) indicate the date when a violation was corrected or is expected to be corrected; and (6) provide any additional information or recommendations useful in resolving this complaint.

At the request of the person filing a complaint, or at the request of a member of the county election board, the board shall conduct a hearing on the complaint and prepare a record of the hearing. This request must be filed not later than noon seven (7) days after the circuit court clerk's report was mailed. The county election board may consolidate complaints filed under this chapter.

After concluding the hearing, the county election board shall: (1) affirm the report of the circuit court clerk; (2) amend the report; (3) refer the matter to the circuit court clerk for further investigation and submission of a subsequent report to the county election board; or (4) refer the matter to the election division. If the county election board determines that based on the evidence presented, there is no violation of any provision of Title III or that the person has not filed a complaint as required, the county election board shall dismiss the complaint and publish a legal notice of the order dismissing the matter. If the county election board determines that there is a violation of any provision of Title III, the county election board shall determine and provide the appropriate remedy if authorized by law to do so. If the county election board determines that it is not authorized by law to provide the appropriate remedy, the county election board shall dismiss the complaint.

The county election board shall forward a written summary of its action to: (1) the person who filed the complaint; (2) the person alleged to have committed the violation; and (3) the election division. (SEA 268, SECTION 17. Effective July 1, 2003. Citations affected: IC 3-6-5.1 [new])

Deadline to Complete State Primary Canvass

Provides that the Indiana election division must conduct the canvass for candidates required to file declarations of candidacy with the election division for the primary election not later than noon on the date for a county election board to correct a local canvassing error under IC 3-12-5-4, or seven days after the receipt of a final recount certificate from the state recount commission or a local recount commission, whichever is later. (Formerly, the election division was required to conduct the canvass for the primary election not later than noon on the second Wednesday after the primary, even though the deadline for the correction of local canvassing errors had been extended to the second Friday after the primary under IC 3-12-5-4). (SEA 136, SECTION 30; Effective date: July 1, 2003; Citations affected: IC 3-10-1-34)

Certification of Candidates to be Elected at a General Election

Provides that the Indiana election division must certify the results of the primary election not later than noon 74 days before the general election (rather than by August 20). Repeals an obsolete reference to the certification of certificates of nomination by the election division. (SEA 136, SECTIONS 16-18; Effective date: July 1, 2003; Citations affected: IC 3-8-7-2; IC 3-8-7-12)

Filing and Retention of Federal Campaign Finance Reports

If a person file copies of a federal campaign finance report with both the Federal Election Commission and the Indiana election division, and if the report is available on the FEC's web site, the person is only required to file a statement to that effect with the election division, rather than a complete copy of the duplicate report.

Permits duplicate copies of federal campaign finance reports filed with the Indiana election division may be discarded on January 1 of the second year after the report was filed with the election division. (SEA 136, SECTIONS 22 and 26; Effective date: July 1, 2003; Citations affected: IC 3-9-4-6; IC 3-9-5-13)

Indiana Election Division Employees

Specifies that each co-director of the Indiana election division shall be provided with equal funding with which to employ employees. (The former law specifying that the Indiana election commission was to provide this funding is repealed.) (SEA 136, SECTION 3; Effective date: July 1, 2003; Citations affected: IC 3-6-4.2-7)

Election Division Annual County Election Administrator Meeting

The annual instructional meeting for county election administrators must include instruction on federal law, including HAVA and NVRA. An individual who has been elected or selected to serve as circuit court clerk but has not yet begun serving in that office is now entitled to the same per diem, allowances, and reimbursements as a serving circuit court clerk. (SEA 268, SECTION 12. Effective July 1, 2003. Citations affected: IC 3-6-4.2-14)

MISCELLANEOUS TECHNICAL CHANGES

References to Federal Law and Agencies in Indiana Election Code

Adds numerous cross-references to HAVA throughout the Indiana election code. (SEA 268, SECTIONS 84, 111, 115, 117. Effective July 1, 2003. Citations affected: IC 3-7-46-1; IC 3-11-3-25; IC 3-11-4-17.7, IC 3-11-4-21, for example) Adds definition of references to HAVA. (SEA 477, SECTION 2; Effective date: July 1, 2003; Citations affected: IC 3-11-6.5-0.5)

Changes references to the former Federal Election Commission to the new Federal Election Assistance Commission. (SEA 268, SECTION 20. Effective July 1, 2003. Citations affected: IC 3-7-11-2)

Correction of Cross-References in Indiana Election Code

Replaces many references to “circuit court clerk and board of registration” with “county voter registration office”. (SEA 268, SECTIONS 83 and 84. Effective July 1, 2003. Citations affected: IC 3-7-45-8, IC 3-7-46-1)

Corrects internal reference to election code article. (SEA 136, SECTION 44; Effective date: July 1, 2003; Citations affected: IC 3-12-5-14)

Corrects reference to mail in registration form chapter and omitted reference to circuit court clerk. (SEA 268, SECTIONS 24 and 50. Effective July 1, 2003. Citations affected: IC 3-7-12-38; IC 3-7-33-4)

Corrects cross reference to address confidentiality program participant statute to clarify effect of revised absentee ballot application procedures for military and overseas voters. (SEA 268, SECTION 197. Effective July 1, 2003. Citations affected: IC 5-26.5-2-5)