LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
http://www.in.gov/legislative

FISCAL IMPACT STATEMENT

LS 6252 | **NOTE PREPARED:** Mar 10, 2004
BILL NUMBER: SB 72 | **BILL AMENDED:** Mar 4, 2004

SUBJECT: Various Election Law Matters.

FIRST AUTHOR: Sen. Landske | **BILL STATUS:** Enrolled
FIRST SPONSOR: Rep. Mahern

FUNDS AFFECTED: X **GENERAL** | **IMPACT:** State & Local
X **DEDICATED**
FEDERAL

Summary of Legislation: This bill has the following provisions:

Illegible or Missing Postmark on Voter Registration Application: The bill provides that a voter registration application having an illegible or a missing postmark is valid if received not later than 21 days before the election.

Candidate Committee Treasurer: The bill provides that a person who serves as a political committee's treasurer in violation of certain statutes is subject to a civil penalty upon the unanimous vote of the commission or county election board.

Municipal Office Campaign Finance Reports: The bill provides that a candidate for a municipal office shall file certain campaign finance reports even if a primary or municipal election is not held in the municipality.

Municipal Elections in Towns: The bill requires a county election board to conduct municipal elections in all towns unless a town opts out.

Precinct Election Board/Officers: The bill provides that one precinct election board may serve all precincts at a single polling place. The bill provides that a majority vote (rather than the unanimous vote) of a county election board is sufficient to appoint a precinct election officer when a county chairman has failed to make a nomination.

Voters In Newly Acquired Territory: The bill provides that voters in a municipality's newly acquired territory may vote regardless of when the territory was acquired.

Inactive Status Voters: The bill requires an individual who appears to vote after the individual's registration is placed on inactive status under a voter list maintenance program to affirm that the individual currently resides at the address shown on the individual's registration before the individual is permitted to vote.

Local Voter List Maintenance Program: The bill specifies the requirements for a county voter registration office to conduct a voter list maintenance program.

Absentee Ballots Counts: The bill provides that only counties that count absentee ballots at a central location may authorize the use of electronic equipment at the clerk's office for the casting of absentee ballots.

Absentee Ballot Signature: The bill requires the voter's signature on an absentee ballot application to be compared to the voter's signature on the voter's registration record under certain circumstances.

Special Elections: The bill requires a special election to be ordered in an election contest after a finding that the occurrence of deliberate acts makes it impossible to determine which candidate received the highest number of votes.

Minor Party Candidates: The bill makes changes to the filing place for replacement candidates for local judicial offices of independent and minor party candidates.

Statewide Voter Registration File: The bill establishes additional specifications for the Statewide Voter Registration File (SVRF).

Election Administration Assistance Fund: The bill permits the Election Administration Assistance Fund to be administered in accordance with amendments to the state's HAVA plan.

Voting Systems: The bill provides that improvements or changes to voting systems may not be marketed, sold, leased, installed, or implemented in Indiana unless approved by the Election Commission, and authorizes the Commission to revoke a certification of a voting system and prohibit a voting system vendor from marketing, leasing, or selling any voting system in Indiana if the vendor violates the certification requirements.

Residency Determination: The bill provides that, after December 31, 2005, the standards used to determine residency for voters are the same standards that must be used to determine residency for applying for a driver's license.

School Corporation Levy Referendum: The bill between July 1, 2004, and June 30, 2006, requires that a second school corporation levy referendum not be held before the earlier of: (1) the next primary or general election that occurs at least 11 months after the date of the referendum; or (2) one year after the date of the referendum, if a majority of the persons who voted in the first referendum held at a primary or general election do not vote "yes".

Legalization of Actions: The bill legalizes certain actions taken after deadlines set in statutes enacted in 2003. The bill legalizes the deposit of oaths of political subdivision officers made after the statutory deadline and before March 1, 2004.

Supreme Court Clerk: The bill provides for the Clerk of the Supreme Court to be appointed by the Court rather than elected.

Retention of Election Materials: The bill makes available, to the public, election material required to be

retained following an election after expiration of the period for filing a petition or cross-petition for a recount of votes or to contest the election, and requires a county voter registration office to keep confidential that part of election material necessary to protect the secrecy of a voter's ballot.

Presidential Election Deadlines: The bill establishes deadlines for: (1) the Election Division to certify certain information concerning candidates for President and Vice President and Presidential electors; and (2) printing provisional ballots in a Presidential election year.

Various Election Matters: The bill allows an absentee ballot cast by a voter required to provide additional documentation to be counted under the provisional ballot procedure if the documentation is filed before 6:00 p.m. on election day. The bill establishes a procedure for breaking a tie vote in a municipal election. The bill resolves a conflict in current law concerning: (1) the resumption of registration after a special election; and (2) the procedure for determining certain voter challenges.

The bill makes changes in election law concerning: (1) the definition of "chute"; (2) training of precinct election officers; (3) the nomination of candidates; (4) political party devices; (5) the withdrawal of candidates; (6) election administration; (7) precinct election officers; (8) watchers; (9) certification of nominees; (10) campaign finance reports; (11) voter registration; (12) statewide voter registration file; (13) rights of voters; (14) municipal elections; (15) ballot format; (16) write-in voting; (17) absentee voting; (18) polling places; (19) provisional ballots; (20) election recounts and contests; (21) filling vacancies in local offices; (22) the meeting of presidential electors; (23) filing financial disclosure statements; and (24) appointment of deputies of local officials.

Repeal of State Law: The bill repeals: (1) statutes relating to printing of ballots; (2) a duplicate requirement for filing with the election division a certificate of the public test of an optical scan voting system; and (3) a special procedure involving a county commissioner's resignation.

Effective Date: Upon passage; May 7, 2003 (retroactive); January 1, 2004 (retroactive); July 1, 2004; December 1, 2004.

Explanation of State Expenditures:

Candidate Committee Treasurer: A treasurer of a candidate's committee for a statewide office that violates the following qualifications under statute would be subject to a civil penalty. The qualifications are as follows. The treasurer must be a United States citizen. The treasurer may not be the chairman of a committee unless the candidate is also the chairman and treasurer. Finally, a candidate may not be the treasurer of another candidate's committee.

The Election Commission would have to determine by unanimous vote of the entire membership that a violation occurred based on the treasurer's qualifications listed above. If such unanimous decision is reached, the Commission would be able to assess a civil penalty not to exceed $500 plus any investigative costs incurred and documented by the Election Division.

Under current law, election law civil penalties are placed in the state Campaign Finance Enforcement Account. As of June 30, 2003, the state Campaign Finance Enforcement Account had a budgetary fund balance of $21,066, with $17,299 in fines collected in FY 2003.

Voting Systems- Voting System Application Forms: Several items of additional information including more detailed description of voting systems would be required of vendors when filing an application for

certification of a voting system. The voting system application form (State form 45487, IEC-11) would need to be revised in order to account for the additional information a vendor would be required to provide under the bill.

The Election Division spent about $2,600 for printing forms in FY 2003. The Commission's resources should be sufficient to revise the forms necessary to comply with the bill.

Background: The Election Commission reverted $221,315 to the state General Fund at the end of FY 2003. The Election Division was appropriated $798,806 in FY 2003. Total Election Division expenditures during FY 2003 were estimated at $761,251. The Election Division was appropriated $794,571 in FY 2004 and $725,571 in FY 2005.

Certification of Voting Systems- The Commission would be able to prohibit a vendor for an unapproved sale, lease, or marketing of a voting system (including hardware, firmware, or software) in Indiana. The prohibition may not exceed five years.

Presidential Election Deadlines: The bill gives the Election Division an extra seven days to insure that Presidential general election provisional ballots reach the appropriate circuit court clerk. This provision should have a minimal impact to Election Division expenditure for provisional ballots.

Supreme Court Clerk: Under the bill, there are two provisions that could increase state expenditure:

- The salary of the Clerk of the Supreme Court would be determined by the Supreme Court instead of by statute.
- The Clerk would be required to execute a bond at an amount determined by the Supreme Court.

Salaries: Under current law, the Clerk of the Supreme Court receives an annual salary of $60,000. Under this bill, the Supreme Court would determine the Clerk's salary after December 31, 2006. The salary would presumably be included in the budget of the Supreme Court.

Securing a Public Official Bond: Current law requires the Clerk of the Supreme Court to secure public official bonds of $2,000 and $10,000. This bill would permit the Supreme Court to determine the amount of bonds that would need to be secured by the Clerk. Under IC 5-4-5-2, the costs of these obligations are paid out of the state General Fund. According to the insurance carrier for the State Treasurer, the annual cost of securing a bond depends on the bond limit. As examples, the following table shows the bond limits, the annual premiums paid, and the percentage rates based on the bond limits and premiums.

Bond Limit	Premium	Percentage
$300,000	$831	0.28%
$200,000	$800	0.40%
$50,000	$200	0.40%
$5,000	$100	2.00%

Intelenet Commission: Under current law, the Clerk of the Supreme Court is the statutorily authorized agency that conducts business with the Intelenet Commission. However, the Division of the State Court Administration actually manages the web site for the Indiana Judiciary via the gateway administered by the

Intelenet Commission. Under the bill, the entire judicial branch of the State of Indiana would be authorized to access the gateway.

Statewide Voter Registration File- Summary: Under the bill, the Statewide Voter Registration File (SVRF) would be required to have additional abilities and features. The additional abilities and features would include: a means to input additional voter information, absentee ballot management, document imaging, election and poll worker management features, security, a signature digitizing feature, street file management, and registration management. The SVRF must also include a help desk support feature staffed by individuals who would provide assistance to county voter registration offices.

SVRF History: Under 42 U.S.C. 15483 (SEC 303 of HAVA) the Secretary of State must implement the SVRF by January 1, 2006. The Statewide Voter Registration File was established by P.L. 199-2001 to accurately tabulate the voter registration in the state. P.L. 291-2001 appropriated $5 M from the Build Indiana Fund (BIF) for the implementation of the SVRF. However, the appropriation has not been allocated to date due to BIF transfers to the state General Fund for deficit management.

With the passage of P.L. 224-2003, the appropriations above were cancelled. P.L. 224-2003 appropriated the amount sufficient to meet the state match for federal funds provided under HAVA to the Voter Registration and Procedures Account and the Voter System Improvement Account of the state General Fund. The state appropriation consists of money transferred to the General Fund from the June 30, 2003, balance of unclaimed prize money of the Indiana state lottery. About $100,000 of this appropriation would be used for the state match for the SVRF expenditure. This provision is set to expire July 1, 2005.

The amount that goes into the unclaimed prize fund varies from $10.0 M to $12.0 M per year. However, the amount of unclaimed prize money in the fund varies at any given time and cannot be estimated.

Repeal of State Law: Under the bill, the Election Division would no longer be required to print either standard or provisional ballots for federal or state office. This provision would present a savings to the Election Division. For the 2000 general election, the cost of paper ballots per 1,000 voters was about $54.75.

The Election Division spent less than $10,000 for paper ballots in 2002. The Division spent less than $15,000 for paper ballot production in 2000. In 2000, the Division had printed about 107,000 official Presidential ballots, 29,900 sample Presidential ballots, 88,950 official statewide office ballots, and about 16,000 sample statewide ballots.

As the number of lever voting machines continues to decline, the costs to the state to produce paper ballots will decline.

State Recount Commission: Under the bill, the Indiana State Recount Commission (ISRC) would be allowed to conduct contest proceedings for an election of either a federal office, state office, legislative office, or the governor and lieutenant governor. Under current law, the ISRC must conduct contest proceedings that result from a nomination of a candidate to federal, state, or legislative office in a primary election, however, the ISRC currently has authority in proceedings for a contest of an election for state office not including the governor and lieutenant governor.

Background Information: Current law allows an appropriation from the state General Fund to the state Recount Fund in an amount sufficient for the ISRC's use in the payment of expenses. The ISRC is comprised of three members: the Secretary of State, and one designee from each major political party.

Under current law, petitioners to the ISRC must place a cash deposit for the payment of costs of the recount chargeable to the petitioner. The minimum cash deposit is $100, with certain variations specified under law. All cash deposited by petitioners is placed in the state Recount Fund.

As of June 30, 2003, the state Recount Fund had a budgetary fund balance of $47,607 and had $1,300 in revenue deposited during FY 2003.

Explanation of State Revenues:

Various Election Matters- State Voting System Certification: Under the bill, a voting system that has been certified for use before January 1, 2005, would expire October 1, 2005. Therefore, for voting machine vendors that were to apply for re-certification of a voting system after January 1, 2005, the application fee would be waived provided the hardware, software, and firmware of the system were unchanged. This provision may have an indeterminable impact to state revenue. Under current law, applications for certification must be accompanied by a $1,500 fee. Fees collected for voting machine certification are deposited into the state General Fund. Typically, the Election Division receives five to six applications for voting system certifications per year for about $7,500 to $9,000 in revenue collected.

Explanation of Local Expenditures:

Candidate Committee Treasurer: Under the bill, a treasurer of a candidate's committee for a local office that violates the following qualifications under statute would be subject to a civil penalty. The qualifications are as follows. The treasurer must be a United States citizen. The treasurer may not be the chairman of a committee unless the candidate is also the chairman and treasurer. Finally, a candidate may not be the treasurer of another candidate's committee.

Local Voter List Maintenance Program: Under the bill, county voter registration offices (CVROs) would have the option to conduct a voter list maintenance program. *If* a CVRO began such a program, the CVRO would have to mail a registration notice to voters. The notification would have to be sent with first class postage and include a prepaid postage return card. Additional local expenditures would be dependent on whether the county chooses to conduct a maintenance program and the number of voters registered in the county.

Background- The cost to send a certified standard business letter of one ounce weight or less is $0.37 for first class postage, $2.30 to send certified, and $1.75 for a return receipt.

Municipal Elections in Towns: Under the bill, county election boards would conduct municipal elections in all towns. However, a town would be provided the option to pass an ordinance to establish a town election board to conduct municipal elections. Under current law, counties already conduct elections in towns with a population of under 500 persons. It is possible that some towns may rescind their town election boards in order to allow their parent county election board to conduct municipal elections. This provision could present an expenditure savings to the town, assuming the parent county is able to conduct the municipal election more efficiently than the town. Unless costs cannot be directly attributable to a town, there would be no impact to county finances as a result of this provision. It may be possible that additional voting machines would be needed to cover several additional towns within a county. However, depending on the arrangement made with the town to conduct the election, the county would probably charge these costs to the town. The cost to rent a Micro Vote direct recording electronic machine is approximately $2,500 plus $300 for each additional machine rented.

Precinct Election Board/Officers: Under the bill, county election boards would be allowed to adopt an ordinance to allow more than one precinct to be served by a precinct election board at a special election. This provision could present a savings to local expenditures when counties conduct special elections.

Voters In Newly Acquired Territory: The provision could require county election officials to process more ballots to account for voters in areas that were annexed and possibly revise poll books less than 30 days before the municipal election. Current law requires a 30-day deadline for municipal boundary extension to allow annexed voters to vote in the municipal election.

Absentee Ballots Counts: P.L. 69-2003 allowed counties the option to use an electronic voting system to tabulate absentee ballots in an election. This bill restricts the usage of electronic voting systems to counties that have adopted a resolution to centrally count absentee ballots.

Special Elections: The bill would add "deliberate act or series of actions occurred to the determinations that a court may find when ruling on a contest to a public question. This provision would also apply to recounts under determination of the State Recount Commission. If more favorable rulings on contests or recounts occur as a result of this provision, more special elections could be held.

Certain Circuit/County Officials: Joint meetings of the boards of county commissioners sharing a particular circuit could be convened to replace certain circuit or county officials. There are only four Indiana counties that share a circuit. The counties are Dearborn, Jefferson, Ohio, and Switzerland.

School Corporation Levy Referendum: If a school corporation were to hold an excessive levy referendum during a primary or general election, the school corporation would not be allowed to hold a second referendum from the date of the first levy to the earlier of either (a) the next primary or general election at least 11 months after the original referendum occurred or (b) one year after the first referendum. The impact of this provision to local expenditure is unknown and would depend on the number of referendums that fail but are brought back to the voters within the specified time periods. Since 1982, approximately 20 school referendums for excessive levies have been passed.

Retention of Election Materials- Summary: This bill provides that specific election materials are to be made available for copying and inspection. The fiscal impact of this proposal is considered negligible.

Background: Statute provides that each county is required to establish a fee schedule for the copying of documents. The fee may not exceed the actual cost to copy a document. Actual cost includes the cost of paper and the per page cost for copy use and does not include labor or overhead costs.

Various Election Matters- Provisional Ballots: The provision may increase the number of provisional ballots that would be accounted for in an election. The provision would reduce the administrative steps a precinct election board may undertake under current law to address challenged absentee ballots if the ballots were treated as provisional ballots.

Municipal election expenses: Municipalities that make special arrangements for municipal elections with counties (IC 3-10-7-4) would affect the apportionment of election expenses not directly attributable to municipalities.

Under current law, when counties run municipal elections where the expenses of the election cannot be directly attributed to a single municipality, the expenses are divided one-fourth to the county and the remaining three-fourths to the towns in the county conducting a municipal election. Additionally, if there is

more than one municipality to whom costs cannot be directly attributed, the remaining three-fourths of the costs are divided by a ratio equal to the number of votes cast in the municipalities. (Example: A county has 1,000 votes cast by two municipalities. Municipality 'A' had 400 votes cast, Municipality 'B' had 600 votes cast. Municipality 'A' would pay two-fifths of the municipal share or [2/5*Election Cost Attributable to Municipalities]. Municipality 'B' would pay [3/5*Election Cost Attributable to Municipalities].)

Under the bill, the votes of a municipality with a special arrangement would not count in the formula ratio. The provision would increase the percentage share of the total cost to the remaining towns. However, removal of the cost of the special arrangement county could reduce the total expenditures attributable to the remaining towns.

Training of Precinct Election Officers: County election boards would be able to allow individuals to be precinct election officers that were appointed after the training and education session. The county election board would determine if precinct election officers would be required to complete emergency training. The impact of this provision to local expenditure would depend if those individuals appointed and sent to emergency training were paid for attending the emergency training.

Under current law, county election boards are required to conduct training for precinct inspectors and judges. The county determines if other members are required to attend training. The bill would remove precinct judges from mandatory training. This provision could present a slight savings to counties that pay their judges to currently attend training, if their parent county no longer required their attendance under the bill.

Some counties currently pay additional per diem to precinct election officers who complete training. A small sample of counties found that some counties allow a per diem to attend training. The per diem allowed on average for training attendance was about $5 to $10.

Voter Registration: Registration of uniformed services voters returning from active duty would be under the responsibility of the county voter registration office. Currently, such registrations are the responsibility of the circuit court clerk. In counties where the county voter registration office is separate from the circuit court clerk, there would be a shift in administrative responsibility to the county voter registration office. The fiscal impact to local expenditures under this provision should be minimal.

The Nomination of Candidates: Petitions for certain offices by minor party candidates would be allowed to be combined in one petition as long as the offices serve the same political subdivision. There may be a small savings in administrative time by the officials who would look over the petitions if fewer separate petitions are filed as a result of this provision.

Holding Municipal Elections: Under the bill, if only one person has filed a declaration of intent to be a write-in candidate for a municipal office and would be unopposed in the municipal election, then the election may not be held for the office. Current law allows that an election for a municipal office may not be held if there is only one nominee for the office. As a result of the provision, there may be a savings on ballot expenditures if fewer elections for municipal offices were to occur under the provision. Any savings would be dependent on the number of elections for municipal offices where only a single write-in candidate runs for the office.

The Location of Precinct Polls: Under current law, if a precinct contains fewer than 250 active voters, the county executive may locate the polls of the precinct with the polls of an adjoining precinct. Under the bill, any county election board would be allowed to adopt an order by unanimous vote of the entire board membership to locate a poll of any precinct with an adjoining precinct. Such an order would be effective until December 31 after the date the order was adopted. This provision could allow additional polls to combine

and share a single precinct election board. There could be a savings to local expenditures as a result of this provision, which would be dependent on local action.

Repeal of State Law: The bill would require counties to produce all ballots (regular and provisional) for elections. However, the dwindling number of counties that use paper ballots (primarily lever machines) would reduce or eliminate most of the potential impact to local expenditure. Counties using DRE machines would likely not be affected (it is likely, these counties' software already includes state and federal offices). Those counties using optical scan would be minimally affected if the county does not produce absentee ballots for statewide or federal offices.

Background: Under current law, county election boards are required, with some exceptions, to conduct a municipal primary and election. Additionally, expenses from county-operated municipal elections are reimbursed by the municipality to the county. If the expenses of a municipal primary or election cannot be directly attributed to a single municipality, the expenses are apportioned 25% to the county and 75% to the municipalities in the county holding an election.

Expenses to run an election include: precinct election board per diem, rental of a facility for polling (if necessary), and/or voting equipment (if necessary). Based on a small sample of Indiana counties, per diem for election board members ranged from $65 to $150 for inspectors and from $40 to $100 for judges, clerks, and sheriffs. One county reported a combined precinct inspector per diem of $165.

A precinct has the following election officers.

Type of Officer	Number
Inspector	1
Judge	2
Poll Clerk	2
Sheriff	2
Asst. Poll Clerk	2 (Optional)

Explanation of Local Revenues:

State Agencies Affected: Indiana Election Division; Indiana Election Commission; Indiana State Recount Commission; Indiana Supreme Court; Indiana Clerk of the Supreme Court; Intelenet Commission.

Local Agencies Affected: County election boards; circuit court clerks; towns; county voter registration office; precinct election boards; School corporations.

Information Sources: Brad King, Co-Director, Indiana Election Division; Robert Vane, Marion County Election Board, (317) 327-5117; Voter Registration, Marshall County Circuit Court Clerk's Office, (574) 935-8713; Warren County Clerk's Office, (765) 762-3510; Angela Owensby, Lake County Election Board, (219) 755-3443; Kosciusko County Clerk's Office, (574) 372-2332; Johnson County Clerk's Office, (317) 736-3708; Janice Sexton, Vigo County Clerk's Office (812) 462-3214; Orange County Clerk's Office, (812) 723-2649; Randolph County Clerk's Office, (765) 584-4214; Perry County Auditor, (812) 547-6427;

Hendricks County Election Board (317) 745-9313; Boone County Clerk's Office, (765) 482-3510; Terri Probasco, Tippecanoe County Board of Elections and Registration (756) 423-9303; Steve Shamo, Micro Vote, (317) 257-4900; Waterfield Insurance; Election Systems and Software (317) 913-0230; State Budget Agency: *FY2003 General and Rainy Day Fund Summaries*, BUDSTARS; Auditor of State, Object Trial Balance 6/30/03.

Fiscal Analyst: Chris Baker, 317-232-9851.