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**FISCAL IMPACT STATEMENT**

**LS 6781**

**BILL NUMBER:** SB 215

**NOTE PREPARED:** Feb 26, 2008

**BILL AMENDED:** Feb 26, 2008

**SUBJECT:** Various Election Law Matters.

**FIRST AUTHOR:** Sen. Landske

**FIRST SPONSOR:** Rep. Pierce

**BILL STATUS:** 2<sup>nd</sup> Reading - 2<sup>nd</sup> House

**FUNDS AFFECTED:**  **GENERAL**  
 **DEDICATED**  
 **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) The bill makes the following changes to the election law.

*Military, College, or Medicare ID-* The bill provides that an identification document issued by the Department of Defense, a branch of the uniformed services, the Merchant Marine, or the Indiana National Guard that has an indefinite expiration date, an identification issued by an approved institution of higher learning, or a Medicare card is an acceptable proof of identification to vote.

*Voter Challenges in Long-Term Care Facilities-* The bill provides that an individual confined to a long-term care facility may not be challenged solely on the basis that the address on the individual's application for an absentee ballot differs from the address shown on the individual's voter registration record

*Conference Reimbursement-* The bill restates county reimbursement procedures for attending the annual election administrators' conference.

*Voter Registration Workers-* The bill provides that certain individuals under the supervision of the criminal justice system may not be employed by a county board of voter registration.

*Voting While Under Lawful Detention-* The bill provides that a person who is subject to lawful detention but has not been convicted of a crime is eligible to register and vote until the person has been convicted of a crime and imprisoned following conviction.

*Contents of Reports-* The bill specifies the contents of statewide voter registration system reports.

*Voter Registration List Maintenance-* The bill specifies certain procedures in connection with voter list maintenance, and updates procedures for address changes of voter registration records in the statewide voter registration system.

*Return of Declaration of Candidacy Petitions-* The bill permits a county voter registration office to return to a candidate for President of the United States, United States Senator, or Governor, after the petition is certified, an original petition that accompanies a declaration of candidacy. The bill requires that a state chairman of a political party (in addition to a county chairman) certify that a candidate is a member of the political party with which a candidate claims affiliation.

*Matching Candidate and Ballot Questions/Device Certification Dates-* The bill changes several dates concerning the certification of ballot questions and devices to conform to the date in current law for the certification of candidates.

*Dissolving Candidate Committees-* The bill permits the dissolution of a committee without the waiver of outstanding civil penalties previously imposed on the committee, and specifies that the chairman or treasurer of the committee remains liable for any committee debts.

*Registration Records Update-* The bill requires that county voter registration records be updated not later than 60 days after election day or after completion of a recount or contest.

*Overseas Voters' Ballots-* The bill allows an overseas voter to transmit an absentee ballot application by electronic mail.

*Poll Clerks and Assistant Poll Clerks Checking Voter ID-* The bill provides that poll clerks and assistant poll clerks may ask a voter to show proof of identification.

*Exceptions to Proof of Identification-* The bill provides that a voter who executes an affidavit at the polls and is indigent or has a religious objection to being photographed is not required to present proof of identification.

*No Reason Absentee Voting-* The bill permits a voter who is qualified to vote in person to vote by absentee ballot. The bill removes all other qualifications for a voter to vote by absentee ballot except for a voter with disabilities who is unable to make a voting mark on the ballot or sign the absentee ballot secrecy envelope. (Such a disabled voter is currently required to vote before an absentee voter board.)

*Absentee Voter Signature Comparisons-* The bill provides that when a voter votes as an absentee voter, the voter's signature on the absentee ballot affidavit shall be compared with the signature on the voter's voter registration record.

*Carrier Envelopes-* The bill permits all absentee ballot envelopes and related voter applications that will be sent to the same precinct to be enclosed in the same carrier envelope.

*Voting System Technical Oversight Program Account-* The bill provides that the Voting System Technical Oversight Program Account is nonreverting.

*Vote Center Pilot County-* The bill provides that voters who reside within the area of a municipality located in a vote center pilot county may vote using vote center pilot county procedures.

*Absentee Ballot Counting-* The bill provides for the counting of an absentee ballot received by the county election board before the close of the polls on election day if the ballot is not otherwise successfully challenged.

*Analysis of Provisional Voting-* The bill requires the Secretary of State to publish an analysis of provisional voting in Indiana for each year in which a general or a municipal election is held.

*Counting of Ballots-* The bill requires the counting of a ballot that has been marked and cast by a voter in compliance with election law, but may otherwise not be counted solely as the result of the act or failure to act of an election officer unless evidence of fraud, tampering, or misconduct affecting the integrity of the ballot is presented.

*Beginning Date of Absentee Voting-* The bill makes the beginning date of absentee voting in the clerk's office or a satellite office one day later than under current law.

*Procedures for Absentee Ballots-* The bill requires a rejected absentee ballot to be treated as a provisional ballot. The bill requires the county election board to send a notice to a voter whose absentee ballot has been rejected providing certain information. The bill requires the county election board to meet before noon ten days after an election to provide provisional voters an opportunity to make a presentation in support of the validity of the provisional ballot and to determine which provisional ballots shall be counted. The bill makes certain procedural changes in processing provisional ballots.

*Floating Voters-* The bill requires the judges, in the presence of the inspector, to take all reasonable actions to register a voter's vote when the voter voting on a direct record electronic voting machine has left the voting booth without recording the voter's votes.

*Inspecting Electronic Voting System Registers-* The bill permits a county election board to inspect the register or other recording device on an electronic voting system without obtaining the authority of the State Recount Commission.

*Miscellaneous Procedures-* The bill provides that individual votes cast by a voter for an office for the candidates of the same political party for which the voter cast a straight party ticket may not be counted unless the straight party ticket vote is not counted. The bill amends provisions concerning candidate ballot vacancy procedures. The bill establishes a procedure for candidate withdrawals, challenges, and write-ins for certain elected members of a county board of tax and capital projects review. The bill revises precinct boundary change procedures. The bill provides that the third member of a recount commission is not required to be a mechanic familiar with voting systems. The bill requires the court appointing a recount commission to appoint a mechanic to serve as a nonvoting advisor to the recount commission.

*Treasurer of State Office Date-* The bill provides that an individual elected Treasurer of State takes office January 1 following the individual's election. The bill provides that the individual elected Treasurer of State at the 2006 election vests as a member of PERF if the individual is reelected as Treasurer of State at the 2010 election and serves in office until January 1, 2015.

*State Officer PERF Vested Status-* The bill establishes 65 years of age with at least eight years of creditable service as the normal retirement age for a state officer listed in Article 6, Section 1, of the Constitution of the State of Indiana.

*School Plan Changes-* The bill provides for the initiation of the change of a school corporation's organization plan if 10% of the active voters in the school corporation sign a petition for the change. (Under current law, 20% of the voters in a school corporation must support a petition for a change in the school corporation's organization plan.)

*HAVA Reimbursement of Certain Counties-* The bill provides for the reimbursement of a county that has purchased or will purchase a new voting system to replace a voting system that the county cannot use because the county is unable to obtain technical or other operating support for its current voting system, if the purchase is eligible for reimbursement under the federal Help America Vote Act (HAVA). The bill requires that any HAVA money received after December 31, 2007, must be allocated to reimburse Boone, Cass, Parke, and Randolph Counties. The bill requires the Secretary of State to petition the federal Election Assistance Commission for authority to use HAVA money to reimburse the counties listed above. The bill appropriates \$125,200 from the state General Fund to match any HAVA money received by the state after December 31, 2007.

*Repealers-* The bill repeals the following statutes: a statute providing that an absentee ballot may not be counted if the ballot does not contain initials of certain election officials; a statute relating to opening absentee ballot envelopes; a statute that requires a provisional ballot to be rejected if it does not contain certain initials; a statute imposing criminal penalties for the inspection of a voting system without the permission of the Recount Commission; and obsolete references concerning voting instructions, paper ballots, and special polling places.

**Effective Date:** Upon passage; January 1, 2008 (retroactive); July 1, 2008.

**Explanation of State Expenditures:** *Matching Candidate and Ballot Questions/Device Certification Dates-* The bill would place the certification of public questions and devices on the same date as the certification of nominees and ballot placement. Under current law, the deadline for Secretary of State certification of independent or minor political party candidates, public questions, and providing counties with political party devices is noon, August 20. The bill would place this deadline at 74 days before the general election. Therefore, the proposed deadline for the 2008 general election would be approximately noon on Friday, August 22, 2008.

*Analysis of Provisional Voting-* The Secretary of State (SOS) would require additional administrative time to complete the report. It is likely the SOS would be able to complete reports on provisional voting within their existing level of resources. The SOS already produces electronic reports of election results, including the number of provisional ballots cast and counted by county.

The report would have to include the following information:

- (1) The number of provisional ballots cast by county.
- (2) The reasons that the provisional ballots were cast.
- (3) The number of provisional ballots counted and not counted.
- (4) Measures of variance in casting of provisional ballots by county.
- (5) Length of time to check validity and county provisional ballots by county.
- (6) The variation in the use of provisional ballots among all counties.

As indicated above, data items one and three are currently reported. In order to collect the remaining information, the Election Division may need to revise the CEB-9 forms to include the data items not currently

reported by county election boards.

At the end of FY 2007, the SOS reverted \$42,178 to the state General Fund.

*Treasurer of State Office Date-* The provision could result in a minimal increase in administrative costs and expenditures for the Public Employees' Retirement Fund (PERF). Any increase in PERF expenditures would not be certain to occur until after the 2010 election. If the Treasurer of State is reelected at the 2010 election and serves until January 1, 2015, they would be considered vested in PERF and may be eligible for PERF benefit payments. If the Treasurer of State is not reelected in 2010, no impact to state expenditures would occur from this specific provision.

*State Officer PERF Vested Status-* The bill would allow a state officer (Auditor, Secretary of State, or Treasurer) whose term of office commenced after the 2002 general election to be eligible for normal retirement and vest in PERF if the state officer is 65 and served as a state officer for at least *eight* years, or was elected at least two times and would have served at least *eight* years had not a uniform date of term commencement shortened their term. If the state officer does not meet these criteria, then they could meet the retirement age and years of service criteria of the public retirement and disability benefits statute and vest in PERF. Were an elected state officer to become eligible for PERF benefits through the bill, PERF expenditures would increase by an indeterminable amount to pay for retirement benefits to qualifying former state officers. It is likely this provision would not present a significant increase to PERF expenditures.

Under current law, minimal service for a state employee to receive vested status is 10 years. The current public employees' retirement and disability age and years of service provisions are as follows in IC 5-10.2-4-1.

Retirement Type	Age and Years of Service
PERF members retiring before July 1, 1995; Teachers Retirement Fund (TRF) members retiring before May 2, 1989	Minimum Age: 65, Years of Service: at least 10
PERF Members retiring after June 30, 1995; TRF members retiring after May 1, 1989	Minimum Age: 65, Years of Service: at least 10; or Minimum Age: 60, Years of Service: at least 15; or Sum of Age and Years of Service equals 85 with minimum age of 55.
Early Retirement with reduced benefits	Minimum Age: 50, Years of Service: at least 15

*HAVA Reimbursement of Certain Counties-* Any increase in state expenditures under this provision would depend on approvals by the Budget Agency and Budget Committee for reimbursement from HAVA funds. Any amount received from the federal government for HAVA after December 31, 2007, would be used for reimbursement to eligible counties under the bill and would depend on the availability of HAVA funds in the future.

*Appropriation-* The bill appropriates \$125,200 to the Election Administration Assistance Fund from the state General Fund. The appropriation would cover the time period beginning July 1, 2008, and expiring

after June 30, 2011.

*Background-* Boone, Cass, Parke, and Randolph Counties have purchased voting systems with their original allotment of HAVA funds. These four counties purchased voting systems from a vendor that is no longer able to provide technical support. Cass County has about \$73,000 remaining in their HAVA voting system replacement allotment. Boone County may be able to qualify for a portion of a \$2 M allotment from the federal government for counties that purchased a voting system between 1998 and 2001 (prior to HAVA, Boone purchased a voting system in 1999, before the purchase of their current voting system). Parke and Randolph have expended their entire HAVA disbursement.

About \$5.1 M remained in Sec. 101 HAVA voting system replacement funds as of October 31, 2007. All \$5.1 M has been obligated to other counties for their initial purchase of voting systems.

**Explanation of State Revenues:** *Dissolving Candidate Committees-* This provision could increase collection of outstanding civil penalties assessed on candidate committees. Under current law, in order to be administratively dissolved, the Election Commission must determine that further effort to collect outstanding civil penalties from a committee is not a prudent use of state resources. This provision would give the Election Commission the option to waive penalties *after* a committee has been administratively dissolved. Therefore, committees could be dissolved while remaining liable for any civil penalties assessed. As of December 19, 2007, there were approximately 43 committees with \$24,000 in unpaid civil penalties that have been turned over to the Attorney General by the Election Division. Civil penalties collected from candidate committees are deposited into the Campaign Finance Enforcement Account.

*Voting System Technical Oversight Program Account-* The Secretary of State would be able to use revenue from the Program Account to investigate alleged violations of election law. Additionally, the account would receive revenues from certification fees for voting systems (currently \$1,500 per certification) and contributions from a settlement agreement executed with a voting system vendor. The bill would make the Program Account nonreverting to the General Fund. Under current law, only civil penalties from voting system violations are deposited into the Program Account. As of June 30, 2007, \$245,000 in revenue had been deposited in the Program Account. No further revenues have been deposited into the Program Account since June 30, 2007.

**Explanation of Local Expenditures:** *Conference Reimbursement-* All expenses allowed for newly elected or appointed clerks or county election board office holders to attend the Election Division instructional conference would be paid from the county general fund. Under current law, only the registration fee is to be paid from the county general fund. The other allowances under current law are a \$24 per diem, mileage, and lodging equal to state rates.

*Voting While Under Lawful Detention-* The bill would require absentee voter boards to travel to facilities holding persons under lawful detention. As a result, the administrative time of absentee voter boards may increase to travel to places of lawful detention and to process the additional absentee votes received.

*Absentee Ballot Counting-* County election boards may end up with additional absentee ballots to process. This provision would be accomplished within existing county election board resources.

*Beginning Date of Absentee Voting-* This provision would allow county election boards to more efficiently process voter registrations received on the last day of voter registration, which under current law coincides

with the first day of absentee voting before the board.

*No Reason Absentee Voting-* This provision would increase the production of absentee ballots. The specific impact of this provision would depend on the additional number of absentee ballots printed by each county election board. [During the 2006 general election, 170,552 voters voted absentee, or 10% of total votes cast. The 2006 primary election saw 61,345 voters voting absentee, or about 7.2% of total voters voting. During the 2004 general election 260,550 voters voted via absentee, or about 10.4% of total voters voting.]

*Casting Absentee Ballots at Satellite Offices-* This provision would require the unanimous vote of the county election board to implement. If implemented, absentee ballots would be cast in satellite offices only.

*Analysis of Provisional Voting-* County election boards would likely require additional administrative time to report the additional data items detailed above to the SOS.

*Procedures for Absentee Ballots-* If notices are sent by mail, county election boards would require an increase in expenditure for postage. This provision could increase the workload of county election boards to conduct absentee ballot hearings.

*Vote Center Pilot County-* The provision could minimally reduce the cost of municipal elections in the Town of Otterbein, which is in both Benton and Tippecanoe Counties. Benton County has election jurisdiction for the town. Otterbein had a population of about 1,300 persons in 2000. The town has not held a municipal election since 1995, which was conducted by Benton County.

*Election Procedures for Tax and Capital Projects Review Board-* This provision would minimally increase the required administrative time of county election boards to review petitions of candidacy. Petitions of candidacy for a county tax and capital projects review board would probably not generate a large number of signatures to verify. Under current law, 100 signatures are required for a successful nomination petition for a county tax and capital projects review board candidate.

**Explanation of Local Revenues:** *Dissolving Candidate Committees-* This provision could increase the collection of outstanding civil penalties assessed on candidate committees. Under current law, in order to be administratively dissolved, county election boards must determine that further efforts to collect outstanding civil penalties from a committee are not a prudent use of local resources. The bill would allow boards the option to waive penalties *after* a committee has been administratively dissolved. Therefore, committees could be dissolved while remaining liable for any penalties assessed.

*School Plan Changes-* The provision could increase the administrative time necessary for clerks to process additional petitions regarding change in the composition and election procedure of governing body members. Under current law, 20% of voters within a school corporation must sign such a petition. The bill would require 10% of *active* voters to sign a petition.

**State Agencies Affected:** Secretary of State, Election Division, Department of Correction; Treasurer of State; Auditor of State.

**Local Agencies Affected:** County Election Boards; Circuit Court Clerk; precincts.

**Information Sources:** Joe McLain, Indiana Secretary of State's Office; State Budget Agency, Auditor's Data; Election Division; Benton County Clerk's Office, 765-884-0930.

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