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FISCAL IMPACT STATEMENT

LS 7228

BILL NUMBER: HB 1557

NOTE PREPARED: Jan 17, 2009

BILL AMENDED:

SUBJECT: Various Election Law Matters.

FIRST AUTHOR: Rep. Battles

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

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 content 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.)

Voters Before the Chute- The bill provides that a voter in line behind voters in the chute at the time the polls close is entitled to vote unless the voter is otherwise not qualified to vote.

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 otherwise may 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 (CEB) to send a notice to a voter whose absentee ballot has been rejected providing certain information. The bill requires the CEB to meet before noon ten days after an election to provide a provisional voter an opportunity to make a presentation in support of the validity of the voter's 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 CEB to inspect the register or other recording device on an electronic voting system without obtaining the authority of the State Recount Commission (SRC).

Miscellaneous Procedures- The bill provides that individual votes cast by a voter for the candidates for an office 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 revises precinct boundary change procedures.

Court-Appointed Mechanic- 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.

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.)

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: July 1, 2009.

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 (SOS) 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 have been approximately noon on Friday, August 22, 2008.

Analysis of Provisional Voting- The Secretary of State 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 counting 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.

Background- The SOS reverted \$155,800 to the General Fund at the end of FY 2008.

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 had 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. [This section will be revised as updated information on candidate committees becomes available.]

Voting System Technical Oversight Program Account (VSTOPA)- 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 VSTOPA nonreverting to the General Fund. Under current law, only civil penalties from voting system violations are deposited into the VSTOPA. As of June 30, 2007, \$245,000 in revenue had been deposited in the VSTOPA. No further revenues have been deposited into VSTOPA 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 the 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. [The statewide total absentee voting percentage was 24% in the 2008 general, 11% in the 2008 primary, and 10% in the 2006 general elections.]

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.

Court-Appointed Mechanic- This provision would increase the workload of local courts of jurisdiction. The impact should be minimal with respect to their current case loads.

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: SOS, Election Division, Department of Correction; Treasurer of State; Auditor of State.

Local Agencies Affected: County election boards; Circuit court clerk; Precincts; Courts.

Information Sources: State Budget Agency, Auditor's Data; Election Division; Benton County Clerk's Office, 765-884-0930.

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