

Date Printed: 02/10/2009

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JTS Box Number: IFES\_50  
Tab Number: 9  
Document Title: INDIANA ELECTION CODE 1993 EDITION  
Document Date: 1993  
Document Country: USA  
Document Language: ENG  
IFES ID: EL00667



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# INDIANA ELECTION CODE

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1993 EDITION



Indiana State Election Board

# INDIANA ELECTION CODE

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## 1993 EDITION

Issued under the authority of the  
Indiana State Election Board:

Evan Bayh, Governor  
Roderick H. Morgan, Chairman  
Robert L. Wright, Member  
Roger H. Schmelzer, Member  
David H. Maidenberg, Executive Director



Indiana State Election Board  
Indiana Government Center South,  
Room E032  
302 West Washington Street  
Indianapolis, Indiana 46204-2738  
(317) 232-3939

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Charlottesville, Virginia

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# 1993 Indiana Election Legislation Summary

Prepared by the Indiana State Election Board



The following is a summary of election-related legislation that passed the Indiana General Assembly and became law in 1993. Nine bills passed that made substantive changes to election law: HEA 1151 (Public Law 1-1993); HEA 1708 (Public Law 3-1993); HEA 1722 (Public Law 14-1993); HEA 1196 (Public Law 15-1993); HEA 1066 (Public Law 16-1993); HEA 1283 (Public Law 17-1993); HEA 1483 (Public Law 18-1993); SEA 434 (Public Law 19-1993); and HEA 1043 (Public Law 20-1993). SEA 24 (Public Law 2-1993), SEA 485 (Public Law 8-1993), and SEA 225 (Public Law 11-1993) also made technical amendments to the election code concerning the recodification of the public health law (IC 16), limited liability companies, and the "sunset" process for state agencies.



**NOTE:** The National Voter Registration Act of 1993 (better known as "Motor Voter") was signed into law on May 20, 1993. *THIS IS FEDERAL, NOT STATE, LEGISLATION*, and is effective for most purposes on January 1, 1995.

For more information, refer to the enrolled act or contact the State Election Board.

## ABSENTEE VOTING AND TRANSFER REQUESTS




1. The State Election Board may, by unanimous vote, establish a pilot project for the central counting of absentee ballots in up to five counties, after a unanimous vote by the county election board to apply for project designation. The procedure for conducting a central count of absentee ballots is established. Expires December 31, 1995. (IC 3-11.5, as added by SEA 434, SECTION 2, and HEA 1708, SECTIONS 176, 287. Effective July 1, 1993.)

2. A precinct election board officer or absentee ballot counter in a county participating in the pilot project for the central count of absentee ballots who violates voter privacy, prematurely disclose vote totals, or knowingly miscounts ballots commits a Class D felony, punishable by up to 3 years in prison and a maximum fine of \$10,000. (IC 3-14-2-6, IC 3-14-2-27, IC 3-14-4-8, as amended by HEA 1708, SECTIONS 232-233, and 235. IC 3-14-4-10, as added by HEA 1708, SECTION 236. Effective July 1, 1993.)




3. A voter who resided in an Indiana precinct and changes residence to another Indiana precinct in the final 30 days before election day may return to the voter's former precinct and, upon filing a request for transfer affidavit, vote for all offices on the ballot in the former precinct. This voter may also request and execute the transfer affidavit at the former precinct. If the voter has moved out of the county, the clerk or board of the former county must cancel the voter's registration upon receiving the affidavit. (Formerly, this voter could only vote in the former precinct if the voter moved within the same county, and was required to execute the transfer affidavit in the office of the circuit court clerk or board of registration before election day). (IC 3-7-4.5, as added by HEA 1283, SECTION 4; IC 3-7-8-2, as amended by HEA 1283, SECTION 5; IC 3-7-8-11.5, as added by HEA 1283, SECTION 7. Effective July 1, 1993)

 4. An elderly voter (a voter who is at least 65 years of age) and any disabled voter (not only a disabled voter with an inaccessible precinct) may vote absentee whether or not the elderly or disabled voter's precinct is accessible. (IC 3-11-4-1, as amended by HEA 1708, SECTION 124. Effective July 1, 1993.)

5. A county election board may, by unanimous vote, authorize a travelling board to travel outside of the county to visit a confined voter. (IC 3-11-10-25, as amended by HEA 1708, SECTION 152. Effective July 1, 1993.)

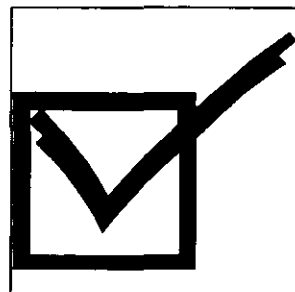
6. The state election board will prepare a special early absentee ballot for military voters outside of the United States and overseas voters. The ballot will not contain party or candidate names and would be supplied by the State Election Board to clerks in June for mailing to voters outside of the U.S. The ballot must include a form permitting absentee registration. These voters will also be mailed a regular absentee ballot when the ballot becomes available. If a military or overseas voter returns both a regular absentee ballot and the special overseas absentee ballot, then only the regular absentee ballot is counted. (IC 3-11-4-12, IC 3-11-4-13, IC 3-11-4-18, as amended by HEA 1708, SECTIONS 126-128; IC 3-11-10-12, as amended by HEA 1708, SECTION 151. Effective July 1, 1993.)

7. A person assisting a confined voter in voting before a traveling absentee board is not required to execute an affidavit concerning assisting the voter. (IC 3-11-9-2 and IC 3-11-9-3, as amended by HEA 1708, SECTIONS 149-150. Effective July 1, 1993.)


 8. A general power of attorney does not give the principal authority to cast an absentee ballot or regular ballot for the person. (IC 30-5-5-14, as amended by HEA 1708, SECTION 251. Effective July 1, 1993.)

9. An absentee ballot voted before a traveling board is required to have the initials of the absentee board located in the circuit court clerk's office. (IC 3-11-10-27, as amended by HEA 1708, SECTION 153. Effective July 1, 1993.)

10. The affidavit for "presidential only" voting may be executed at a substation as well as the principal office of the clerk. The clerk or board must mail a copy of the affidavit to a voter who requests it not later than 5 days before election day, and process the affidavit if the voter returns it. (IC 3-7-4-3, as amended by HEA 1708, SECTION 36. Effective July 1, 1993.)



### BALLOTS, SUPPLIES, AND RETENTION

 1. Generally, all election related material must be retained for 22 months after the election, and can then be disposed of after appropriate action by the county commission on public records.

\* Unused ballots can be disposed of immediately after the deadline for filing a recount or contest (instead of 22 months under former law), and may be destroyed in any manner (not just by burning or shredding).

\* Poll lists must be retained for 22 months (instead of 5 years under former law).

\* Cancelled registration records must be retained for 22 months following the first general or municipal election occurring after the records were

cancelled (instead of permanently retained under former law).

\* Election material from city and town elections or special elections must be retained for 22 months (instead of 3 months under former law).

\* Certificates and petitions of nomination must be retained for 22 months (instead of 6 months under former law).

(IC 3-7-9-20, as amended by HEA 1722, SECTION 22; IC 3-8-7-24, as amended by HEA 1708, SECTION 79; IC 3-10-1-31, as amended by HEA 1708, SECTION 93; IC 3-11-3-31, as amended by HEA 1708, SECTION 123; IC 3-11-8-30, as amended by HEA 1708, SECTION 148. Effective July 1, 1993.)

2. The State Election Board or a county election board may either reprint ballots with errors or to use ballots despite an error or omission if: (1) after a public hearing with notice to each interested party, no voter objects to using the ballots; and (2) the board finds that using the ballots would not be likely to result in voter confusion or mistakes. If the ballots are reprinted, defective ballots already cast are legalized if voter intent can be determined. (IC 3-11-2-16, as added by HEA 1708, SECTION 118. Effective July 1, 1993.)

3. The county election board must notify county chairmen before distributing ballots so that county chairmen may inspect the ballots if they wish. (IC 3-6-5-14, as amended by HEA 1708, SECTION 13. Effective July 1, 1993.)

4. If a candidate dies, but the county election board has not yet received the death certificate (due to a delay in the coroner's investigation, for example), the board may find that there is good cause to believe that the candidate has died, and order that the circuit court clerk (or absentee voter board and precinct inspectors if necessary) put opaque pasters over the candidate's name on the ballot. (IC 3-11-3-29.5 and IC 3-11-3-30, as added by HEA 1708, SECTIONS 121-122. Effective July 1, 1993.)

5. If a county has a computerized registration system and furnishes the inspector with a certified printout of the "ten day run", the county election board is not required to have looseleaf or book poll lists also printed and delivered to the precincts. (IC 3-11-3-17, as amended by HEA 1708, SECTION 119. Effective July 1, 1993.)

6. A county election board must have voting instructions for polling places printed in at least 14 point type. The precinct election board must have a magnifier available to furnish to voters upon request. (IC 3-11-3-22, as amended by HEA 1708, SECTION 120. Effective July 1, 1993.)





7. The voting instructions to be printed on all ballots have been revised to state that a vote for an independent candidate will not be counted for any other independent candidate on the ballot, and to state that a write-in vote will not be counted unless the vote is for a declared write-in candidate. The instructions to be printed on the ballot for straight party voting have been slightly reworded. (IC 3-11-2-9, IC 3-11-2-10, as amended by HEA 1708, SECTIONS 116-117; IC 3-11-11-10, as amended by HEA 1708, SECTION 159; IC 3-11-13-12, as amended by HEA 1708, SECTION 165. IC 3-11-2-11, repealed by HEA 1708, SECTION 282. Effective July 1, 1993.)

8. A voter may use a pen or a pencil to vote a paper ballot. (IC 3-11-11-6, as amended by HEA 1708, SECTION 158. Effective July 1, 1993.)


9. A write-in vote cast on a punch card secrecy envelope makes the envelope a ballot for election law purposes. (IC 3-11-13-28.7, as amended by HEA 1708, SECTION 169, Effective July 1, 1993.)
10. An independent candidate is placed on statewide ballots after political party tickets that ran a candidate for Secretary of State in the last election for that office. If a political party did not run a candidate for that office, the party or independent ticket is placed on the ballot in which the petition of nomination was filed. (IC 3-10-4-2, IC 3-10-4-5, as amended by HEA 1708, SECTIONS 96-97; IC 3-11-2-6, as amended by HEA 1708, SECTION 115; IC 3-11-5-10 and IC 3-11-7-4, as amended by HEA 1708, SECTIONS 130-131; IC 3-11-12-18, as amended by HEA 1708, SECTION 162. IC 3-11-14-7, as amended by HEA 1708, SECTION 171. Effective July 1, 1993.)
11. The declaration of candidacy forms are revised to include the name of the candidate as the candidate wishes for it to appear on the ballot; the mailing address of a candidate, if different from the residence address; a statement indicating whether a candidate has filed all annual campaign finance reports from previous campaigns; an explicit reference to the requirements for residency and lack of criminal convictions; the political party affiliation of write-in candidates, if any. (IC 3-8-2-2.5, as amended by HEA 1708, SECTION 57; IC 3-8-5-10.5, as amended by HEA 1708, SECTION 65; IC 3-8-6-5, as amended by HEA 1708, SECTION 72. Effective July 1, 1993.)
12. In Lake County, in precincts where a voting machine or electronic voting system malfunctions, the County Election Board must provide not less than ten paper ballots if the precinct has no more than 300 registered voters, and not less than 25 paper ballots if the precinct has more than 300 registered voters. (IC 3-11-3-35, as amended by HEA 1043, SECTION 1. Effective July 1, 1993)
13. The certificate of nomination for major party candidates nominated by small town convention has some technical revisions. (IC 3-8-5-14, as amended by HEA 1708, SECTION 68. Effective July 1, 1993)
14. In presidential election years, at least one copy of the "presidential only" affidavit must be included in each inspector's supplies. (IC 3-7-4-3, as amended by SECTION 36, HEA 1708. Effective July 1, 1993.)

### CAMPAIGN FINANCE


 1. A candidate must state on the declaration of candidacy form if the candidate has filed all annual campaign finance reports from any previous campaigns. (IC 3-8-2-2.5, as amended by HEA 1708, SECTION 57. Effective July 1, 1993.)

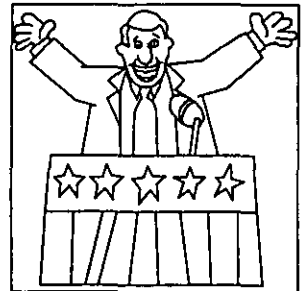
 2. The State Election Board (or a county election board) may, after an administrative hearing, impose a fine on candidates who fail to file the annual campaign finance report after the board notifies the candidate of the delinquency. The board may impose a fine of \$10 per day the report is late, for a maximum fine of \$100. Fines are deposited in a newly created campaign finance enforcement account. (IC 3-9-4-16, IC 3-9-4-17, as added by HEA 1708, SECTIONS 89-90. Effective July 1, 1993.)



3. If a candidate has been fined by the State Election Board or a county election board for failure to file an annual report, and has not filed the annual report when the candidate runs in a subsequent election, the board may fine the candidate \$1,000. The state auditor or local fiscal officer may withhold money from the elected official's paycheck to collect the fine. (IC 3-9-4-18, as added by HEA 1708, SECTION 91. Effective July 1, 1993.)
4. A candidate for any local office or school board office (as well as a candidate's committee) cannot use campaign funds for personal purposes. This restriction does not apply to candidates for federal office since the restrictions under federal law apply. (IC 3-9-3-1, IC 3-9-3-4, as amended by HEA 1708, SECTIONS 86-87. Effective July 1, 1993.)
5. If a committee disbands, the committee has the option of returning contributions to contributors on a pro rata basis. (IC 3-9-1-12, as amended by HEA 1708, SECTION 83. Effective July 1, 1993.)
6. When a committee treasurer is removed, the treasurer must file a final report with the circuit court clerk or State Election Board within 30 days (resolving a conflict in former law which provided for a final report within 20 days and 30 days in some cases). (IC 3-9-1-19, as amended by HEA 1708, SECTION 84. Effective July 1, 1993.)
7. Candidates for precinct committeeman or state convention delegate are not subject to campaign finance statutes. (IC 3-9-1-1, as amended by HEA 1708, SECTION 81; IC 3-9-2-1, as amended by HEA 1708, SECTION 85; IC 3-9-4-1, as amended by HEA 1708, SECTION 88. Effective July 1, 1993.)
8. An independent candidate must have a candidate's committee. (IC 3-9-1-4, as amended by HEA 1708, SECTION 82. Effective July 1, 1993.)
9. A person who recklessly commingles campaign funds commits a Class B misdemeanor, punishable by a maximum fine of \$1000 and imprisonment for 6 months. (IC 3-14-1-14.5, as added by HEA 1708, SECTION 231. Effective July 1, 1993.)
-  10. Campaign finance reports are not required to be notarized. (IC 3-9-5-17 repealed by HEA 1708, SECTION 282.)

## CANDIDATES

-  1. All candidates for local office or school board office must have the "Paid for and Authorized by..." disclaimer on all campaign literature. (IC 3-9-3-1, as amended by HEA 1708, SECTION 86. Effective July 1, 1993.)
2. All candidates (including school board candidates) must include a statement on any material soliciting contributions stating that the contributions are not tax deductible. (IC 3-9-2-1, as amended by HEA 1708, SECTION 85. Effective July 1, 1993.)



3. A candidate must state the following additional information on a declaration of candidacy form: (1) the name of the candidate as the candidate wishes for it to appear on the ballot; (2) the mailing address of a candidate, if different from the residence address; (3) whether the candidate has filed all annual campaign finance reports from previous

campaigns; (4) that the candidate complies with any requirements for residency and lack of criminal convictions; and (5), if a write-in candidate, any political party affiliation. (IC 3-8-2-2.5, as amended by HEA 1708, SECTION 57; IC 3-8-2-7, as amended by HEA 1708, SECTION 60; IC 3-8-5-10.5, as amended by HEA 1708, SECTION 65; IC 3-8-6-5, as amended by HEA 1708, SECTION 72. Effective July 1, 1993.)

4. A person seeking to fill an "early" candidate vacancy must file a declaration of candidacy with the caucus chairman at least 72 hours before the caucus. (IC 3-13-1-10.5, as added by HEA 1708, SECTION 222. Effective July 1, 1993.)

5. An "early" candidate vacancy caucus must adopt rules of procedure. (IC 3-13-1-11, as amended by HEA 1708, SECTION 223. Effective July 1, 1993.)

6. The chairman of an early candidate vacancy caucus must certify the appointment of a candidate to the Secretary of State or circuit court clerk not more than 3 days after the candidate is selected. (IC 3-13-1-15, as amended by HEA 1708, SECTION 224. Effective July 1, 1993.)

7. The state election board (or a county election board) shall resolve any question concerning the validity of a selection to fill an early candidate vacancy by noon October 1. (IC 3-13-1-16.5, as added by HEA 1708, SECTION 225. Effective July 1, 1993.)

8. A person who was defeated at a primary election, town convention, or state convention, is eligible to fill an early candidate vacancy. A person is considered a member of a party, for purposes of this provision, by voting in the most recent primary of that party, or having a certificate from the county chairman of the party where the person resides. (IC 3-13-1-19, as amended by HEA 1708, SECTION 226. Effective July 1, 1993.)

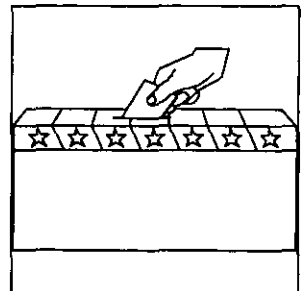
9. A minor political party must use separate petitions of nomination for statewide office and local office. An "independent candidate" cannot include the name of another independent candidate on a petition of nomination (except for a running mate, such as a Vice-Presidential or Lieutenant Governor candidate). (IC 3-8-6-4, as amended by HEA 1708, SECTION 71. Effective July 1, 1993.)

10. An independent or minor party candidate may withdraw a petition of nomination by noon August 1 (instead of July 15). (IC 3-8-6-13.5, as amended by HEA 1708, SECTION 73. Effective July 1, 1993.)

11. A question concerning the validity of a petition of nomination shall be determined by the State Election Board (or a county election board) no later than noon August 20. (IC 3-8-6-14, as amended by HEA 1708, SECTION 74. Effective July 1, 1993.)

12. An independent candidate who is also nominated by a political party must choose whether to run as an independent or as a party nominee. (IC 3-8-7-21, IC 3-8-7-22, IC 3-8-7-23, as amended by HEA 1708, SECTIONS 76-78. Effective July 1, 1993.)

13. A write-in candidate must file a declaration of intent by noon 74 days before the election (instead of 30 days under former law). (IC 3-8-2-4, as amended by HEA 1708, SECTION 59. Effective July 1, 1993.)




14. A write-in candidate for statewide office must file an economic disclosure statement (IC 4-2-6-8, as amended by HEA 1708, SECTION 237. Effective July 1, 1993.)
15. The Secretary of State must certify to the circuit court clerk any political party affiliation of a write-in candidate (to help implement a federal law on write-in votes). (IC 3-8-7-30, as amended by HEA 1708, SECTION 80. Effective July 1, 1993.)
16. The State Election Board or a county election board must determine any question concerning the validity of a write-in candidate not later than noon 7 days before election day. (IC 3-8-2-14, as amended by HEA 1708, SECTION 62. Effective July 1, 1993.)
17. A write-in candidate may not withdraw after noon 7 days before election day. (IC 3-8-2-2.7, as added by HEA 1708, SECTION 58. Effective July 1, 1993.)
18. The residence time requirements for candidates in IC 3-8-1 refer to the general election, not the primary election. This codifies a recent Indiana court of appeals decision. (IC 3-8-1-1.7, as added by, HEA 1708, SECTION 53. Effective May 12, 1993.)
19. The ban on felons as candidates does not apply to federal offices. (IC 3-8-1-5, as amended by, HEA 1708, SECTION 54. Effective May 12, 1993.)
20. A candidate in a special election held following an election contest must have been on the ballot (or a declared write-in candidate) in the contested election. (IC 3-10-8-9, as added by HEA 1708, SECTION 110. Effective retroactive December 1, 1992.)
21. A candidate for small claims court constable must be a resident of the township (instead of the county). (IC 3-8-1-31, as amended by, HEA 1483, SECTION 1. Effective July 1, 1993)

### **CANVASSING AND RECOUNTS**




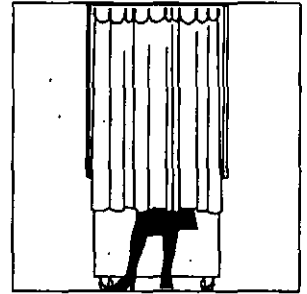
1. The "county canvassing board" is abolished, and its duties are transferred to the county election board. (HEA 1708, SECTION 284; IC 3-6-5-9, as amended by HEA 1708, SECTION 12; IC 3-6-5-17 as amended by HEA 1708, SECTION 15; IC 3-6-8-4, IC 3-6-9-6, and IC 3-6-9-7, as amended by HEA 1708, SECTIONS 26-28; IC 3-10-1-33, as amended by HEA 1708, SECTION 94; IC 3-10-6-4, as amended by HEA 1708, SECTION 101; IC 3-11-14-31, as amended by HEA 1708, SECTION 175; IC 3-12-2, IC 3-12-3, IC 3-12-2.5, IC 3-12-4, as amended by HEA 1708, SECTIONS 179, 181-207; IC 3-12-6, as amended by HEA 1708, SECTIONS 215-217; IC 3-12-11, as amended by HEA 1708, SECTIONS 219-221; IC 36-5-1.1-10.6, as amended by HEA 1708, SECTION 270. IC 3-12-4-2, as repealed by HEA 1708, SECTION 282. Effective July 1, 1993.)
2. A vote for an independent candidate will be counted only for the independent candidate (and a running mate for Vice-President or Lieutenant Governor) and not for any other independent candidate on the ballot. (IC 3-11-2-9, IC 3-11-2-10, as amended by HEA 1708, SECTIONS 116-117; IC 3-11-11-10, as amended by HEA 1708, SECTION 159. IC 3-11-12-29, as amended by HEA 1708, SECTION 163. IC 3-11-13-14, as amended by HEA 1708, SECTION 166. IC 3-11-13-31.7, as amended by HEA 1708, SECTION 170; IC 3-11-14-23, as amended by HEA 1708, SECTION 174. Effective July 1, 1993.)
3. The special early absentee ballot for military voters stationed overseas and other overseas votes is not counted if the regular absentee ballot from the voter was received in

time or submitted from within the United States. (IC 3-12-2-7, as amended by HEA 1708, SECTION 180. Effective July 1, 1993.)

 4. A write-in vote for a candidate on the ballot, such as "George Bush" or "Bill Clinton" is to be counted if voter intent can be determined. A write-in vote can be cast by lead pencil. (IC 3-12-1-1.7, as amended by HEA 1708, SECTION 177. Effective July 1, 1993.)


5. When voting for "at large" members of a legislative body (such as a county or city council), if a vote is cast for a straight ticket (Party A) AND for ALL council candidates of Party B (not just SOME candidates of Party B under current law), then the individual candidate votes for Party B are counted. (IC 3-11-7-8, as amended by HEA 1708, SECTION 134; IC 3-12-1-7, as amended by HEA 1708, SECTION 178. Effective July 1, 1993.)

 6. The canvassing of votes by the county election board must be performed in public in accordance with the Open Door Law in a room that contains adequate space for members of the public to witness the canvassing of votes. The county election board may restrict access to parts of the room where election material is being handled to safeguard the material. (IC 3-12-4-6, as amended by HEA 1708, SECTION 191. Effective July 1, 1993.)



7. The Indiana House and Senate meet in joint convention to hear the canvass of votes for Governor and Lieutenant Governor, and resolve any tie votes or contests involving elections to those offices. (IC 3-12-5-5, as amended by HEA 1708, SECTION 209. Effective July 1, 1993.)


8. The Governor is not required to present when the Secretary of State canvasses the votes for presidential electors, state offices, circuit court judge, and prosecuting attorney. (IC 3-12-5-7, as amended by HEA 1708, SECTION 211. Effective July 1, 1993.)

 9. A local recount commission may petition a court for a ruling on issues before the commission. (IC 3-12-6-21, as amended by HEA 1708, SECTION 213. Effective May 12, 1993.)

10. An appeal from the determination of a local recount commission is limited to questions of law arising out of the recount; and procedural defects that affected the outcome of the recount. (IC 3-12-6-21, as amended by HEA 1708, SECTION 214. Effective May 12, 1993.)

11. The state recount commission must complete a state legislative recount by December 20 after the election. (IC 3-12-11-21, as amended by HEA 1708, SECTION 218.)

## ELECTION ADMINISTRATION

 1. If a local election office is closed on an election filing deadline day, then the deadline falls on the next day that the office is open for business. (IC 3-5-4-1.5, as added by SECTION 5, HEA 1708. Effective July 1, 1993.)



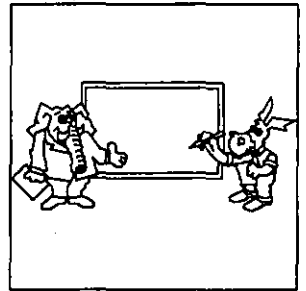
2. County election board members must attend an annual conference conducted by the state election board (not only in primary election years under former law). (IC 3-6-4-15, as amended by HEA 1708, SECTION 10. Effective May 12, 1993.)

3. A county election board must submit post-election reports to the state election board within 14 days after primary and special elections (as well as after general elections under former law). (IC 3-6-5-17, as amended by HEA 1708, SECTION 15. Effective July 1, 1993.)

4. The circuit court clerk is no longer required to certify to that State Election Board the number of absentee ballots required by the county. (IC 3-11-4-11, repealed by HEA 1708, SECTION 282. Effective July 1, 1993.)


5. The legal notice published before a general election must include the text of any judicial retention question or other public question on the ballot. (IC 3-10-2-2, as amended by HEA 1708, SECTION 94. Effective July 1, 1993.)

6. A circuit court clerk must submit election results to the Secretary of State by noon, the Monday after election day. The results may be hand delivered. (Former law provided for delivery of primary results by the Tuesday after election day; for general election results for local offices to be delivered 5 days after counting; for results in a governor's election on the day following the counting; for federal, state, and legislative results on the day following the return day of an election; for legislative results on the second Friday after the election. (IC 3-10-1-33, as amended by HEA 1708, SECTION 94. IC 3-12-5-1, IC 3-12-5-5, IC 3-12-5-6, as amended by HEA 1708, SECTIONS 208-210. IC 3-12-5-11, as amended by HEA 1708, SECTION 212. Effective July 1, 1993.)



7. An ordinance to redistrict county commissioner, county council, city council, or town council districts must be filed with the circuit court clerk. (IC 36-2-2-4.7, IC 36-2-3-4.7, as added by HEA 1708, SECTIONS 257 and 259; IC 36-4-6-3, IC 36-4-6-4, IC 36-4-6-5, as amended by HEA 1708, SECTIONS 265-267. IC 36-5-2-4.1, as amended by HEA 1708, SECTION 273. Effective July 1, 1993.)

8. A county election board may, after a public hearing, recommend that the county commissioners (or the Mayor of Indianapolis) dissolve a small town in the county if the town has not elected town officers or conducted town business of any sort for 10 years. The commissioners or the mayor can then dissolve the town. (IC 36-5-1-20, IC 36-5-1.1-12, as added by HEA 1708, SECTIONS 269 and 271. Effective July 1, 1993.)

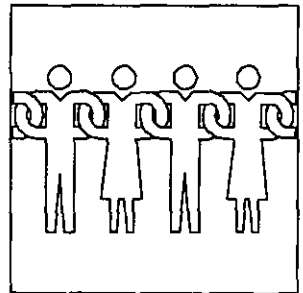
 9. A county election board may, by unanimous vote, resolve that some or all election duties performed by the clerk may instead be performed by a county election board employee. This resolution expires two months after the incumbent clerk leaves office. (IC 3-6-5-14.5, as added by HEA 1708, SECTION 14. Effective July 1, 1993.)

10. The Lake County election board and registration board are now a "combined" election board with five members. (IC 3-6-5-1, as amended by HEA 1708, SECTION 11; IC 3-6-5.2, as added by SECTION 16, HEA 1708; IC 3-7-2-1 and IC 3-7-2-2, as amended by HEA 1708, SECTIONS 32 and 33. Effective July 1, 1993.)

11. In Lake County and Marion County, the salary of the chief clerks of the board of registration is fixed by the county fiscal body (instead of by state law). (IC 3-7-2-20, as amended by HEA 1196, SECTION 2. Effective July 1, 1993)
12. The state election board may, by unanimous vote adopt rules to implement last minute court orders. (IC 3-6-4-12.5, as added by HEA 1708, SECTION 8; IC 4-22-2-37.1, as amended by HEA 1708, SECTION 239. Effective July 1, 1993.)
13. The state election board may, by unanimous vote, temporarily extend a deadline for a person to file a document or comply with an election law duty due to a natural disaster. (IC 3-6-4-12.7, as added by HEA 1708, SECTION 9. Effective July 1, 1993.)
14. The state election board may agree to have an outside entity perform the required deletion of certain information from the statewide voter file before the file is sold to entities other than political parties, statewide independent candidates, or the media. (IC 3-7-7.5-6, as amended by SECTION 43, HEA 1708. Effective retroactive to January 1, 1993.)

### MUNICIPAL ELECTIONS

1. In a small town located outside of Marion County, a town convention of a major political party to nominate candidates for town office may NOT be held if there is no contest for that party's nomination to any town office. If there is a contested nomination for one or more offices, the town convention may only meet to choose nominees for the contested offices. The provisions permitting nominations from the floor at town conventions are repealed. For all nominations to town office that are not contested, the nominee is automatically placed on the ballot by the circuit court clerk after the deadline for filing a declaration of candidacy. (IC 3-8-5-2, IC 3-8-5-10, IC 3-8-5-10.5, IC 3-8-5-12 as amended by HEA 1708, SECTIONS 63-66. IC 3-8-5-1.3, as added by HEA 1708, SECTION 69. Effective July 1, 1993.)
2. In a small town located outside of Marion County, the last date that a declaration of candidacy for a major party nomination may be filed is noon September 1 (instead of noon the day before the convention). (IC 3-8-5-10.5, as amended by HEA 1708, SECTION 65. Effective July 1, 1993.)
3. In a small town located outside of Marion County, the last date that a town convention may be held is September 14 (instead of the last Saturday in July). (IC 3-8-5-10, as amended by HEA 1708, SECTION 64. Effective July 1, 1993.)
4. In a small town located outside of Marion County, the last date for the circuit court clerk to receive a certificate listing the nominees of a town convention is September 21 (instead of August 1). The circuit court clerk must file a copy of each major party's convention nominees with the town clerk-treasurer by September 30 (instead of August 8). (IC 3-8-5-12, as amended by HEA 1708, SECTION 67. Effective July 1, 1993.)
5. If an error is discovered in the certification of town candidates before October 8 (instead of 60 days before the election under former law), the error must be corrected. (IC 3-8-7-3, as amended by HEA 1708, SECTION 75. Effective July 1, 1993.)





6. In a small town with a population of less than 500 that is located outside of Marion County, the county election board will automatically conduct the small town election unless the town council adopts a resolution during the municipal election year to establish a town election board to run the town election. The town must adopt the resolution between January 1 and April 1 of the town election year. The resolution must be filed with the circuit court clerk by May 1, and expires at the end of the municipal election year. (IC 3-10-7-2 and IC 3-10-7-7 as amended by HEA 1708, SECTIONS 102 and 104; IC 3-10-7-5.5, as added by HEA 1708, SECTION 103. Effective July 1, 1993).

7. A town election board can eliminate polling place sheriffs in town elections, and have their duties performed by the polling place judges, in all town precincts with less than 250 voters. (IC 3-10-7-25 and IC 3-10-7-27, as amended by HEA 1708, SECTIONS 105-106. Effective July 1, 1993).



8. A city or town ordinance establishing new city or town council districts must be filed with the circuit court clerk. (IC 36-4-2-12 and IC 36-5-2-4.1, as amended by HEA 1708, SECTION 261 and 273. Effective July 1, 1993.)

9. If a small town has abolished town council districts, a town annexation ordinance is not required to assign the new territory to a town council district. (IC 36-4-3-3, as amended by HEA 1708, SECTION 262, effective retroactive May 12, 1991. IC 36-4-3-4.5, as added by HEA 1708, SECTION 263; IC 36-4-3-5, as amended by HEA 1708, SECTION 264. Effective July 1, 1993.)

10. A city or town council district can include non-contiguous territory if the territory is not contiguous to any other part of the city or town. (IC 36-4-6-3, IC 36-4-6-4, IC 36-4-6-5, IC 36-5-1-10.1, as amended by HEA 1708, SECTIONS 265-268. Effective July 1, 1993.)

11. A city or town council line can split a census block if the city council or town council certifies that the block is uninhabited and will probably always be uninhabited. (IC 36-4-6-3, IC 36-4-6-4, IC 36-4-6-5, IC 36-5-1-10.1, IC 36-5-2-4.1, as amended by HEA 1708, SECTIONS 265-268, and 273. Effective July 1, 1993.)

12. If a small town has abolished town council districts in the middle of a council member's term, and the council member then leaves office before the end of that term, the person chosen to succeed the council member is not required to be a resident of the now abolished council district, only a resident of the town. (IC 3-8-1-5.7, as amended by HEA 1708, SECTION 55. Effective May 12, 1993.)

13. In Lake County and Marion County, the salary of the chief clerks of the board of registration may not be charged to a municipality). (IC 3-5-3-1, as amended by HEA 1196, SECTION 1. Effective July 1, 1993)

14. The county canvassing (now election) board is no longer required to notify a person of their election to a city or town office. (IC 3-12-5-17, repealed by HEA 1708, SECTION 282. Effective July 1, 1993.)

### **OFFICEHOLDERS**

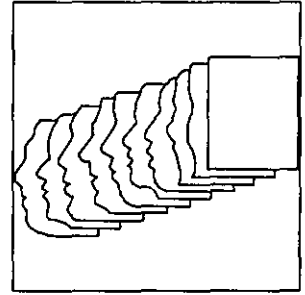


1. If a person dies who held a local office and was also a precinct committeeman, that precinct is represented by the vice-committeeman in the caucus to fill the office vacancy. (IC 3-13-11-5, as amended by HEA 1708, SECTION 227.)

2. When an election district changes after election and before the vacancy, the committeemen for the former district are eligible to vote in the caucus to fill an office vacancy. (IC 3-13-11-5, as amended by HEA 1708, SECTION 227. Effective July 1, 1993.)

3. After a vacancy occurs in a local office and before the precinct committeeman caucus fills the vacancy in the office, the county commissioners, mayor, town council president, or township board chairman shall appoint a person to act in the office if the chief deputy employee declines or is ineligible to serve. (IC 3-13-11-13, IC 3-13-11-16, IC 3-13-11-17, as amended by HEA 1708, SECTIONS 228-230. Effective July 1, 1993.)

4. A city, town, or township officer must file a written notice of resignation with the city council, town council, or township board, in addition to filing with the circuit court clerk. (IC 5-8-3.5-1, as amended by HEA 1708, SECTION 246. Effective July 1, 1993.)



5. The statutes governing impeachment are clarified in several cases to specify which elected officials are subject to impeachment. (IC 5-8-1, as amended by HEA 1708, SECTIONS 241-243. IC 5-8-1-20, repealed by HEA 1708, SECTION 282. Effective July 1, 1993.)


6. The procedure in IC 34-1-59 for removal by information must be used in removing an elected official from office. (IC 5-8-2, IC 5-8-3, IC 5-11-13-3, as amended by HEA 1708, SECTIONS 244, 245, and 247. Effective July 1, 1993.)

7. A prosecuting attorney may bring an information proceeding to remove an official from office, even if a vacancy would result. A court may hold records and funds of a removed officer until any vacancy is filled. (IC 34-1-59-4, IC 34-1-59-7, as amended by HEA 1708, SECTIONS 252-253. Effective July 1, 1993.)

8. If the number of town council members is increased by referendum, the newly created council seats are filled by appointment by the existing town council until the next municipal election. (IC 36-5-2-4.2, as amended by HEA 1708, SECTION 274. Effective retroactive July 1, 1992.)

9. If the number of town council members is increased by referendum, the new council members serve until the next regular municipal election, even if the terms are less than 4 years. (IC 36-5-2-3, as amended by HEA 1708, SECTION 272. Effective retroactive to January 1, 1993.)

10. If a town is newly incorporated, the town council members and clerk-treasurer serve until the next municipal election cycle, even if the term is less than 4 years. (IC 36-5-2-3; 36-5-6-3, as amended by HEA 1708, SECTIONS 273 and 277. Effective July 1, 1993.)

 11. A town council member who is elected or appointed to represent a district, but is voted on by the entire town (comparable to the county commissioner election system in most counties) must continue to reside in the district for the remainder of the term or forfeits the office. Applies only to councilmembers elected or appointed after July 1, 1993. (IC 36-5-2-6, as amended by HEA 1708, SECTIONS 275 and 283. Effective July 1, 1993.)

## POLITICAL PARTIES

1. A precinct committeeman may replace a precinct vice committeeman with the written and signed approval of the county chairman, and after giving ten days signed and written notice to the county chairman. (IC 3-6-2-3, as amended by HEA 1066, SECTION 1. Effective July 1, 1993)
2. A precinct vice committeeman appointed to replace a vice committeeman removed with the approval of a county chairman may not vote in a county committee reorganization unless the vice committeeman has served since at least the previous December 31, and is on the county committee list filed with the circuit court clerk. (IC 3-6-1-11.5, as amended by HEA 1066, SECTION 2. Effective July 1, 1993)
3. Independent candidates for statewide office are entitled to conduct polls in residential facilities, subject to the same restrictions as political party poll takers. IC 3-5-2-26.6, as added by SECTION 4, HEA 1708; IC 3-6-11-5 and IC 3-6-11-7, as amended by HEA 1708, SECTIONS 30-31. Effective July 1, 1993.)
4. A political party is no longer required to adopt a "loyalty" plank in its platform to be eligible for placement on the ballot. (IC 3-5-4-5, repealed by HEA 1708, SECTION 282. Effective July 1, 1993.)
5. A political party may change its name in accordance with its own rules, and is not required to conduct a special convention. (IC 3-6-3, as amended by HEA 1708, SECTIONS 6 and 282. Effective July 1, 1993.)

## POLLING PLACES AND PRECINCT WORKERS



1. If a precinct does not have an accessible polling place for disabled voters, the polling place may be located outside of the precinct and within the same township at an accessible place. (IC 3-11-8-3, as amended by HEA 1708, SECTION 144. Effective July 1, 1993.)



2. The county election board may, by unanimous vote, order the relocation of a polling place during the final two days before the election if the polling place would be dangerous or impossible to use. (IC 3-11-8-3.2, as amended by HEA 1708, SECTION 145. Effective July 1, 1993.)



3. A county election board may adopt a resolution to have election day judges perform the duties of election day sheriffs in precincts with less than 250 voters. (IC 3-6-6-5, as amended by HEA 1708, SECTIONS 17, 19. Effective July 1, 1993.)



4. If a precinct inspector does not complete and return the Polling Place Accessibility Survey Form required by federal law, the inspector may not be paid. (IC 3-6-6-23, 3-6-6-25, and 3-6-6-26, as amended by HEA 1708, SECTIONS 20-22. Effective July 1, 1993.)

5. Except in ballot card counties with central tabulation, a circuit court clerk must provide a list of declared write-in candidates to inspectors along with instructions for counting write-in votes. (IC 3-8-7-30, as amended by HEA 1708, SECTION 80. Effective July 1, 1993.)

6. The precinct poll clerks must use ink pens to write their initials on the back of paper ballots. However, precinct poll clerks are not required to write their initials on the backs of absentee punch card ballots. (IC 3-11-11-4 and IC 3-11-11-6, as amended by HEA 1708, SECTIONS 157-158; IC 3-11-13-28, as amended by HEA 1708, SECTION 168.)

7. A county election board may authorize a simulated election for children to be conducted at the polling place at the same time as the election. The inspector must ensure that the simulated election ("Kids Voting") does not interfere with election activity in the polling place. (IC 3-11-8-15, as amended by HEA 1708, SECTION 146. Effective May 12, 1993.)

8. The spouse of a first cousin of a candidate is eligible to serve on a precinct board or absentee board. (IC 3-6-6-7, as amended by HEA 1708, SECTION 18; IC 3-11-10-36, as amended by HEA 1708, SECTION 154. Effective July 1, 1993.)

9. All "bona fide" political parties and independent candidates are entitled to challengers and pollbook holders. (IC 3-5-2-5.5, as added by SECTION 3, HEA 1708; IC 3-5-2-26.6, as added by SECTION 4, HEA 1708; IC 3-6-7-1, as amended by HEA 1708, SECTION 23; IC 3-11-8-16, as amended by HEA 1708, SECTION 147. Effective July 1, 1993.)

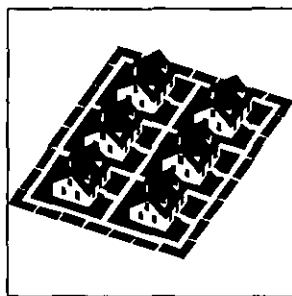
10. All "bona fide" political parties and independent candidates for statewide office are entitled to party watchers. (IC 3-5-2-5.5, as added by SECTION 3, HEA 1708; IC 3-5-2-26.6, as added by SECTION 4, HEA 1708; IC 3-6-8-1, as amended by HEA 1708, SECTION 23; IC 3-6-8-3, as amended by HEA 1708, SECTION 25. Effective July 1, 1993.)

11. All "bona fide" political parties and independent candidates for statewide office are entitled to receive the list of media watchers. (IC 3-5-2-5.5, as added by HEA 1708, SECTION 3; IC 3-5-2-26.6, as added by HEA 1708, SECTION 4; IC 3-6-10-3, as amended by HEA 1708, SECTION 29. Effective July 1, 1993.)

## PRECINCTS



1. A precinct that was established in compliance with the "800 voter" requirement and has since increased to contain no more than 1,000 voters, has a forty-eight month grace period (instead of the 24 month grace period under former law) before the precinct's boundaries must be redrawn to comply with the 800 voter requirement. (IC 3-11-1.5-3, as amended by SEA 434, SECTION 1. Effective July 1, 1993)



2. The county commissioners (or Mayor of Indianapolis) may adopt an order to delegate some or all responsibility for redrawing precinct lines to the county election board. The order takes effect when filed with the state election board. (IC 3-11-1.5-36, as added by HEA 1708, SECTION 114. Effective July 1, 1993.)



3. A precinct may follow a school corporation line that does not follow a census block line. (IC 3-11-1.5-5, as amended by HEA 1708, SECTION 111. Effective retroactive January 1, 1993.)

4. A proposed precinct boundary change must include a statement concerning polling places accessible for disabled voters within the proposed precinct. (IC 3-11-1.5-15, as amended by HEA 1708, SECTION 112. Effective July 1, 1993.)

5. The state law governing county precinct study committees is repealed. (IC 3-11-1.5-13, repealed by HEA 1708, SECTION 282. Effective July 1, 1993.)

## REGISTRATION



1. Indiana court decisions regarding residency are codified by stating the basic requirements of intent and conduct taken to implement intent to establish residence in a precinct. (IC 3-7-1-2.2, as added by HEA 1722, SECTION 3. Effective July 1, 1993.)

2. A person does not have residency in more than one precinct. A person cannot establish residence in a new precinct without intending to abandon the old precinct. (IC 3-7-1-2.2, IC 3-7-1-2.4, as added by HEA 1722, SECTION 4. Effective July 1, 1993.)



3. The residency statutes addressing specific types of voters ("The residence of an unmarried person is where the person usually sleeps."), can be overridden by showing voter intent and conduct, with the statutes serving as presumptions that the voter must overcome to establish residency elsewhere. (IC 3-7-1-2.6, as added by HEA 1722, SECTION 5; IC 3-7-1-11, repealed by HEA 1722, SECTION 24. Effective July 1, 1993.)

4. A person can register at a substation (as well as a principal office) of a circuit court clerk or board of registration through the end of the registration period. (IC 3-7-3-5, as amended by HEA 1722, SECTION 6. Effective May 12, 1993.)

5. The noon deadline for filings does not apply to the final day of registration in the clerk or board's office. (IC 3-7-3-5, as amended by HEA 1722, SECTION 6. Effective May 12, 1993.)

6. Except in some special cases, a registration form received after the end of a registration period is to be processed on the first day that registration reopens. (IC 3-7-3-5, as amended by HEA 1722, SECTION 6. Effective May 12, 1993.)




7. If a voter was registered by a deputy registrar, and the deputy registrar did not submit the registration before the end of the registration period (or if the registrar lost the form), the voter may request a hearing before the county election board before the "ten day run" is prepared. If the voter can establish and the election board unanimously agrees that the voter was properly registered during the registration period, then the voter's name is added to the registration list and ten day run. (IC 3-7-3-5.5, as added by HEA 1722, SECTION 7. Effective July 1, 1993.)



8. The registration form must include a space for both the residence address and mailing address of the voter. If a registration receipt is mailed, the receipt must be sent to the mailing address. The State Election Board may prescribe more than one form for all the registration transactions to be performed on. (IC 3-7-3-9, as amended by HEA 1722, SECTION 8. Effective July 1, 1993.)

9. If a registration form does not contain required information by the registrar, the circuit court clerk or board of registration must attempt to contact the registrar to obtain the information. The registration form must be processed, but if the registrar does not supply the information, the clerk or board must then certify still incomplete forms to the county

election board. The county election board must give notice to the registrar to supply the missing information within 30 days. (IC 3-7-3-12.5, as amended by HEA 1722, SECTION 9. Effective July 1, 1993.)

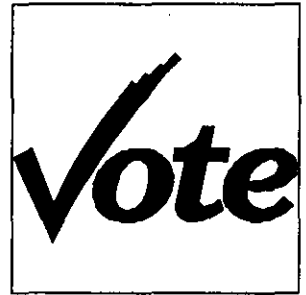
 10. If a voter registers in the wrong county, and the clerk or board sends the form to the correct county, any registration form that is compatible with the correct county's system must be processed, even if the correct county receives the form after the close of the registration period and before the "ten day run" list of voters is prepared for the inspectors. (IC 3-7-3-12.7, as added by HEA 1708, SECTION 10. Effective July 1, 1993.)

11. The absentee registration law, accidentally repealed in 1992, was reenacted. (IC 3-7-5.1, as added by HEA 1151, SECTION 5. Effective retroactive to July 1, 1992)


12. A person caring for a confined voter in a private residence can register absentee. (IC 3-7-5.1-3, as amended by HEA 1722, SECTION 12. Effective July 1, 1993.)


13. For the purposes of absentee registration, the circuit court clerk or board of registration member is considered the registrar. (IC 3-7-5.1-4, as amended by HEA 1722, SECTION 13. Effective July 1, 1993.)

14. A person can make a mark on the absentee registration form for a disabled voter who cannot sign the form. The mark must be made in the presence of the voter. (IC 3-7-5.1-6, as amended by HEA 1722, SECTION 14. Effective July 1, 1993.)



15. An absentee registration form can be hand delivered (as well as mailed) by the clerk or board. (IC 3-7-5.1-7, as amended by HEA 1722, SECTION 15. Effective July 1, 1993.)

 16. If an absentee registration form is received from a military voter or an overseas voter after the end of the registration period, but before the "ten day run" list of voters is processed for the inspectors, the registration must be processed. (IC 3-7-5.1-12, as amended by HEA 1722, SECTION 17. Effective July 1, 1993.)

 17. The reinstatement of the registration of an honorably discharged veteran whose registration was purged during the veteran's absence may be made until the "ten day run" is processed. (IC 3-7-9-7, as amended by HEA 1722, SECTION 19. Effective July 1, 1993.)

18. High school students must be at least 17 years old when registered. (IC 3-7-3-26, as amended by HEA 1708, SECTION 34. Effective July 1, 1993.)

19. Registrations from 17 year olds must include a notation so that the 17 year old is not included on a poll list or called for jury service before the voter is 18 years old. (IC 3-7-3-27, as added by HEA 1708, SECTION 35. Effective July 1, 1993.)

20. The "48 month purge" deadline is clarified to refer to the first day of the month as the starting date for counting back for the purge. (As a result, voters who have not voted since May 1988, for example, may be purged in 1993, regardless of whether there are exactly forty-eight months between November 8, 1992 and May 2, 1988.) (IC 3-7-9-1, as amended by HEA 1722, SECTION 18. Effective May 12, 1993.)



21. Written (not verbal) authorization is required to cancel registration. The return of unrelated mail, such as jury notices, cannot be used to cancel registrations. (IC 3-7-9-12, as amended by HEA 1722, SECTION 20. Effective July 1, 1993.)



22. When a registration receipt mailed to a new voter is returned by the Postal Service, but there is no indication that the voter has moved or that the address is incorrect, (perhaps due to the use of post office boxes in small towns that do not have residential mail delivery, or for no obvious explanation at all), the board of registration must process these returned forms. The board of registration shall notify the county election board when this occurs, so that parties may be prepared to challenge a voter at a precinct if there is evidence that the voter is not a resident. (HEA 1708, SECTION 285; HEA 1722, SECTION 23. Effective retroactive July 1, 1992, expires January 1, 1994.)

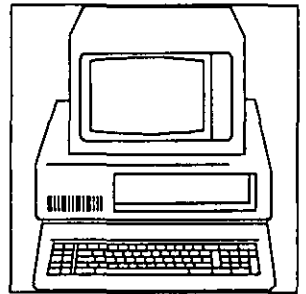
23. If a voter files a request for transfer after a challenge based on the voter's residence, the transfer must be processed and the challenge disregarded. (IC 3-7-9-14, as amended by HEA 1722, SECTION 21. Effective July 1, 1993.)

24. After election day, the circuit court clerk or board of registration may unseal precinct envelopes solely to update registration records to reflect based on changes made on the poll list by voters (an address change, for example). The poll lists must then be replaced and envelopes resealed. (IC 3-10-1-31, as amended by HEA 1708, SECTION 93. Effective July 1, 1993.)

25. The State Election Board is required to adopt rules prescribing the format for the storage and submission of computerized voter registration records to ensure that the records are standardized and readable. (IC 3-6-4-12, as amended by HEA 1708, SECTION 7; IC 3-7-7.5-5, as amended by HEA 1708, SECTION 42. HEA 1708, SECTION 286. Effective July 1, 1993.)



26. The circuit court clerk or board of registration must submit computerized voter file information in a format that includes both physical address and mailing address if the Post Office will not deliver mail to the physical address. Other changes are required in the data fields and formatting of the file. (IC 3-7-7.5-5, as amended by HEA 1708, SECTION 41. Effective July 1, 1993.)



27. A circuit court clerk or registration board member shall "make every effort" to obtain additional information concerning voter registrations in effect on July 1, 1993 if the information is required for the statewide voter file submission. For example, this may require adding physical addresses in towns without residential mail delivery. IC 3-7-7.5-12, as added by HEA 1708, SECTION 45. Effective July 1, 1993.)

28. Any county official responsible for maintaining computerized voter registration records (in addition to the clerk or registration board member under former law) who fails to comply with the requirement to furnish computerized voter registration records to the State Election Board commits a Class B infraction. (IC 3-7-7.5-10, as amended by HEA 1708, SECTION 44. Effective July 1, 1993.)

29. A circuit court clerk, registration board member, or other local official responsible for computerized voter records who recklessly fails to comply with the statewide voter file requirements commits a Class B misdemeanor, punishable by a maximum fine of \$1000 and imprisonment for 6 months. (IC 3-14-4-3.5, as added by HEA 1708, SECTION 234. Effective July 1, 1993.)

30. The law concerning the statewide voter file will not expire July 1, 1995. (IC 3-7-7.5-11, repealed by HEA 1708, SECTION 282. Effective July 1, 1993.)



31. In counties with computerized registration, the clerk or board the clerk or board shall submit a list of registered voters to the United States Postal Service during June (instead of "one time each calendar year". The clerk or board must request that a voter with a temporary forwarding order, an absent uniformed services voter, or an overseas voter not be included in the list of nonresident voters prepared by the USPS. If the Postal Service indicates that a voter is deceased, or has moved, the name of the voter may be removed by using the vote purge procedure (instead of the challenge affidavit under former law). (IC 3-7-8-20, IC 3-7-9-1, IC 3-7-9-2, as amended by HEA 1708, SECTIONS 46-48. Effective July 1, 1993.)

32. "Bona fide" political parties and independent candidates for statewide office (or in some cases, with any candidate on the general election ballot) are entitled to the same registration information as major political parties. (IC 3-5-2-5.5, IC 3-5-2-26.6, as added by SECTIONS 3-4, HEA 1708; IC 3-7-7-2, IC 3-7-7-3, IC 3-7-7-4,; and IC 3-7-7-10, as amended by HEA 1708, SECTIONS 37-40; IC 3-7-9-2, IC 3-7-9-8, IC 3-7-9-10, IC 3-7-9-11, and IC 3-7-9-21, as amended by SECTIONS 48-52, HEA 1708. Effective July 1, 1993; IC 3-7-7.5-6, as amended by SECTION 43, HEA 1708. Effective retroactive to January 1, 1993.)

33. If a special election is held during a registration period, new registrations must be separated from registrations of voters who have met the 30 day residency requirement. (IC 3-10-8-9, as added by HEA 1708, SECTION 110. Effective retroactive December 1, 1992).

### **SPECIAL ELECTIONS, SCHOOL BOARD ELECTIONS, AND REFERENDA**

1. If a special election is held in a precinct, alcoholic beverages may not be sold in the precinct on special election day. (IC 3-10-8-9, as added by HEA 1708, SECTION 110. Effective retroactive December 1, 1992.)



2. In a special election on a public question, or following a contested school board election, the county election board may, by unanimous vote, combine polling places and have precinct boards consisting of only one inspector, one judge, one sheriff, and one poll clerk. (IC 3-10-8-6, as amended by HEA 1708, SECTION 108. Effective retroactive December 1, 1992.)

3. A special sewer, water, or sanitary district election may be conducted in accordance with election law generally (not just town election law). (IC 3-12-2-5, as amended by HEA 1708, SECTION 248. Effective July 1, 1993.)

4. In school board elections conducted in more than one county, the circuit court clerk of the county with the greatest population shall certify the names of candidates to be placed on the school board ballots in the other counties within the school district. Each county

election board must print the appropriate school board ballots for use in the county. (IC 20-4-1-26.4, as amended by HEA 1708, SECTION 249. Effective July 1, 1993.)

5. If a referendum on changing the school board organization will be conducted in more than one county, the county election board of the county having the greatest population in the school district sets the date of any special election. (IC 20-4-10.1-10, as amended by HEA 1708, SECTION 250. Effective July 1, 1993.)

6. A referendum regarding the extension of municipal park services may be held at the same time as a regularly scheduled election. (IC 36-10-3-35, as amended by HEA 1708, SECTION 280. Effective retroactive July 1, 1992.)

### VOTING SYSTEMS

1. If a ballot card voting system or electronic voting system no longer meets state standards, and the state election board has rescinded the system's approval, the State Election Board may, by unanimous vote, prohibit the system from being leased, marketed, or sold in Indiana for use in elections. (IC 3-11-7-17, as amended by HEA 1708, SECTION 139; IC 3-11-7.5-26, as amended by HEA 1708, SECTION 142. Effective July 1, 1993.)

2. The State Election Board may, by unanimous vote, order ballot card or electronic voting systems approved before the current state standards were established in 1992 to be tested by an independent testing authority at the expense of the vendor, and if not in compliance with standards, no longer be marketed or sold in Indiana. (IC 3-11-7-17, as amended by HEA 1708, SECTION 139; IC 3-11-7.5-26, as amended by HEA 1708, SECTION 142. Effective July 1, 1993.)



3. If the State Election Board recommends discontinuing use of a ballot card or electronic voting system, or the independent testing authority determines that a voting system does not meet current standards, the system can still be used in a county until or unless a circuit court clerk or the county election board files a request for the state election board to investigate the system, and the state election board finds, by unanimous vote and based on evidence of the system's use by the county, that the system has "a clear pattern" of errors AND its continued use would undermine public confidence. (IC 3-11-7-17, as amended by HEA 1708, SECTION 139; IC 3-11-7.5-26, as amended by HEA 1708, SECTION 142. Effective July 1, 1993.)



4. The state election board approval of a ballot card or electronic voting system is valid for 5 years. At that time, the license for the system may be renewed after a public hearing. The circuit court clerks of all counties using the system must receive notice of the hearing, and will have the opportunity to make comments regarding the system's renewal application. The State Election Board may, by unanimous vote, order testing of the system. The State Election Board may renew the application after finding that the system complies with standards, has worked effectively, and has been adequately supported. (IC 3-11-7-19, as added by HEA 1708, SECTION 140; IC 3-11-7.5-28, as added by HEA 1708, SECTION 143. Effective July 1, 1993.)

5. Ballot card and electronic voting systems approved by the State Election Board before April 23, 1992 will have their approvals expire by July 1, 1996. The vendors may then apply to have the systems reapproved. (HEA 1708, SECTION 288. Effective July 1, 1993.)



6. A county election board may conduct a demonstration of a lever voting machine, a ballot card voting system, or an electronic voting system at any time (instead of just shortly before election day.) (IC 3-11-12-16, as amended by HEA 1708, SECTION 161; IC 3-11-13-26.5, as amended by HEA 1708, SECTION 167; IC 3-11-14-8, as amended by HEA 1708, SECTION 172. Effective July 1, 1993.)

7. Lever voting machines must be locked for 60 days (instead of 120 days) after the election. The machines can be unlocked before 60 days if requested by the Indiana voting system advisory committee. (IC 3-11-12-35, as amended by HEA 1708, SECTION 164. Effective July 1, 1993.)

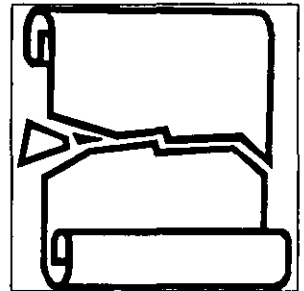
8. Ballot card voting systems and electronic voting systems must count ballots in accordance with the rules for counting split tickets and write-in votes under IC 3-12-1. (IC 3-11-7, as amended by HEA 1708, SECTIONS 132-137; IC 3-11-7-11.5, as added by HEA 1708, SECTION 138; IC 3-11-7.5-10, as amended by HEA 1708, SECTION 141. Effective July 1, 1993.)

9. A write-in vote cast on a punch card secrecy envelope makes the envelope a ballot for election law purposes. (IC 3-11-13-28.7, as amended by HEA 1708, SECTION 169. Effective July 1, 1993.)

10. The State Election Board is no longer required to file a report of voting examinations with the Secretary of State. (IC 3-11-5-3, as added by HEA 1708, SECTION 129. Effective July 1, 1993.)

### WHAT DID NOT PASS IN 1993:

1. Indiana version of "motor voter", mail-in or agency registration.
2. Indiana version of "same day" registration.
3. Prohibiting the mailing of absentee ballots within the county.
4. Changing the date of the municipal primary or general election.
5. Permitting felons to serve in elected offices at some time after their incarceration.
6. Numerous campaign finance proposals, including restrictions on various types of corporate or political action committee contributions.



# Indiana Election Code

## CONSTITUTION OF STATE OF INDIANA

1851

### ARTICLE.

#### 2. SUFFRAGE AND ELECTIONS.

### ARTICLE 2

#### SUFFRAGE AND ELECTIONS

### SECTION.

1. Elections free and equal.
2. Qualifications of electors.
3. Soldiers — Seamen — Marines.
4. Residence.
5. [Repealed.]
6. Bribery a disqualification for office.
7. [Repealed.]
8. Disfranchisement.
9. Effect of holding lucrative offices.
10. Defaulters not eligible.
11. Pro tempore appointments.
12. Electors free from arrest.
13. Method of election.
14. Time of elections — Judges — Registration.

§ 1. **Elections free and equal.** — All elections shall be free and equal.

§ 2. **Qualifications of electors.** — Every citizen of the United States, of the age of eighteen (18) years or more, who has been a resident of a precinct thirty (30) days immediately preceding such election, shall be entitled to vote in that precinct. [As amended Acts 1881, ch. 17, p. 30, adopted March 14, 1881, proclaimed in effect March 24, 1881; 1921, ch. 281, p. 880, adopted Sept. 6, 1921, proclaimed in effect, Sept. 13, 1921; as amended 1976, ch. 159, adopted November 2, 1976; as amended P.L.383-1983, adopted November 7, 1984.]

§ 3. **Soldiers — Seamen — Marines.** — No member of the armed forces of the United States, or of their allies, shall be deemed to have acquired a residence in the State, in consequence of having been stationed within the same; nor shall any such person have the right to vote. [As amended P.L.383-1983, adopted November 7, 1984.]

§ 4. **Residence.** — No person shall be deemed to have lost his residence in the State by reason of his absence, either on business of this State or of the United States.

§ 5. [Repealed.]

§ 6. **Bribery a disqualification for office.** — Every person shall be disqualified from holding office, during the term for which he may have been elected, who shall have given or offered a bribe, threat, or reward, to procure his election.

§ 7. [Repealed.]

§ 8. **Disfranchisement.** — The General Assembly shall have power to deprive of the right of suffrage, and to render ineligible, any person convicted of an infamous crime.

§ 9. **Effect of holding lucrative offices.** — No person holding a lucrative office or appointment under the United States or under this State is eligible to a seat in the General Assembly; and no person may hold more than one lucrative office at the same time, except as expressly permitted in this Constitution. Offices in the militia to which there is attached no annual salary shall not be deemed lucrative. [As amended P.L.383-1983, adopted November 7, 1984.]

§ 10. **Defaulters not eligible.** — No person who may hereafter be a collector or holder of public moneys, shall be eligible to any office of trust or profit, until he shall have accounted for, and paid over, according to law, all sums for which he may be liable.

§ 11. **Pro tempore appointments.** — In all cases in which it is provided, that an office shall not be filled by the same person more than a certain number of years continuously, an appointment pro tempore shall not be reckoned a part of that term.

§ 12. **Electors free from arrest.** — In all cases, except treason, felony, and breach of the peace, electors shall be free from arrest, in going to elections, during their attendance there, and in returning from the same.

§ 13. **Method of election.** — All elections by the People shall be by ballot; and all elections by the General Assembly, or by either branch thereof, shall be viva voce.

§ 14. **Time of elections — Judges — Registration.** — All general elections shall be held on the first Tuesday after the first Monday in November, but township elections may be held at such time as may be provided by law: Provided, that the General Assembly may provide by law for the election of all Judges of courts of general and appellate jurisdiction, by an election to be held for such officers only, at which time no other officer shall be voted for; and shall also provide for the registration of all persons entitled to vote. [As amended Acts 1881, ch. 17, p. 30, adopted March 14, 1881.]

**TITLE 3  
ELECTIONS**

ARTICLE.

- 1, 2. [REPEALED.]
4. [REPEALED.]
5. GENERAL PROVISIONS, chs. 1-4.
6. PARTY AND ELECTION OFFICERS, chs. 1-11.
7. VOTER REGISTRATION, chs. 1-9.
8. CANDIDATES, chs. 1-7.
9. POLITICAL CAMPAIGNS, chs. 1-7.
10. PROVISIONS GOVERNING CERTAIN TYPES OF ELECTIONS, chs. 1-9.
11. VOTING METHODS, SUPPLIES, AND EQUIPMENT, chs. 1-14.
- 11.5. COUNTING ABSENTEE BALLOTS AT A CENTRAL LOCATION, chs. 1-7.
12. ASCERTAINING RESULTS OF ELECTIONS, chs. 1-12.
13. VACANCIES, chs. 1-11.
14. OFFENSES, chs. 1-6.

**ARTICLE 1**

**ELECTION CODE OF 1945**

**3-1-1-1 — 3-1-33-2. [Repealed.]**

**ARTICLE 2**

**ELECTIONS**

**3-2-1-1 — 3-2-11-8. [Repealed.]**

**ARTICLE 4**

**POLITICAL CONTRIBUTIONS AND EXPENSES**

**3-4-1-1 — 3-4-8-3. [Repealed.]**

**ARTICLE 5**

**GENERAL PROVISIONS**

CHAPTER.

1. APPLICABILITY; TYPES OF ELECTIONS, 3-5-1-1, 3-5-1-2.
2. DEFINITIONS, 3-5-2-1 — 3-5-2-54.
3. EXPENSES RELATING TO ELECTIONS, 3-5-3-1 — 3-5-3-11.
4. MISCELLANEOUS PROVISIONS, 3-5-4-1 — 3-5-4-6.

**CHAPTER 1**

**APPLICABILITY; TYPES OF ELECTIONS**

SECTION.

- 3-5-1-1. Nomination and selection of public officials by ballot — Public questions submitted to electorate.
- 3-5-1-2. General elections — Municipal elections — Primary elections — School district elections — Special elections.

**3-5-1-1. Nomination and selection of public officials by ballot — Public questions submitted to electorate.** — This title applies to each election at which the electorate of the state or a political subdivision:

- (1) Nominates or chooses by ballot public officials; or
- (2) Decides a public question lawfully submitted to the electorate. [P.L.5-1986, § 1.]

**3-5-1-2. General elections — Municipal elections — Primary elections — School district elections — Special elections.** — The types of elections to which this title applies are classified as follows:

- (1) General election, which is conducted statewide on the first Tuesday after the first Monday in November of each even-numbered year.
- (2) Municipal election, in which the electorate of a municipality chooses by ballot public officials for the municipality or decides a public question lawfully submitted to the electorate of the municipality.
- (3) Primary election, which is conducted for the purpose of choosing by ballot the following:
  - (A) The candidates who will be the nominees of a political party for elected offices in a general or municipal election.
  - (B) The precinct committeemen of a political party.
  - (C) The delegates to a political party's state convention.
- (4) School district election, in which the electorate of a school district

chooses by ballot members of the school board.

(5) Special election, which is conducted for a special purpose as provided by law. [P.L.5-1986, § 1.]

## CHAPTER 2 DEFINITIONS

### SECTION.

- 3-5-2-1. Applicability.
- 3-5-2-1.5. "Absent uniformed services voter".
- 3-5-2-2. "Automatic tabulating machine."
- 3-5-2-3. "Ballot."
- 3-5-2-4. "Ballot card."
- 3-5-2-5. "Ballot label."
- 3-5-2-5.5. "Bona fide political party".
- 3-5-2-6. "Candidate."
- 3-5-2-7. "Candidate's committee."
- 3-5-2-8. "Central committee."
- 3-5-2-9. "Chairman."
- 3-5-2-10. "Chute."
- 3-5-2-11. "City."
- 3-5-2-12. "Consolidated city."
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### SECTION.

- 3-5-2-51. "Voting mark."
- 3-5-2-52. "Voting method."
- 3-5-2-53. "Voting system."
- 3-5-2-54. "Write-in candidate."

**3-5-2-1. Applicability.** — The definitions in this chapter apply throughout this title. [P.L.5-1986, § 1.]

**3-5-2-1.5. "Absent uniformed services voter"**. — "Absent uniformed services voter" has the meaning set forth in 42 U.S.C. 1973ff-6(1), as in effect January 1, 1993. [P.L.14-1993, § 1.]

**3-5-2-2. "Automatic tabulating machine"**. — "Automatic tabulating machine" means:

- (1) Apparatus necessary to automatically examine and count votes as designated on ballots; and
- (2) Data processing machines that can be used for counting ballots and tabulating results. [P.L.5-1986, § 1; P.L.6-1986, § 1.]

**3-5-2-3. "Ballot"**. — "Ballot" means:

- (1) The paper ballot prepared, printed, and supplied for use at an election;
- (2) The ballot label prepared, printed, and supplied for use on the front of a voting machine or electronic voting system; or
- (3) The ballot card prepared, printed, and supplied for use in a ballot card voting system. [P.L.5-1986, § 1; P.L.3-1987, § 2.]

**3-5-2-4. "Ballot card"**. — "Ballot card" means a card on which votes are recorded by the process of punching or marking. [P.L.5-1986, § 1.]

**3-5-2-5. "Ballot label"**. — "Ballot label" means:

- (1) The printed strip or sheet of cardboard or paper, supplied for use on a voting machine or electronic voting system, that contains the names of the candidates and the public questions on the ballot; or
- (2) The booklet, pamphlet, or other material, supplied for use with a ballot card voting system, that contains those names and questions. [P.L.5-1986, § 1; P.L.3-1987, § 3.]

**3-5-2-5.5. "Bona fide political party"**. — "Bona fide political party" means:

- (1) A major political party; or
- (2) A political party that has:

(A) nominated at least one (1) candidate for political office during the preceding five (5) years;  
 (B) held a convention; or  
 (C) raised money and filed the financial reports required by law. [P.L.3-1993, § 3.]

**3-5-2-6. "Candidate".** — "Candidate" means a person who:

- (1) Has taken the action necessary to qualify under Indiana law for listing on the ballot at an election or to become a write-in candidate;
- (2) Has publicly announced or declared candidacy for an elected office;
- (3) Has solicited or accepted contributions, or consented that another solicit or accept contributions or make expenditures, with a view to bringing about the person's nomination for or election to an elected office; or
- (4) Otherwise seeks nomination for or election to an elected office, regardless of whether the individual wins election to the office. [P.L.5-1986, § 1; P.L.4-1991, § 1.]

**3-5-2-7. "Candidate's committee".** — "Candidate's committee" means the principal political committee that each candidate is required to have under IC 3-9-1. [P.L.5-1986, § 1; P.L.8-1992, § 2.]

**3-5-2-8. "Central committee".** — "Central committee" means a state committee, congressional district committee, county committee, city committee, or town committee of a political party. [P.L.5-1986, § 1.]

**3-5-2-9. "Chairman".** — "Chairman" refers to the chairman of a central committee as follows:

- (1) State chairman, chairman of a state committee.
- (2) District chairman, chairman of a congressional district committee.
- (3) County chairman, chairman of a county committee.
- (4) City chairman, chairman of a city committee.
- (5) Town chairman, chairman of a town committee. [P.L.5-1986, § 1.]

**3-5-2-10. "Chute".** — "Chute" means the area or pathway that extends fifty (50) feet in length, measured from the door or entrance to the polls. Whenever there are two (2) or more doors or entrances to the polls, the chute shall be measured from the door or entrance that the inspector of the precinct designates for voters to enter for the purpose of voting. [P.L.5-1986, § 1.]

**3-5-2-11. "City".** — "City" means a first-class city, second-class city, or third-class city as classified under IC 36-4-1-1. The term does not include towns. [P.L.5-1986, § 1.]

**3-5-2-12. "Consolidated city".** — "Consolidated city" refers to a first-class city that has become a consolidated city under IC 36-3-1. [P.L.5-1986, § 1.]

**3-5-2-13. "Contestee".** — "Contestee" means a candidate whose nomination or election is being contested by a contestor. [P.L.5-1986, § 1.]

**3-5-2-14. "Contestor".** — "Contestor" means a person who initiates a proceeding to contest the result of an election. [P.L.5-1986, § 1.]

**3-5-2-15. "Contribution".** — (a) "Contribution" means a donation (whether characterized as an advance, a deposit, a gift, a loan, a subscription, or a contract or promise to make a donation) of property (as defined in IC 35-41-1) that:

- (1) Is made for the purpose of influencing:

- (A) The nomination or election to office of a candidate;
- (B) The election of delegates to a state constitutional convention; or
- (C) The outcome of a public question; and

- (2) Is accepted by:

- (A) A candidate;
- (B) A candidate's committee;
- (C) A regular party committee; or
- (D) A political action committee.

(b) Whenever funds are transferred from one committee to another, the accepting committee is considered to be receiving a contribution in the amount of the funds transferred.

(c) Whenever a candidate or a committee accepts the personal services of a person whose compensation is being paid by a third person, the candidate or committee is considered to be receiving a contribution, from the third person, in the amount of the compensation paid.

(d) Notwithstanding subsection (a), whenever a candidate or a committee accepts the personal services of a volunteer who is not being compensated, the candidate or committee is not considered to be receiving a contribution.

(e) Notwithstanding subsection (a), whenever a political action committee accepts a donation of:

- (1) Rent;
- (2) Office expenses;
- (3) Management fees;



(4) Costs of solicitations of contributions; or

(5) Other administrative costs; the committee is not considered to be receiving a contribution. [P.L.5-1986, § 1; P.L.3-1987, § 4; P.L.5-1989, § 2.]

**3-5-2-16. "Convention".** — "Convention" means an organized body of delegates assembled for the purpose of selecting their political party's nominees for elected offices. [P.L.5-1986, § 1.]

**3-5-2-16.5. "Elderly".** — "Elderly" means a voter who is at least sixty-five (65) years of age. [P.L.4-1991, § 2.]

**3-5-2-17. "Elected office".** — "Elected office" means a federal office, state office, legislative office, school board office, or local office. Political party offices (such as precinct committeeman and state convention delegate) are not considered to be elected offices. [P.L.5-1986, § 1.]

**3-5-2-18. "Election day".** — "Election day" refers to the calendar day on which an election is held. [P.L.5-1986, § 1.]

**3-5-2-19. "Election district".** — "Election district" means the area comprised by precincts where voters reside whose votes a candidate or committee proposes to influence. [P.L.5-1986, § 1.]

**3-5-2-20. "Electorate".** — "Electorate" means all the voters eligible to vote in an election in the state or a political subdivision. [P.L.5-1986, § 1.]

**3-5-2-21. "Electronic voting system".** — "Electronic voting system" means a system in which:

- (1) Voters record their votes by activating touch-sensitive marking devices; and
- (2) Votes are counted by automatic tabulating machines.

[P.L.5-1986, § 1; P.L.6-1986, § 2; P.L.3-1987, § 5.]

**3-5-2-22. "Executive".** — "Executive" means:

- (1) Board of county commissioners, for a county not having a consolidated city;
- (2) Mayor of the consolidated city, for a county having a consolidated city;
- (3) Mayor, for a city;
- (4) President of the town council, for a town; or
- (5) Trustee, for a township.

[P.L.5-1986, § 1; P.L.8-1989, § 1.]

**3-5-2-23. "Expenditure".** — (a) "Expenditure" means a disbursement (whether characterized as an advance, a deposit, a distribution, a gift, a loan, a payment, a purchase, or a contract or promise to make a disbursement) of property (as defined in IC 35-41-1) that:

(1) Is made for the purpose of influencing:

- (A) The nomination or election to office of a candidate;
- (B) The election of delegates to a state constitutional convention; or
- (C) The outcome of a public question; and

(2) Is made by:

- (A) An individual, except that a contribution made by an individual is not considered to be an expenditure;
- (B) A candidate's committee;
- (C) A regular party committee; or
- (D) A political action committee.

(b) Whenever funds are transferred from one committee to another, the disbursing committee is considered to be making an expenditure in the amount of the funds transferred. [P.L.5-1986, § 1.]

**3-5-2-24. "Federal office".** — "Federal office" refers to President of the United States, Vice President of the United States, and Senator and Representative in the Congress of the United States. [P.L.5-1986, § 1.]

**3-5-2-24.5. "Filing".** — "Filing" means:

- (1) The presentation of a document to an individual required to receive the document under this title;
- (2) The receipt of the document by the individual; and
- (3) The recording of the date and time the document was received by the individual. [P.L.10-1988, § 1.]

**3-5-2-25. "Fiscal body".** — "Fiscal body" means:

- (1) County council, for a county not having a consolidated city;
- (2) City-county council, for a consolidated city or county having a consolidated city;
- (3) Common council, for a second or third class city;
- (4) Town council, for a town;
- (5) Township board, for a township; or
- (6) Governing body or budget approval body, for any other political subdivision. [P.L.5-1986, § 1; P.L.8-1987, § 1; P.L.8-1989, § 2.]

**3-5-2-26. "Fiscal officer".** — "Fiscal officer" means the city controller of a second-class city or the clerk-treasurer of a town or third-class city. [P.L.5-1986, § 1.]

**3-5-2-26.5. [Repealed.]**

**3-5-2-26.6. "Independent".** — "Independent" means a candidate, or a ticket of candidates for President and Vice President of the United States or for governor and lieutenant governor, who states that the candidate or ticket is not affiliated with any political party. [P.L.3-1993, § 4.]

**3-5-2-27. "Legislative body".** — "Legislative body" means the body having the power to adopt county, city, or town ordinances under IC 36-1-3-6. [P.L.5-1986, § 1.]

**3-5-2-28. "Legislative office".** — "Legislative office" refers to senator and representative in the general assembly. [P.L.5-1986, § 1.]

**3-5-2-29. "Local office".** — "Local office" means a circuit office, county office, city office, town office, township office, or other civil office for which the electorate of a political subdivision votes. The term includes all elected offices other than federal, state, legislative, and school board offices. [P.L.5-1986, § 1.]

**3-5-2-30. "Major political party".** — "Major political party" refers to:

- (1) With respect to the state, either of the two (2) parties whose nominees received the highest and second highest numbers of votes statewide for secretary of state in the last election; or
- (2) With respect to a political subdivision, either of the two (2) parties whose nominees received the highest and second highest numbers of votes in that political subdivision for secretary of state in the last election. [P.L.5-1986, § 1.]

**3-5-2-31. "Marking device".** — "Marking device" means:

- (1) An apparatus in which paper ballots or ballot cards are inserted and used in connection with a punch apparatus for the piercing of ballots by the voter;
- (2) A pencil for marking a paper ballot or ballot card; or
- (3) An approved touch-sensitive device that automatically registers a vote on an electronic voting system.

[P.L.5-1986, § 1; P.L.6-1986, § 3; P.L.3-1987, § 6.]

**3-5-2-32. "Municipality".** — "Municipality" means a city or town. [P.L.5-1986, § 1.]

**3-5-2-33. "Nominee".** — "Nominee" means a candidate:

- (1) Nominated by a political party at a primary election or convention under this title as the party's candidate for an elected office in a general, municipal, or special election; or
- (2) Nominated by petition for an elected office.

[P.L.5-1986, § 1.]

**3-5-2-34. "Organization".** — "Organization" means a person that is not an individual. The term includes a business firm or corporation, a limited liability company, a labor organization, a religious organization, a political club, a trustee, a receiver, or any other type of association or group of individuals. [P.L.5-1986, § 1; P.L.8-1993, § 4.]

**3-5-2-34.5. "Overseas voter".** — "Overseas voter" has the meaning set forth in 42 U.S.C. 1973ff-6(5), as in effect January 1, 1993. [P.L.14-1993, § 2.]

**3-5-2-35. "Paster".** — "Paster" means a sticker that is used to correct the name of a candidate on ballots whenever:

- (1) A new candidate is appointed or selected under IC 3-13-1 or IC 3-13-2; or
- (2) A change must be made to correct any error;

after the ballots are printed and before the election. [P.L.5-1986, § 1; P.L.3-1987, § 7.]

**3-5-2-36. "Person".** — "Person" means an individual or an organization. [P.L.5-1986, § 1.]

**3-5-2-37. "Political action committee".** — "Political action committee" means an organization located within or outside Indiana that:

- (1) Is not partisan;
- (2) Proposes to influence the election of a candidate for state, legislative, local, or school board office or the outcome of a public question; and
- (3) Accepts contributions or makes expenditures during a calendar year to influence the election of a candidate for state, legislative, local, or school board office or the outcome of a public question that will appear on the ballot

in Indiana that in the aggregate exceed one hundred dollars (\$100). [P.L.5-1986, § 1; P.L.3-1987, § 8; P.L.7-1990, § 1.]

(2) years to another committee or to a candidate. [P.L.5-1986, § 1.]

**3-5-2-43. [Repealed.]**

**3-5-2-44. "School board".** — "School board" means the fiscal body of a school corporation. [P.L.5-1986, § 1.]

**3-5-2-45. "School board office".** — "School board office" refers to an elected position on the school board of a school corporation. [P.L.5-1986, § 1.]

**3-5-2-46. "School corporation".** — "School corporation" refers to a public school corporation established under IC 20. [P.L.5-1986, § 1.]

**3-5-2-47. "School district".** — "School district" means the taxing district of a school corporation. [P.L.5-1986, § 1.]

**3-5-2-48. "State office".** — "State office" refers to governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, superintendent of public instruction, attorney general, justice of the supreme court, judge of the court of appeals, judge of the tax court, and clerk of the supreme court. [P.L.5-1986, § 1.]

**3-5-2-49. "Town".** — "Town" refers to an incorporated town of any size. The term does not include cities. [P.L.5-1986, § 1.]

**3-5-2-50. "Voter".** — "Voter" means a person who is qualified and registered to vote in an election. [P.L.5-1986, § 1.]

**3-5-2-50.2. "Voter with disabilities".** — "Voter with disabilities" means a voter who has a permanent or temporary physical disability, as set forth in 42 U.S.C. 1973ee-6(4). [P.L.4-1991, § 3.]

**3-5-2-50.6. "Voting machine".** — "Voting machine" means a mechanical lever voting device. [P.L.4-1991, § 4.]

**3-5-2-51. "Voting mark".** — "Voting mark" means a cross mark or check mark (X or √). [P.L.6-1986, § 4.]

**3-5-2-52. "Voting method".** — "Voting method" means the use of:

- (1) Paper ballots;
- (2) Voting machines;
- (3) Ballot card voting systems;
- (4) Electronic voting systems; or
- (5) Any combination of these;

to register votes in a precinct. [P.L.3-1987, § 11.]

**3-5-2-38. "Political subdivision".** — "Political subdivision" means a county, city, town, township, school corporation, public library, local housing authority, fire protection district, public transportation corporation, local building authority, local hospital authority or corporation, local airport authority, special service district, special taxing district, or other type of local governmental corporate entity. [P.L.5-1986, § 1.]

**3-5-2-39. "Polls".** — "Polls" means the room in a structure where the voters of a precinct vote by casting ballots. [P.L.5-1986, § 1; P.L.3-1987, § 9.]

**3-5-2-40. "Precinct".** — "Precinct" means a subdivision of a county or township established for election purposes. [P.L.5-1986, § 1.]

**3-5-2-40.1. "Precinct election officer".** — "Precinct election officer" means a person appointed to serve in a precinct as one (1) of the following:

- (1) Inspector.
- (2) Judge.
- (3) Poll clerk.
- (4) Assistant poll clerk.
- (5) Election sheriff.

[P.L.3-1987, § 10.]

**3-5-2-41. "Public question".** — "Public question" means a constitutional amendment, proposition, or other issue submitted to the electorate at an election. [P.L.5-1986, § 1.]

**3-5-2-42. "Regular party committee".** — "Regular party committee" means:

- (1) A central committee; or
- (2) Any other partisan organization that:

(A) Proposes to influence the election of a candidate for state, legislative, or local office or the outcome of a public question; and

(B) Has either:

- (i) Had an annual budget of three thousand dollars (\$3,000) or more in at least one (1) of the last two (2) years; or
- (ii) Made a contribution of more than two hundred dollars (\$200) in at least one (1) of the last two

**3-5-2-53. "Voting system".** — "Voting system" means a combination of mechanical, electromechanical, or electronic equipment that is used to cast and count votes. The term includes the software and firmware required to program and to control the equipment. Equipment that is not an integral part of a voting system but that can be used as an adjunct to the system is considered to be a component of the system. [P.L.4-1991, § 5.]

**3-5-2-54. "Write-in candidate".** — "Write-in candidate" means a candidate: (1) Who has filed a declaration of intent to be a write-in candidate; and (2) Whose declaration of intent to be a write-in candidate has been accepted by the appropriate authority under IC 3-8-2-5 and IC 3-8-2-6. [P.L.4-1991, § 6.]

## CHAPTER 3

### EXPENSES RELATING TO ELECTIONS

#### SECTION.

- 3-5-3-1. Payment of expenses from county treasury — Appropriations required — Exception — Charges to municipality.
- 3-5-3-2. County election and registration fund — Creation — Purposes — Levy of tax — Deposit of tax revenues.
- 3-5-3-3. County election and registration fund — Budget and payment of election expenses — Deposit of sums received from municipalities.
- 3-5-3-4. County election and registration fund — Monitoring of balance — Transfers from general fund.
- 3-5-3-5. Counties without election and registration fund — Budget and payment of expenses from general fund.
- 3-5-3-6. [Repealed.]
- 3-5-3-7. Expenses of municipal election conducted by county election board — Payment from county general fund — Certification of amount — Reimbursement of county by municipality.
- 3-5-3-8. Apportionment between county and municipality of certain municipal election expenses.
- 3-5-3-9. Apportionment under IC 3-5-3-8 — More than one municipal election.
- 3-5-3-10. Itemization of expenses which municipality must reimburse county.
- 3-5-3-11. Coincidence of town and general election — Town not assessable for expenses.

**3-5-3-1. Payment of expenses from county treasury — Appropriations required — Exception — Charges to municipality.** — (a) Except as provided in sections 7 through 10 [IC 3-5-3-7 — 3-5-3-10] of this chapter, the county auditor shall pay the expenses of voter registration

and for all election supplies, and equipment, and expenses out of the county treasury in the manner provided by law. The county fiscal body shall make the necessary appropriations for these purposes.

(b) The county executive shall pay to the circuit court clerk or board of registration the expenses of preparing and mailing notices of suspension and cancellation under IC 3-7-9 out of the county treasury without appropriation.

(c) Registration expenses incurred by a circuit court clerk or board of registration for:

- (1) The salaries of members of a board of registration appointed under IC 3-7-2-5; and
- (2) The salaries of assistants employed under IC 3-7-2-21;

may not be charged to a municipality. However, the municipality may be charged for wages of extra persons employed to provide additional assistance reasonably related to the municipal election. [P.L.5-1986, § 1; P.L.9-1987, § 1.]

**3-5-3-2. County election and registration fund — Creation — Purposes — Levy of tax — Deposit of tax revenues.** — The legislative body of a county may establish a county election and registration fund for the purpose of paying for all the expenses specified in section 1 [IC 3-5-3-1] of this chapter. The legislative body may annually levy a tax on all taxable property in the county, in the manner that other taxes are levied, sufficient to meet the average annual expenses specified in section 1 of this chapter. The county shall deposit the revenues from this tax into the fund. [P.L.5-1986, § 1.]

**3-5-3-3. County election and registration fund — Budget and payment of election expenses — Deposit of sums received from municipalities.** — After a county election and registration fund has been established, the county shall budget and pay for all the expenses specified in section 1 [IC 3-5-3-1] of this chapter from the fund. The county may not use the money in the fund for any other purpose. Whenever a municipality reimburses the county for expenses under this chapter, the county shall deposit the money received from the municipality into the fund. [P.L.5-1986, § 1.]

**3-5-3-4. County election and registration fund — Monitoring of balance — Transfers from general fund.** — After a county election and registration fund has been established, the county

executive shall monitor the fund to determine if it contains sufficient money to meet the obligations of the fund. Whenever the executive finds that there is not sufficient money in the fund, the executive may request that the county fiscal body adopt an ordinance authorizing a transfer between funds. If the ordinance is adopted, the executive shall order the county auditor to transfer the amount specified in the ordinance from the general fund of the county to the election and registration fund. [P.L.5-1986, § 1.]

**3-5-3-5. Counties without election and registration fund — Budget and payment of expenses from general fund.** — In a county that does not have an election and registration fund established under this chapter, the county shall budget and pay for all the expenses specified in section 1 [IC 3-5-3-1] of this chapter from the general fund of the county. [P.L.5-1986, § 1.]

**3-5-3-6. [Repealed.]**

**3-5-3-7. Expenses of municipal election conducted by county election board — Payment from county general fund — Certification of amount — Reimbursement of county by municipality.** — All expenses for a municipal primary election or municipal election that is conducted by a county election board shall be allowed by the county executive and shall be paid out of the general fund of the county, without any appropriation being required. The county auditor shall certify the amount of that allowance to the fiscal officer of the municipality. The fiscal body of the municipality shall make the necessary appropriation to reimburse the county for the expense of the primary election or election. [P.L.5-1986, § 1.]

**3-5-3-8. Apportionment between county and municipality of certain municipal election expenses.** — During the period that begins ninety (90) days before a municipal primary election and continues until the day after the following municipal election, all expenses of the primary election and election that cannot be chargeable directly to any municipality shall be apportioned as follows:

- (1) One-fourth ( $\frac{1}{4}$ ) to the county.
- (2) Three-fourths ( $\frac{3}{4}$ ) to the municipalities in the county holding the municipal primary election and municipal election. [P.L.5-1986, § 1; P.L.9-1987, § 2.]

**3-5-3-9. Apportionment under IC 3-5-3-8 — More than one municipal election.** — Whenever more than one (1) municipality in a county conducts a municipal primary election and municipal election, the three-fourths ( $\frac{3}{4}$ ) of expenses that cannot be chargeable directly to any particular municipality under section 8 [IC 3-5-3-8] of this chapter shall be apportioned to each municipality in the same ratio that the number of voters who cast a ballot in the municipality at the municipal election bears to the total number of voters who cast a ballot in all of the municipalities in the county at that municipal election. [P.L.5-1986, § 1; P.L.9-1987, § 3; P.L.10-1988, § 3.]

**3-5-3-1. Payment of expenses from county treasury — Appropriations required — Exception — Charges to municipality.** — (a) Except as provided in sections 7 through 10 [IC 3-5-3-7 through IC 3-5-3-10] of this chapter, the county auditor shall pay the expenses of voter registration and for all election supplies, equipment, and expenses out of the county treasury in the manner provided by law. The county fiscal body shall make the necessary appropriations for these purposes.

(b) The county executive shall pay to the circuit court clerk or board of registration the expenses of preparing and mailing notices of suspension and cancellation under IC 3-7-9 out of the county treasury without appropriation.

(c) Registration expenses incurred by a circuit court clerk or board of registration for:

- (1) The salaries of members of a board of registration appointed under IC 3-7-2-5;
- (2) The salaries of chief clerks appointed under IC 3-7-2-20; and
- (3) The salaries of assistants employed under IC 3-7-2-21;

may not be charged to a municipality. However, the municipality may be charged for wages of extra persons employed to provide additional assistance reasonably related to the municipal election. [P.L.5-1986, § 1; P.L.9-1987, § 1; P.L.15-1993, § 1.]

**3-5-3-11. Coincidence of town and general election — Town not assessable for expenses.** — Notwithstanding section 7 [IC 3-5-3-7] of this chapter, in a year in which a town election coincides with a general election, the county election board may not assess the town for the cost of the election. [P.L.5-1986, § 1.]

## CHAPTER 4

## MISCELLANEOUS PROVISIONS

## SECTION.

- 3-5-4-1. Final hour for filing when none specified.  
 3-5-4-1.5. Performance on day office closed.  
 3-5-4-2, 3-5-4-3. [Repealed.]  
 3-5-4-4. Voters exempt from arrest while going to, attending, or returning from polls — Exceptions.  
 3-5-4-5. [Repealed.]  
 3-5-4-6. Instructions specifying a voting mark for ballot card or electronic voting systems.

**3-5-4-1. Final hour for filing when none specified.** — Whenever this title specifies a final day for a particular filing but no final hour of that day, the final hour for the receipt of the particular filing is noon, prevailing time, of that final day. [P.L.5-1986, § 1.]

**3-5-4-1.5. Performance on day office closed.** — (a) This section applies if this title requires that a legal action be taken at the office of a circuit court clerk or a political subdivision.

(b) If the final day for performing the action falls on a day when the office is not open to conduct public business, the legal action may be performed:

(1) On the next day that the office is open for public business; or

(2) Through noon of the next day that the office is open for public business if the action to be performed is the receipt of a filing. [P.L.3-1993, § 5.]

**3-5-4-2, 3-5-4-3. [Repealed.]**

**3-5-4-4. Voters exempt from arrest while going to, attending, or returning from polls — Exceptions.** — A voter is not subject to arrest while going to the polls, while in attendance there, and while returning from the polls. However, this section does not apply in case of:

(1) Treason;

(2) Felony; or

(3) Breach of the peace.

[P.L.5-1986, § 1.]

**3-5-4-5. [Repealed.]**

**3-5-4-6. Instructions specifying a voting mark for ballot card or electronic voting systems.** — Whenever a ballot card or an electronic voting system is used in a precinct and a ballot form prescribed by this title refers to a voting mark, the county election board shall approve voting instructions indicating that a specific type of marking device is

employed on the system to indicate a vote. [P.L.3-1987, § 12.]

## ARTICLE 6

## PARTY AND ELECTION OFFICERS

## CHAPTER.

1. CENTRAL COMMITTEES, 3-6-1-1 — 3-6-1-14.
2. PRECINCT COMMITTEEMEN AND VICE COMMITTEEMEN, 3-6-2-1 — 3-6-2-9.
3. CHANGE OF NAME OF POLITICAL PARTY, 3-6-3-1 — 3-6-3-6.
4. STATE ELECTION BOARD, 3-6-4-1 — 3-6-4-31.
5. COUNTY ELECTION BOARDS, 3-6-5-1 — 3-6-5-33.
- 5.2. COMBINED COUNTY ELECTION BOARD AND BOARD OF REGISTRATION, 3-6-5.2-1 — 3-6-5.2-7.
6. PRECINCT ELECTION OFFICERS, 3-6-6-1 — 3-6-6-36.
7. CHALLENGERS AND POLLBOOK HOLDERS, 3-6-7-1 — 3-6-7-4.
8. WATCHERS FOR POLITICAL PARTIES AND INDEPENDENT CANDIDATES, 3-6-8-1 — 3-6-8-6.
9. WATCHERS FOR PRIMARY, SCHOOL BOARD AND PRECINCT COMMITTEEMAN CANDIDATES, 3-6-9-1 — 3-6-9-12.
10. WATCHERS FOR THE MEDIA, 3-6-10-1 — 3-6-10-6.
11. POLL TAKERS, 3-6-11-1 — 3-6-11-9.

## CHAPTER 1

## CENTRAL COMMITTEES

## SECTION.

- 3-6-1-1. Political parties required to have central committees — Committees required — City committees.
- 3-6-1-2. State committee composition.
- 3-6-1-3. Congressional district committee composition.
- 3-6-1-4. County committee composition.
- 3-6-1-5. City committee composition.
- 3-6-1-6. Central committees — Officers.
- 3-6-1-7. Central committees — Election of officers.
- 3-6-1-8. Central committees — Additional officers — Subcommittees.
- 3-6-1-9. Vacancies.
- 3-6-1-10. Notice of central committee meetings — Voting by vice chairman and vice committeemen.
- 3-6-1-11. Organizational meetings of committees — List of members — Vacancies.
- 3-6-1-11.5. Eligibility to vote for committee officers.
- 3-6-1-12. State committee — Highest party authority — Mandatory rules and regulations.
- 3-6-1-13. State committee — Adoption of other rules and resolutions — Removal of party committee members and officers — Civil actions to enforce rules and resolutions.
- 3-6-1-14. State committee actions to enforce rules and resolutions.

**3-6-1-1. Political parties required to have central committees — Committees required — City committees.** — (a) Each political party whose nominee received at least ten percent (10%) of the

votes cast in the state for secretary of state at the last election shall have the following central committees:

- (1) A state committee.
- (2) Congressional district committees.
- (3) County committees.

(b) The county chairman of a political party described in subsection (a) may, not later than ninety (90) days before a city election, establish a city committee of the party in that city by calling a meeting of the persons comprising the city committee under section 5 [IC 3-6-1-5] of this chapter.

(c) A city committee established under subsection (b) is abolished January 1 following the city election unless the county chairman files an authorization to continue the committee with the circuit court clerk no later than December 31 following the city election.

(d) A city committee extended under subsection (c) continues until the county chairman files a notice of dissolution with the circuit court clerk. [P.L.5-1986, § 2; P.L.10-1987, § 1; P.L.10-1988, § 4.]

**3-6-1-2. State committee composition.** — The district chairmen and vice chairmen of the congressional districts comprise the state committee. [P.L.5-1986, § 2.]

**3-6-1-3. Congressional district committee composition.** — The county chairmen and vice chairmen of the counties that are within the boundaries of a congressional district comprise the congressional district committee. [P.L.5-1986, § 2.]

**3-6-1-4. County committee composition.** — The precinct committeemen and vice committeemen of the precincts of a county comprise the county committee. [P.L.5-1986, § 2.]

**3-6-1-5. City committee composition.** — The members of a county committee residing in a city and representing precincts that are within the city comprise the city committee. [P.L.5-1986, § 2; P.L.11-1987, § 1.]

**3-6-1-6. Central committees — Officers.** — Each central committee shall organize by electing:

- (1) A chairman;
- (2) A vice chairman;
- (3) A secretary; and
- (4) A treasurer.

[P.L.5-1986, § 2.]

**3-6-1-7. Central committees — Election of officers.** — Each central commit-

tee shall elect officers under section 6 [IC 3-6-1-6] of this chapter by majority vote of all eligible committee members as follows:

- (1) A vote for chairman shall be taken first.
- (2) A vote for vice chairman shall then be taken. The person elected vice chairman must be of the opposite sex of the chairman.
- (3) Votes for secretary and treasurer shall then be taken.

[P.L.5-1986, § 2.]

**3-6-1-8. Central committees — Additional officers — Subcommittees.** — A central committee may elect additional officers or appoint subcommittees as it considers necessary. [P.L.5-1986, § 2.]

**3-6-1-9. Vacancies.** — A central committee may fill a vacancy among its officers by electing a voter of the appropriate election district to fill the unexpired term of that officer. The voter must be a member of the same political party. [P.L.5-1986, § 2; P.L.3-1987, § 13.]

**3-6-1-10. Notice of central committee meetings — Voting by vice chairman and vice committeemen.** — A notice of the time and place of each meeting of a central committee shall be sent to each member of the committee, including the vice chairman and each vice committeeman. Except as provided in IC 3-13, the vice chairman and vice committeemen are entitled to vote on all matters coming before any meeting. [P.L.5-1986, § 2.]

**3-6-1-11. Organizational meetings of committees — List of members — Vacancies.** — (a) The precinct committeemen and vice committeemen of each political party subject to this chapter shall meet on the first Saturday in March 1989, and every four (4) years thereafter to organize the county committee by electing the officers required by section 6 [IC 3-6-1-6] of this chapter. A proxy vote may not be cast at the meeting. The election of officers shall be conducted in the manner prescribed by section 11.5 [IC 3-6-1-11.5] of this chapter. The meeting must take place at the county seat. The retiring county chairman shall:

- (1) Fix the location for the meeting; and
- (2) Mail a written notice of the time and place of the meeting to the precinct committeeman and vice committeeman at least seven (7) days before the meeting occurs.

(b) The retiring county chairman shall file a list of the names and addresses of the

members of the county committee, and the precinct each member represents, with the circuit court clerk. The list must:

- (1) Be filed no later than noon fourteen (14) days before the county committee organization meeting; and
  - (2) When filed, bear the official seal of the circuit court clerk.
- (c) A vacancy in the county committee may not be filled during the fourteen (14) day period preceding the county committee meeting.
- (d) The state committee and each congressional district committee shall organize within one hundred twenty (120) days after the organization meeting of the county committees. [P.L.5-1986, § 2; P.L.3-1987, § 14; P.L.10-1987, § 2; P.L.10-1988, § 5; P.L.5-1989, § 3.]

**3-6-1-11.5. Eligibility to vote for committee officers.** — (a) Except as provided by subsection (b), the precinct committeemen and vice committeemen who:

- (1) Are members of a county committee included on the list filed under section 11(b) [IC 3-6-1-11(b)] of this chapter; and
  - (2) Have been precinct committeemen or vice committeemen continuously for a period of at least fourteen (14) days before the date of the county organization meeting;
- are eligible to vote in an election of county committee officers of a political party subject to this chapter.

(b) A precinct vice committeeman appointed under IC 3-2-3(c) [repealed] is not eligible to vote in an election of county committee officers unless the precinct vice committeeman:

- (1) Is a member of a county committee included on the list filed under section 11(b) of this chapter; and
- (2) Was appointed as a precinct vice committeeman not later than the December 31 immediately preceding the election of the county committee officers. [P.L.10-1987, § 3; P.L.5-1989, § 4; P.L.16-1993, § 2.]

**3-6-1-12. State committee — Highest party authority — Mandatory rules and regulations.** — The state committee of each political party subject to this chapter is the highest party authority and shall adopt rules or resolutions for:

- (1) The organization of the congressional district committees and city committees, including uniformly fixing the time that each committee is to be organized; and
- (2) The government of all central committees.

[P.L.5-1986, § 2.]

**3-6-1-13. State committee — Adoption of other rules and resolutions — Removal of party committee members and officers — Civil actions to enforce rules and resolutions.** — The state committee of each political party subject to this chapter may:

- (1) Adopt rules and resolutions to provide for all matters of party government that are not controlled by law;
- (2) Remove a member or officer of a regular party committee, after reasonable notice and hearing, for refusing to obey or conform to a rule or resolution adopted by the state committee; and
- (3) Maintain civil actions, in its own name, to enforce obedience to its rules or resolutions. [P.L.5-1986, § 2.]

**3-6-1-14. State committee actions to enforce rules and resolutions.** — An action brought under section 13 [IC 3-6-1-13] of this chapter:

- (1) Must be commenced, prosecuted, and tried in the circuit or superior court of the county where the defendant resides;
- (2) Shall be tried by the court without a jury;
- (3) Has precedence over all other cases pending in the court, except murder trials; and
- (4) May not be venued from the county.

Process shall be served and proceedings conducted as in other civil actions, except that process shall be returned three (3) days from the date of service. An appeal from the judgment entered in any case may be taken by either party. [P.L.5-1986, § 2.]

## CHAPTER 2

### PRECINCT COMMITTEEMEN AND VICE COMMITTEEMEN

#### SECTION.

- 3-6-2-1. Political parties required to have precinct committees.
- 3-6-2-2. Composition of precinct committee.
- 3-6-2-3. Vice committeemen — Appointment by precinct committeemen — Certification — Appointment by county chairman.
- 3-6-2-4. [Repealed.]
- 3-6-2-5. Vice committeemen appointed by retiring county chairman — Removal — Appointment of successor vice committeemen.



## SECTION.

3-6-2-6. Designation of county committee member residing in city as city committeeman for precinct.

3-6-2-7. City committeeman for precinct — Filling vacancy where 3-6-2-6 inapplicable.

3-6-2-8. Appointment or designation of city vice committeeman for precinct.

3-6-2-9. Precinct committeeman — Filling vacancy.

**3-6-2-1. Political parties required to have precinct committees.** — Each political party whose nominee received at least ten percent (10%) of the votes cast in the state for secretary of state at the last election shall have precinct committees. [P.L.5-1986, § 2.]

**3-6-2-2. Composition of precinct committee.** — The precinct committeeman, the precinct vice committeeman, and any other persons that the county chairman designates or appoints comprise a precinct committee required by section 1 [IC 3-6-2-1] of this chapter. [P.L.5-1986, § 2.]

**3-6-2-3. Vice committeemen — Appointment by precinct committeemen — Certification — Appointment by county chairman.** — (a) Each precinct committeeman elected at a primary election may appoint a qualified person of the opposite sex as the precinct vice committeeman. The precinct committeeman shall certify the appointment to the county chairman no later than noon on the Saturday following the primary election at which the committeeman is elected.

(b) If a precinct committeeman fails to make the appointment or fails to certify the appointment to the county chairman before that time, the county chairman may appoint a precinct vice committeeman to fill the vacancy.

(c) With the written and signed approval of the county chairman the precinct committeeman may replace the precinct vice committeeman after providing ten (10) days signed and written notice to the county chairman. [P.L.5-1986, § 2; P.L.3-1987, § 15; P.L.5-1989, § 5; P.L.9-1989, § 1; P.L.1-1990, § 5; P.L.16-1993, § 1.]

**3-6-2-4. [Repealed.]**

**3-6-2-5. Vice committeemen appointed by retiring county chairman — Removal — Appointment of successor vice committeemen.** — A county chairman elected at the organization meeting held under IC 3-6-1-11 may remove a precinct vice committeeman appointed by

a retiring county chairman without nomination under section 3 [IC 3-6-2-3] of this chapter and appoint another precinct vice committeeman. [P.L.5-1986, § 2.]

**3-6-2-6. Designation of county committee member residing in city as city committeeman for precinct.** — (a) This section applies whenever a city committee is established under IC 3-6-1-1(b).

(b) If two (2) or more precinct committeemen who are members of a county committee reside in a city precinct before the organization of the city committee, the county chairman shall designate one (1) of them as the city committeeman for the precinct. [P.L.5-1986, § 2; P.L.3-1987, § 16.]

**3-6-2-7. City committeeman for precinct — Filling vacancy where 3-6-2-6 inapplicable.** — (a) This section applies whenever a city committee is established under IC 3-6-1-1(b).

(b) If:

(1) No member of a county committee resides in a city precinct; or

(2) There is a member and that member declines to serve as a member of the city committee;

then the county chairman, at any time before the organization of the city committee, shall fill the vacancy on the city committee by appointment of a voter residing in the precinct. [P.L.5-1986, § 2; P.L.3-1987, § 17.]

**3-6-2-8. Appointment or designation of city vice committeeman for precinct.** — (a) This section applies whenever a city committee is established under IC 3-6-1-1(b).

(b) If:

(1) Two (2) or more precinct vice committeemen, who are members of a county committee, reside in the same city precinct; or

(2) No vice committeeman of a county committee resides in a city precinct; then a vice committeeman shall be appointed to represent the precinct on the city committee as prescribed by section 6 or 7 [IC 3-6-2-6 or 3-6-2-7] of this chapter for precinct committeemen. [P.L.5-1986, § 2; P.L.3-1987, § 18.]

**3-6-2-9. Precinct committeeman — Filling vacancy.** — The county chairman may fill any vacancy in the office of precinct committeeman. [P.L.3-1987, § 19.]

## CHAPTER 3

## CHANGE OF NAME OF POLITICAL PARTY

## SECTION.

- 3-6-3-1. Compliance with chapter.  
 3-6-3-2 — 3-6-3-5. [Repealed.]  
 3-6-3-6. Use of new name — Retention of former rights.

**3-6-3-1. Compliance with chapter.** — Any political party may change its name by complying with this chapter. [P.L.5-1986, § 2.]

**3-6-3-2 — 3-6-3-5. [Repealed.]**

**3-6-3-6. Use of new name — Retention of former rights.** — (a) After the state chairman of a political party files a statement with the secretary of state certifying that the party's name has been changed in accordance with all applicable party rules, a political party shall be known by its new name, and the party has all the rights it had under its former name.

(b) If the state chairman of a political party files a statement under subsection (a) after the printing of ballots for use at an election conducted under this title has begun, the election board responsible for printing the ballots is not required to alter the ballots to state the new name of the political party. [P.L.5-1986, § 2; P.L.3-1993, § 6.]

## CHAPTER 4

## STATE ELECTION BOARD

## SECTION.

- 3-6-4-1. Establishment.  
 3-6-4-2. Membership.  
 3-6-4-3. Appointment of members — Term of appointed members.  
 3-6-4-4. Nomination of appointed members by state political party chairman — Appointment of those nominated.  
 3-6-4-5. Filling of vacancy due to death or disability of appointed member.  
 3-6-4-6. Proxies.  
 3-6-4-7. Compensation of members.  
 3-6-4-8. Call of meetings by chairman.  
 3-6-4-9. Failure of chairman to call meeting — Meetings by other members.  
 3-6-4-10. Failure of board to meet and discharge duties — Gubernatorial order to discharge duties.  
 3-6-4-11. Minutes of meetings — Written records of votes.  
 3-6-4-12. Duties.  
 3-6-4-12.5. Emergency rules.  
 3-6-4-12.7. Extension of filing period — Natural disaster or emergency.  
 3-6-4-13. [Repealed.]  
 3-6-4-14. Effect of IC 3-6-4-12 on county election board — Submission of deadlocked county election board issue to state election board.

## SECTION.

- 3-6-4-15. Instructional meeting for county election board, registration board and circuit court clerk.  
 3-6-4-16. Compensation of county election board and board of registration members at instructional meeting.  
 3-6-4-17. Executive director.  
 3-6-4-18. Administrative assistants and other employees — Authority to employ.  
 3-6-4-19. Administrative assistants and other employees — Equal division of political affiliation.  
 3-6-4-20. Administrative assistants and other employees — Employment on alternating political affiliation method.  
 3-6-4-21. Administrative assistant position vacancy — Submission of replacement by state political party chairman — Employment of person submitted.  
 3-6-4-22. Administrative assistant position vacancy — Failure of state political party chairman to submit replacement — Procedure for filling vacancy.  
 3-6-4-23. Employment and promotion of employees by alternating political party method.  
 3-6-4-24. Biennial budget estimates — Expenditure of funds.  
 3-6-4-25. Audits and investigations.  
 3-6-4-26. Subpoena power.  
 3-6-4-27. Mileage and fee of subpoena witnesses.  
 3-6-4-28. Administration of oaths by board members or employees.  
 3-6-4-29. Investigation of election law violation — Referral of matter to attorney general or prosecuting attorney.  
 3-6-4-30. Civil action by attorney general or prosecuting attorney.  
 3-6-4-31. State police to assist board.

**3-6-4-1. Establishment.** — The state election board is established. [P.L.5-1986, § 2.]

**3-6-4-2. Membership.** — The following three (3) members comprise the state election board:

(1) A person appointed by the governor to serve at the pleasure of the governor as chairman.

(2) Two (2) voters appointed by the governor, one (1) from each of the major political parties of the state. [P.L.5-1986, § 2; P.L.4-1991, § 7.]

**3-6-4-3. Appointment of members — Term of appointed members.** — The governor shall make the appointments to the state election board at least sixty (60) days before each general election. The appointed members serve for terms of two (2) years or until their successors are appointed and qualified. [P.L.5-1986, § 2.]

**3-6-4-4. Nomination of appointed members by state political party chair-**

**man — Appointment of those nominated.** — The state chairman of each of the major political parties of the state may nominate, in writing, a member of the chairman's own political party for appointment to the state election board. If the nomination is made at least sixty (60) days before the general election, the governor shall appoint the nominee to the board. [P.L.5-1986, § 2.]

**3-6-4-5. Filling of vacancy due to death or disability of appointed member.** — In case of the death or disability of either appointee to the state election board, the governor shall notify the state chairman of the appointee's political party. The chairman may, within ten (10) days after notice of the vacancy, nominate in writing a successor who shall be appointed to the board. If the state chairman fails to make a nomination within the ten (10) day period, the governor shall, within another ten (10) days, appoint a member of the same political party. [P.L.5-1986, § 2.]

**3-6-4-6. Proxies.** — (a) A member may appoint an individual to serve as a proxy of record in the member's place as a member of the state election board by filing a written instrument appointing the proxy of record with the state election board. The proxy of record has the same authority to act and vote on all matters as does the member. The member may revoke the authority of the proxy of record at any time. The authority of the proxy of record may be either limited or general with regard to duration or subject matter as set forth by the member in the written instrument appointing the proxy.

(b) If both the member and the member's proxy of record are unavailable, the member may appoint another individual in writing to serve as an alternate proxy in the member's place as a member of the state election board. The alternate proxy has the same authority to act and vote on all matters as does the member. The member may revoke the authority of the alternate proxy any time. The authority of the alternate proxy may be either limited or general with regard to duration or subject matter as set forth by the member in the written instrument appointing the proxy. [P.L.5-1986, § 2; P.L.4-1991, § 8.]

**3-6-4-7. Compensation of members.** — (a) Each member of the state election board who is not a state employee is entitled to receive the minimum salary per diem provided by IC 4-10-11-2.1(b). Such a member is entitled to reimbursement for travel expenses and other expenses actu-

ally incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the board who is a state employee is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency. [P.L.5-1986, § 2; P.L.7-1986, § 1; P.L.3-1987, § 21; P.L.4-1991, § 9.]

**3-6-4-8. Call of meetings by chairman.** — The chairman shall call a meeting of the state election board whenever the chairman considers it necessary for the performance of the board's duties. [P.L.5-1986, § 2; P.L.4-1991, § 10.]

**3-6-4-9. Failure of chairman to call meeting — Meetings by other members.** — If the chairman for any reason fails to call a meeting of the state election board, then the two (2) other members of the board may meet to execute the powers and perform the duties of the board. [P.L.5-1986, § 2; P.L.4-1991, § 11.]

**3-6-4-10. Failure of board to meet and discharge duties — Gubernatorial order to discharge duties.** — If the state election board fails to meet and discharge the duties imposed upon it by law, then the governor may order the board to meet in the performance of the board's duties if the governor:

- (1) Considers a meeting to be necessary; or
- (2) Receives a petition signed by at least one (1) voter from each congressional district in the state. [P.L.5-1986, § 2; P.L.4-1991, § 12.]

**3-6-4-11. Minutes of meetings — Written records of votes.** — The state election board shall keep minutes of all meetings of the board, including a written record of the aye and nay vote of each member on all questions coming before the board. [P.L.5-1986, § 2.]

**3-6-4-12. Duties.** — (a) The state election board, in addition to duties otherwise prescribed by law, shall do the following:

- (1) Administer the election laws of the state.
- (2) Adopt rules under IC 4-22-2 to do the following:
  - (A) Govern the fair, legal, and orderly conduct of elections, includ-

ing emergency rules described in section 12.5 [IC 3-6-4-12.5] of this chapter to implement a court order requiring an election board or official to administer an election in a manner not authorized by this title.

(B) Carry out IC 3-9 (campaign finance).

(C) Govern the establishment of precincts under IC 3-11-1.5.

(D) Specify procedures and fees for the processing of an application from a vendor for voting systems approval and testing.

(E) Prescribe formats for the storage and submission of computerized voter registration records by county and state agencies or offices.

(3) Prepare a uniform set of election and registration forms for use throughout the state, except when prescribed by this title.

(4) Advise, instruct, and exercise supervision over local election and registration officers.

(5) Prepare and distribute paper ballots for the election or retention of persons to federal and state offices and for public questions in compliance with this title.

(6) Maintain complete and uniform descriptions and maps of all precincts in the state.

(7) Promptly update the information required by subdivision (6) after each precinct establishment order is filed with the board under IC 3-11-1.5.

(8) Issue media watcher cards under IC 3-6-10-6.

(b) The state election board may assist county election boards in establishing programs to educate precinct election officers concerning election procedures.

[P.L.5-1986, § 2; P.L.7-1986, § 2;  
P.L.3-1987, § 22; P.L.13-1988, § 3;  
P.L.4-1991, § 13; P.L.1-1992, § 2;  
P.L.3-1993, § 7.]

**3-6-4-12.5. Emergency rules.** — The state election board by unanimous vote of the entire membership of the board may adopt emergency rules under IC 4-22-2-37.1 to implement a court order requiring an election board or official to administer an election in a manner not authorized by this title. [P.L.3-1993, § 8.]

**3-6-4-12.7. Extension of filing period — Natural disaster or emergency.** — (a) If the state election board by unanimous vote of the entire membership of the board finds that a natural disaster or other emergency makes it impossible or unreasonable for a person to perform a duty or

file a document by the time specified in this title, the board may issue an order extending the time for performing the duty or filing the document.

(b) An order described in subsection (a) expires not later than thirty (30) days after the order is issued. The order must include the following:

(1) The geographic area subject to the order.

(2) The election board or official subject to the order.

(3) The duty or filing subject to the order.

(4) The specific date by which the duty must be performed or the document filed under the order. [P.L.3-1993, § 9.]

### **3-6-4-13. [Repealed.]**

**3-6-4-14. Effect of IC 3-6-4-12 on county election board — Submission of deadlocked county election board issue to state election board.** — Section 12 [IC 3-6-4-12] of this chapter does not divest a county election board of any powers and duties imposed on it in IC 3-6-5, except that in the case of a deadlock on a county election board, the county election board shall submit the question to the state election board for final determination. [P.L.5-1986, § 2; P.L.13-1988, § 4.]

**3-6-4-15. Instructional meeting for county election board, registration board and circuit court clerk.** — (a) Each year the state election board shall call a meeting of all the members of the county election boards and the boards of registration to instruct them as to their duties under this title. Each circuit court clerk shall attend the meeting.

(b) The state election board shall set the time and place of the instructional meeting. In years in which a primary election is held, the state election board shall conduct the meeting before primary election day. The instructional meeting may not last more than two (2) days. [P.L.5-1986, § 2; P.L.3-1987, § 23; P.L.3-1993, § 10.]

**3-6-4-16. Compensation of county election board and board of registration members at instructional meeting.** — Each member of a county election board or board of registration is entitled to receive a per diem of twenty-five dollars (\$25) and a mileage allowance at the state rate for the distance necessarily traveled in going to and returning from the place of the instructional meeting required by section 15 [IC 3-6-4-15] of this chapter. [P.L.5-1986, § 2.]

**3-6-4-17. Executive director.** — The state election board shall, with the approval of the governor, appoint an executive director to carry out its policies, decisions, and recommendations and to maintain an office. The executive director may be of the same political party as the governor. [P.L.5-1986, § 2.]

**3-6-4-18. Administrative assistants and other employees — Authority to employ.** — The state election board shall employ two (2) administrative assistants and may employ other employees as necessary in the execution of its powers and duties. [P.L.5-1986, § 2.]

**3-6-4-19. Administrative assistants and other employees — Equal division of political affiliation.** — The administrative assistants and other employees of the state election board (except the executive director) must be divided equally between the major political parties of the state. [P.L.5-1986, § 2.]

**3-6-4-20. Administrative assistants and other employees — Employment on alternating political affiliation method.** — The state election board shall employ administrative assistants and all other employees on an alternating basis beginning with the employment of the first administrative assistant, who must be affiliated with the opposite political party of that of the executive director. Employment of all other employees of the board must continue on the alternating method based on political affiliation. [P.L.5-1986, § 2.]

**3-6-4-21. Administrative assistant position vacancy — Submission of replacement by state political party chairman — Employment of person submitted.** — When a vacancy in an administrative assistant position occurs, the executive director of the state election board shall notify the state chairman of the political party of which the person vacating the position is a member. The chairman may submit to the executive director the name of a person to fill the vacancy, and that person shall be employed as the administrative assistant. [P.L.5-1986, § 2.]

**3-6-4-22. Administrative assistant position vacancy — Failure of state political party chairman to submit replacement — Procedure for filling vacancy.** — If a state chairman fails to submit in writing the name of a qualified successor within thirty (30) days after the

chairman is notified by the executive director of the state election board of a vacancy described in in section 21 [IC 3-6-4-21] of this chapter, the executive director shall select a member of that political party to fill the vacancy and notify the chairman of the selection. The chairman may disapprove the selection by notifying the executive director within seven (7) days after receiving notice. If the chairman does not disapprove the selection within the seven (7) day period, the person selected by the executive director shall be employed as the administrative assistant. [P.L.5-1986, § 2.]

**3-6-4-23. Employment and promotion of employees by alternating political party method.** — If more than one-half ( $\frac{1}{2}$ ) of the total number of employees of the state election board (excluding the executive director) are affiliated with one (1) political party, then a person affiliated with that party may not be employed or promoted as long as that condition exists, unless total employment is at an odd number and equal employment cannot be obtained. Whenever there is an odd number of total employees, employment shall be offered next and obtained by a person affiliated with the opposite political party so that equal political representation will be maintained. [P.L.5-1986, § 2.]

**3-6-4-24. Biennial budget estimates — Expenditure of funds.** — The state election board shall submit biennial budget estimates in the manner and form required by law. Funds of the board shall be expended only after authorization by the board and in the manner and form required by law. [P.L.5-1986, § 2.]

**3-6-4-25. Audits and investigations.** — An audit or investigation authorized by the state election board concerning administration of the election laws of this state always shall be conducted by at least two (2) state employees divided equally between the major political parties of the state. [P.L.5-1986, § 2.]

**3-6-4-26. Subpoena power.** — The state election board or any member of the board has the power of subpoena and may require a person to appear before the board or a member of the board to be examined with regard to any matter with which the board is charged with a duty under this title. The board may require appearances before the board at the office of the board or at a place fixed by the board in the county of residence of the person subpoenaed. [P.L.5-1986, § 2.]

**3-6-4-27. Mileage and fee of subpoena witnesses.** — A witness who is subpoenaed under section 26 [IC 3-6-4-26] of this chapter is entitled to be paid the same mileage and fee as witnesses in court actions. Mileage and fees shall be paid as other election expenses are paid. [P.L.5-1986, § 2.]

**3-6-4-28. Administration of oaths by board members or employees.** — A member of the state election board or an employee of the board who is designated by the board in writing may administer an oath required or permitted by this title. [P.L.5-1986, § 2.]

**3-6-4-29. Investigation of election law violation — Referral of matter to attorney general or prosecuting attorney.** — If the state election board determines that there is substantial reason to believe an election law violation has occurred, it shall expeditiously make an investigation. If in the judgment of the board, after affording due notice and an opportunity for a hearing, a person has engaged or is about to engage in an act or practice that constitutes or will constitute a violation of a provision of this title or of a rule or order issued under this title, the board shall take the action it considers appropriate under the circumstances, including referring the matter to the attorney general or to the appropriate prosecuting attorney. [P.L.5-1986, § 2.]

**3-6-4-30. Civil action by attorney general or prosecuting attorney.** — Upon referral under section 29 [IC 3-6-4-29] of this chapter, the attorney general or prosecuting attorney shall institute on behalf of the state a civil action for relief, including a permanent or temporary injunction, restraining order, or other appropriate order in a circuit or superior court in the county in which the person is found, resides, or transacts business. Upon a proper showing that the person has engaged or is about to engage in an act or practice described by section 29 of this chapter, the court shall grant a permanent or temporary injunction, restraining order, or other order without bond. [P.L.5-1986, § 2.]

**3-6-4-31. State police to assist board.** — The state police department and all state police officers shall assist the state election board, on request, in the enforcement of the election laws and the discharge of its duties, including the use of state police radio and telephone service on election days. However, neither the state

police department nor a state police officer may supplant or interfere with a local law enforcement officer or precinct election officer in the discharge of duties. [P.L.5-1986, § 2.]

## CHAPTER 5

### COUNTY ELECTION BOARDS

#### SECTION.

- 3-6-5-1. Establishment.
- 3-6-5-2. Membership.
- 3-6-5-3. Candidate may not be member — Member may not hold elected office.
- 3-6-5-4. Appointment of members — Terms.
- 3-6-5-4.5. Proxies.
- 3-6-5-5. Nomination of members by county and political party chairman — When nominee must be appointed.
- 3-6-5-6. Removal of members — Appointment of new members.
- 3-6-5-7. Filling of vacancy.
- 3-6-5-8. Chairman — Secretary.
- 3-6-5-9. Compensation of members.
- 3-6-5-10. Office space.
- 3-6-5-11. Call of meetings by chairman.
- 3-6-5-12. Failure of chairman to call meeting — Meetings by other members.
- 3-6-5-13. Minutes of meetings — Written records of votes.
- 3-6-5-14. Duties.
- 3-6-5-14.5. Resolution to delegate duties.
- 3-6-5-15. Political subdivisions in more than one county — Conduct of elections.
- 3-6-5-16. Preparation and submission of budget estimates.
- 3-6-5-17. Municipal and general election reports — Submission to state election board — Contents of report.
- 3-6-5-18. Actions of circuit court clerk considered actions of the board.
- 3-6-5-19. Exercise of board powers and duties by circuit court clerk.
- 3-6-5-20. Deputy election commissioners — Appointment and removal — Residency requirement.
- 3-6-5-21. Deputy election commissioners — Political affiliation.
- 3-6-5-22. Deputy election commissioners — Duties.
- 3-6-5-23. Clerks, custodians, and other employees.
- 3-6-5-24. Candidate for elective office may not be appointed deputy election commissioner or employed by county election board — Effect of commissioner or employee becoming candidate for elective office.
- 3-6-5-25. Audit of board books.
- 3-6-5-26. Power to examine persons under oath.
- 3-6-5-27. Subpoena power.
- 3-6-5-28. Service of processes issued by board.
- 3-6-5-29. Judicial enforcement of subpoenas — Contempt.
- 3-6-5-30. Mileage and fees of subpoenaed witnesses.
- 3-6-5-31. Investigation of election law violations — Referral of matters to attorney general or prosecuting attorney.
- 3-6-5-32. Civil actions by attorney general or prosecuting attorney.
- 3-6-5-33. County and municipal law enforcement officers to assist board.

**3-6-5-1. Establishment.** — (a) Except as provided in subsection (b), a board is established in each county of the state known as the (name of county) county election board.

(b) In a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) a combined county election board and board of registration is established by IC 3-6-5.2. [P.L.5-1986, § 2; P.L.3-1993, § 11.]

**3-6-5-2. Membership.** — The following three (3) members comprise each county election board:

(1) The circuit court clerk, who is ex officio a member of the board.

(2) Two (2) persons appointed by the circuit court clerk, one (1) from each of the major political parties of the county. [P.L.5-1986, § 2.]

**3-6-5-3. Candidate may not be member — Member may not hold elected office.** — A person who is a candidate for elected office may not be appointed as a member of a county election board. If an appointed member becomes a candidate for elected office, the member may not continue to serve on the county election board. In addition, an appointed member may not hold elected office while a member. [P.L.5-1986, § 2; P.L.3-1987, § 24.]

**3-6-5-4. Appointment of members — Terms.** — Each circuit court clerk shall make the appointments to a county election board at least ninety (90) days before the primary election in each year in which a general election is held. The board members appointed by the clerk serve until their successors are appointed and qualified. [P.L.5-1986, § 2.]

**3-6-5-4.5. Proxies.** — (a) A member may appoint an individual to serve as a proxy of record in the member's place as a member of the county election board by filing a written instrument appointing the proxy of record with the circuit court clerk. The proxy of record has the same authority to act and vote on all matters as does the member. The member may revoke the authority of the proxy of record at any time. The authority of the proxy of record may be either limited or general with regard to duration or subject matter as set forth by the member in the written instrument appointing the proxy.

(b) If both the member and the member's proxy of record are unavailable, the member may appoint another individual in writing to serve as an alternate proxy in

the member's place as a member of the county election board. The alternate proxy has the same authority to act and vote on all matters as does the member. The member may revoke the authority of the alternate proxy at any time. The authority of the alternate proxy may be either limited or general with regard to duration or subject matter as set forth by the member in the written instrument appointing the proxy. [P.L.4-1991, § 14.]

**3-6-5-5. Nomination of members by county and political party chairman — When nominee must be appointed.** — The county chairman of each of the major political parties of a county may nominate, in writing, a member of the chairman's party for appointment to the county election board. If the nomination is made at least ninety (90) days before the primary election, the circuit court clerk shall appoint the nominee to the board. [P.L.5-1986, § 2.]

**3-6-5-6. Removal of members — Appointment of new members.** — A circuit court clerk shall remove any member of the county election board upon the request of the county chairman of the political party that nominated that member. The clerk then shall appoint a new member nominated by the county chairman. [P.L.5-1986, § 2.]

**3-6-5-7. Filling of vacancy.** — In case of a vacancy in the office of either appointee to a county election board, the circuit court clerk shall, within five (5) days, send written notice of the vacancy to the county chairman of the appointee's political party. The chairman may, within five (5) days after receiving notice of the vacancy, nominate in writing a successor who shall be appointed. If the chairman fails to make a nomination within the five (5) day period, the clerk shall, within another five (5) days, appoint a member of the political party entitled to the appointment. [P.L.5-1986, § 2; P.L.3-1987, § 25; P.L.7-1990, § 2.]

**3-6-5-8. Chairman — Secretary.** — The members of a county election board shall select one (1) of the appointed members to serve as chairman. The circuit court clerk shall serve as secretary of the board. [P.L.5-1986, § 2.]

**3-6-5-9. Compensation of members.** — Each county fiscal body shall determine, in the manner provided by law, the compensation of:

- (1) The appointed members of the county election board; and  
 (2) The circuit court clerk for the clerk's services as secretary of the county election board. [P.L.5-1986, § 2; P.L.3-1993, § 12.]

**3-6-5-10. Office space.** — Each county executive shall furnish to the county election board necessary office space either in the county courthouse or in some other conveniently located building. [P.L.5-1986, § 2.]

**3-6-5-11. Call of meetings by chairman.** — The chairman of a county election board shall call a meeting of the board whenever the chairman considers it necessary for the performance of the board's duties. [P.L.5-1986, § 2.]

**3-6-5-12. Failure of chairman to call meeting — Meetings by other members.** — If the chairman of a county election board for any reason fails to call a meeting of the board, then the two (2) other members may meet to execute the powers and perform the duties of the board. [P.L.5-1986, § 2.]

**3-6-5-13. Minutes of meetings — Written records of votes.** — Each county election board shall keep minutes of all meetings of the board, including a written record of the aye and nay vote of each member on all questions coming before the board. [P.L.5-1986, § 2.]

**3-6-5-14. Duties.** — (a) Each county election board, in addition to duties otherwise prescribed by law, shall:

- (1) Except as provided in IC 3-8-5 and IC 3-10-7 for town conventions and municipal elections in certain small towns, conduct all elections and administer the election laws within the county;
  - (2) Prepare all ballots except those prepared by the state election board; and
  - (3) Distribute all ballots and pasters to all of the precincts in the county.
- (b) This subsection does not apply to pasters to be attached to ballots during the final three (3) days before an election. At least seven (7) days before distributing ballots, pasters, and voting systems to the precincts in the county, the county election board shall notify the county chairman of each major political party and, upon request, the chairman of any other bona fide political party in the county, that sample ballots and pasters are available for in-

spection. [P.L.5-1986, § 2; P.L.3-1987, § 26; P.L.11-1988, § 1; P.L.3-1993, § 13.]

**3-6-5-14.5. Resolution to delegate duties.** — (a) The county election board, by unanimous vote of the entire membership of the board, may adopt a resolution providing that certain duties and responsibilities exercised by the circuit court clerk under this title shall be performed by an employee of the county election board.

(b) A resolution adopted under this section:

- (1) Must specify the duties and responsibilities to be exercised by the election board employee;
- (2) May not be amended or repealed, except by unanimous vote of the entire membership of the county election board; and
- (3) Expires sixty (60) days after the circuit court clerk who was a member of the county election board when the resolution was adopted leaves office. [P.L.3-1993, § 14.]

**3-6-5-15. Political subdivisions in more than one county — Conduct of elections.** — Except as otherwise provided by law, whenever a political subdivision (as defined in IC 36-1-2-13 and other than a county) contains territory in more than one (1) county, the county election board of the county that contains the greatest percentage of population of the political subdivision shall conduct all elections for the political subdivision. This section does not apply to countywide elections. [P.L.5-1986, § 2; P.L.5-1989, § 6.]

**3-6-5-16. Preparation and submission of budget estimates.** — Each county election board shall prepare annually a budget estimate itemizing its expenditures for the previous year and its estimates of the amount of money necessary to be appropriated for the next year. The board shall submit the budget estimate at the time and in the manner and form other county budget estimates are required to be filed. [P.L.5-1986, § 2.]

**3-6-5-17. Municipal and general election reports — Submission to state election board — Contents of report.** — (a) Each county election board shall submit a report to the state election board after each primary, special, municipal, and general election describing the activities of the board during the previous year. The board shall include the following in the report:

- (1) Information relating to the expenses of office maintenance and elec-



tions within the county or political subdivisions within the county.

(2) A copy of the statement of the county election board containing the votes cast for each candidate and on each public question in each precinct at the last election preceding the submission of the report.

(3) Any additional information relating to elections that the state election board prescribes.

(b) The report described in subsection (a) must be postmarked or hand delivered to the state election board not later than fourteen (14) days after each election. [P.L.5-1986, § 2; P.L.10-1988, § 8; P.L.3-1993, § 15.]

**3-6-5-18. Actions of circuit court clerk considered actions of the board.**

— Each circuit court clerk shall perform all duties imposed upon the clerk under this title as a member of the county election board or as secretary of the board, except when the clerk is acting as the registration officer of the county. Any such action taken by the clerk is considered an action of the board. [P.L.5-1986, § 2.]

**3-6-5-19. Exercise of board powers and duties by circuit court clerk.** — A circuit court clerk, with the approval of the county election board, shall exercise the powers and perform the duties imposed upon the board whenever the facilities of the clerk's office make it more reasonable and efficient for the clerk to do so. Any action taken by the clerk with the approval of the board is considered an action of the board. [P.L.5-1986, § 2.]

**3-6-5-20. Deputy election commissioners — Appointment and removal — Residency requirement.** — A county election board may appoint and at its pleasure remove deputy election commissioners. A deputy election commissioner appointed under this section must reside in the county of the election board that appointed the deputy commissioner. If a deputy election commissioner ceases to be a resident of the county of the election board that appointed the deputy election commissioner, the person may not continue to serve as a deputy election commissioner of the county. [P.L.5-1986, § 2; P.L.5-1989, § 7.]

**3-6-5-21. Deputy election commissioners — Political affiliation.** — The county chairmen of the major political parties of a county shall designate the deputy election commissioners. The deputy election commissioners must be divided

equally between the major political parties. [P.L.5-1986, § 2.]

**3-6-5-22. Deputy election commissioners — Duties.** — The deputy election commissioners appointed under section 21 [IC 3-6-5-21] of this chapter may assist the county election board in carrying out its duties in accordance with rules adopted by the board. [P.L.5-1986, § 2.]

**3-6-5-23. Clerks, custodians, and other employees.** — A county election board may appoint and at its pleasure remove clerks, custodians, and other employees that are necessary in the execution of its powers. The county election board may determine the duties, rank, and salaries of its appointees. [P.L.5-1986, § 2.]

**3-6-5-24. Candidate for elective office may not be appointed deputy election commissioner or employed by county election board — Effect of commissioner or employee becoming candidate for elective office.** — A person who is a candidate for elected office may not be:

- (1) Appointed as a deputy election commissioner; or
- (2) Employed by a county election board.

If a deputy election commissioner or employee of a county election board becomes a candidate for elected office, the person may not continue to serve as a deputy election commissioner or employee of a county election board. [P.L.5-1986, § 2; P.L.3-1987, § 27.]

**3-6-5-25. Audit of board books.** — The books of each county election board shall be audited as are the books of other public officials of the county. [P.L.5-1986, § 2.]

**3-6-5-26. Power to examine persons under oath.** — A county election board may examine under oath any person with regard to a material matter connected with the proper discharge of its duties. Any member of the board may administer the oath. [P.L.5-1986, § 2.]

**3-6-5-27. Subpoena power.** — A county election board may subpoena persons and papers and compel the witnesses to answer under oath any questions that properly come before the board. [P.L.5-1986, § 2.]

**3-6-5-28. Service of processes issued by board.** — The sheriff of a county, for a

general election, and the chief law enforcement officer of a municipality, for a municipal election, shall serve all processes issued by a county election board. [P.L.5-1986, § 2.]

**3-6-5-29. Judicial enforcement of subpoenas — Contempt.** — If a person subpoenaed by a county election board refuses to attend or testify, the board shall report that fact to a circuit or superior court of the county. The court shall order the witness to attend and testify. If the witness fails or refuses to obey the order, the witness shall be held in contempt. [P.L.5-1986, § 2.]

**3-6-5-30. Mileage and fees of subpoenaed witnesses.** — A witness who is subpoenaed by a county election board is entitled to be paid the same mileage and fee to which witnesses in court actions are entitled. Mileage and fees shall be paid as other election expenses are paid. [P.L.5-1986, § 2.]

**3-6-5-31. Investigation of election law violations — Referral of matters to attorney general or prosecuting attorney.** — If a county election board determines that there is substantial reason to believe an election law violation has occurred, it shall expeditiously make an investigation. If in the judgment of the board, after affording due notice and an opportunity for a hearing, a person has engaged or is about to engage in an act or practice that constitutes or will constitute a violation of a provision of this title or of a rule or order issued under this title, the board shall take the action it considers appropriate under the circumstances, including referring the matter to the attorney general or the appropriate prosecuting attorney. [P.L.5-1986, § 2.]

**3-6-5-32. Civil actions by attorney general or prosecuting attorney.** — Upon referral under section 31 [IC 3-6-5-31] of this chapter, the attorney general or prosecuting attorney shall institute on behalf of the state a civil action for relief, including a permanent or temporary injunction, restraining order, or other appropriate order in a circuit or superior court in the county in which the person is found, resides, or transacts business. Upon a proper showing that the person has engaged or is about to engage in the act or practice described by section 31 of this chapter, the court shall grant a permanent or temporary injunction, restraining order, or other order without bond. [P.L.5-1986, § 2.]

**3-6-5-33. County and municipal law enforcement officers to assist board.** — The county sheriff, the chief law enforcement officer of a municipality within the county, and other law enforcement officers shall assist a county election board, upon request, in the enforcement of the election laws and the discharge of its duties, including the use of police radio and telephone service on election days. [P.L.5-1986, § 2.]

## CHAPTER 5.2

### COMBINED COUNTY ELECTION BOARD AND BOARD OF REGISTRATION

#### SECTION.

3-6-5.2-1. Applicability to Lake County.

3-6-5.2-2. "Combined board" defined.

3-6-5.2-3. Combined board established.

3-6-5.2-4. Members.

3-6-5.2-5. Compensation.

3-6-5.2-6. Powers and duties.

3-6-5.2-7. Chief Deputy — Assistant chief deputy.

**3-6-5.2-1. Applicability to Lake County.** — This chapter applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). [P.L.3-1993, § 16.]

**3-6-5.2-2. "Combined board" defined.** — As used in this chapter, "combined board" refers to the combined county election board and board of registration established by section 3 [IC 3-6-5.2-3] of this chapter. [P.L.3-1993, § 16.]

**3-6-5.2-3. Combined board established.** — The combined county election board and board of registration is established and shall be known as the \_\_\_\_\_ (name of county) combined county election board and board of registration. [P.L.3-1993, § 16.]

**3-6-5.2-4. Members.** — The combined board is comprised of the following five (5) members:

(1) The county chairmen of the major political parties of the county shall each appoint two (2) members of the board. Members of the board appointed under this subdivision must be voters of the county and serve a term of two (2) years or until their successors are appointed.

(2) The circuit court clerk, who is an ex officio member of the board. [P.L.3-1993, § 16.]

**3-6-5.2-5. Compensation.** — Each member of the combined board shall be paid an annual salary of not less than ten thousand dollars (\$10,000). The salaries of the board members shall be fixed in the manner prescribed by IC 36-2-5 or IC 36-3-6 and paid out of the county general fund in accordance with IC 3-5-3-1 as other election expenses are paid. [P.L.3-1993, § 16.]

**3-6-5.2-6. Powers and duties.** — The combined board has all of the powers and duties given in this title to the following:

- (1) The county election board.
- (2) The board of registration. [P.L.3-1993, § 16.]

**3-6-5.2-7. Chief deputy — Assistant chief deputy.** — (a) The combined board may vest day to day operations in a chief deputy of the combined board and in an assistant chief deputy of the combined board.

(b) The chief deputy of the combined board is appointed by the county chairman of the political party whose nominee received the highest number of votes in the county for secretary of state in the last election.

(c) The assistant chief deputy of the combined board is appointed by the county chairman of the political party whose nominee received the second highest number of votes in the county for secretary of state in the last election.

(d) The chief deputy of the combined board shall receive an annual salary of not less than the salary of other chief deputies in the county. The assistant chief deputy shall receive an annual salary of not less than two thousand dollars (\$2,000) less than the salary of the chief deputy. [P.L.3-1993, § 16.]

## CHAPTER 6

### PRECINCT ELECTION OFFICERS

#### SECTION.

- 3-6-6-1. Precinct election board — Establishment — Composition.
- 3-6-6-2. Poll clerks — Appointment — Political affiliation.
- 3-6-6-3. Assistant poll clerks — Appointment — Political affiliation.
- 3-6-6-4. Resolution designating precincts of assistant poll clerks.
- 3-6-6-5. Election sheriffs — Appointment — Political affiliation.
- 3-6-6-6. Absentee voting by inspector, judge, poll clerk, assistant poll clerk, or election sheriff.
- 3-6-6-7. Persons ineligible to serve as precinct election officer.
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- 3-6-6-31. Meals or meal allowances for precinct election officers — Alcoholic beverages prohibited.
- 3-6-6-32. Duties of assistant poll clerks during paper ballot voting — Initialing of paper ballots by poll clerks and assistant poll clerks.
- 3-6-6-33. Assistant poll clerks to assist poll clerks in tallying votes — Signature of election returns and other certificates.
- 3-6-6-34. Duties of poll clerks and assistant poll clerks in precincts using paper ballots and either voting machines or ballot card or electronic voting systems.

## SECTION.

3-6-6-35. Duties of election sheriff.

3-6-6-36. Law enforcement officers restricted from vicinity of polls.

**3-6-6-1. Precinct election board — Establishment — Composition.** — Except as otherwise provided by law, each county election board shall appoint a precinct election board for each precinct in the county. A precinct election board consists of:

- (1) One (1) inspector; and
- (2) Two (2) judges of opposite political parties;

each of whom must be a voter of the county. The inspector shall serve as the chairman of the precinct election board. [P.L.5-1986, § 2.]

**3-6-6-2. Poll clerks — Appointment — Political affiliation.** — Each county election board shall appoint two (2) poll clerks for each precinct in the county. The poll clerks must be of opposite political parties and must be voters of the county. [P.L.5-1986, § 2.]

**3-6-6-3. Assistant poll clerks — Appointment — Political affiliation.** — (a) Each county election board may appoint two (2) assistant poll clerks in each precinct.

(b) Except as provided in subsection (c), the assistant poll clerks must be of opposite political parties and must be voters of the county.

(c) The county election board may permit a person who is not a voter to be an assistant poll clerk if the person is:

- (1) At least sixteen (16) years of age, but not more than seventeen (17) years of age; and
- (2) A resident of the county.

[P.L.5-1986, § 2; P.L.3-1987, § 28; P.L.4-1991, § 15.]

**3-6-6-4. Resolution designating precincts of assistant poll clerks.** — A county election board shall adopt a written resolution at least three (3) weeks before election day designating the precincts for which assistant clerks are to be appointed. The county election board shall file a copy of the resolution in the office of the circuit court clerk and shall mail copies to the county chairmen of the major political parties of the county. [P.L.5-1986, § 2.]

**3-6-6-5. Election sheriffs — Appointment — Political affiliation.** — (a) Except as provided in subsection (b), each county election board shall appoint two (2) election sheriffs for each precinct in the

county. The sheriffs must be of opposite political parties and must be voters of the county.

(b) The county election board may adopt a resolution providing that the judges of each precinct that:

- (1) Is located in the county; and
- (2) Will contain not more than two hundred fifty (250) registered voters on general election day;

shall perform the duties and have the rights of the election sheriffs of the precinct. This resolution remains in effect until repealed by the county election board. [P.L.5-1986, § 2; P.L.3-1993, § 17.]

**3-6-6-6. Absentee voting by inspector, judge, poll clerk, assistant poll clerk, or election sheriff.** — Each inspector, judge, poll clerk, assistant poll clerk, and election sheriff who is not a resident of the precinct is entitled to vote by absentee ballot. [P.L.5-1986, § 2.]

**3-6-6-7. Persons ineligible to serve as precinct election officer.** — A person is not eligible to serve as a precinct election officer if the person:

- (1) Is unable to read, write, and speak the English language;
- (2) Has any property bet or wagered on the result of the election;
- (3) Is a candidate to be voted for at the election, except as an unopposed candidate for a precinct committeeman or state convention delegate; or
- (4) Is the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, niece, or first cousin of a candidate or declared write-in candidate to be voted for at the election, except an unopposed candidate. This subdivision disqualifies a person whose relationship to the candidate is the result of birth, marriage, or adoption. This subdivision does not disqualify a person who is the spouse of a first cousin of the candidate. [P.L.5-1986, § 2; P.L.3-1987, § 29; P.L.5-1989, § 8; P.L.4-1991, § 16; P.L.3-1993, § 18.]

**3-6-6-8. Nomination of election inspector.** — The county chairman of the major political party whose candidate for the office of secretary of state received the highest vote in the county at the last election may nominate a voter for the office of inspector. [P.L.5-1986, § 2.]

**3-6-6-9. Nomination of precinct election officers by county political**

**party chairman.** — The county chairmen of the major political parties of a county may nominate voters for the following precinct election offices:

- (1) Judge.
- (2) Poll clerk.
- (3) Assistant poll clerk.
- (4) Election sheriff.

[P.L.5-1986, § 2.]

**3-6-6-10. Filing of precinct election officer nominations.** — A county chairman may make nominations for precinct election offices by filing the nominations in writing with the circuit court clerk no later than noon fourteen (14) days before the election. [P.L.5-1986, § 2; P.L.3-1987, § 30; P.L.10-1988, § 9.]

**3-6-6-11. Properly nominated voters to be appointed precinct election officer.** — A county election board shall appoint the voters who are nominated for precinct election offices by the county chairmen. [P.L.5-1986, § 2.]

**3-6-6-12. Removal and disqualification of precinct election board members.** — A county election board shall remove a member of a precinct election board and declare the office vacant if at any time before or during an election the county election board is notified by the affidavit of two (2) or more voters of the precinct that the member is not qualified. If the disqualified member has taken the oath of office required by this chapter, the circuit court clerk shall attach the oath to the poll list and shall place the affidavit and oath before the next grand jury of the county. [P.L.5-1986, § 2; P.L.3-1987, § 31.]

**3-6-6-13. Filling vacancies in precinct of election offices occurring prior to poll openings.** — A county election board shall fill a vacancy in a precinct election office before the hour set for the opening of the polls, upon the nomination of the appropriate county chairman. [P.L.5-1986, § 2.]

**3-6-6-14. Filling vacancies in precinct election offices during election day.** — (a) This section does not apply to a vacancy in the office of election sheriff in a precinct that is subject to a resolution adopted under section 5 [IC 3-6-6-5] of this chapter.

(b) If a precinct election officer fails to appear at the hour set for the opening of the polls, or if a precinct election office becomes vacant during election day, the remaining members of the precinct elec-

tion board shall fill the vacancy upon the nomination of the highest ranking precinct election officer whose political party is the same as that required for the holder of the office to be filled.

(c) For the purpose of these nominations, the rank of precinct election officers is as follows:

- (1) Inspector.
- (2) Judge.
- (3) Election sheriff.
- (4) Poll clerk.
- (5) Assistant poll clerk.

[P.L.5-1986, § 2; P.L.3-1993, § 19.]

**3-6-6-15. Appointments made pursuant to IC 3-6-6-14 — Notification to county election board — Powers and duties of appointee.** — An inspector shall immediately notify the county election board of an appointment made under section 14 [IC 3-6-6-14] of this chapter. The appointee shall hold the office and exercise the powers and duties of the office subject to confirmation or removal by the county election board. [P.L.5-1986, § 2.]

**3-6-6-16. Appointments made pursuant to IC 3-6-6-14 — Confirmation or removal and replacement by county election board.** — Upon notification that a vacancy has been filled by a precinct election board under section 14 [IC 3-6-6-14] of this chapter, a county election board shall:

- (1) Upon written approval of the appropriate county chairman, confirm the appointment by issuance of proper credentials to the precinct election officer so appointed and approved; or
- (2) Upon nomination by the appropriate county chairman, appoint a qualified person to replace the officer then serving, in which case the officer appointed by the county election board shall be issued proper credentials. [P.L.5-1986, § 2.]

**3-6-6-17. Appointee under IC 3-6-6-14 — Vacation of office and transfer to persons appointed pursuant to IC 3-6-6-16.** — If the authorized holder presents credentials issued under section 16 [IC 3-6-6-16] of this chapter to the precinct election board, the person holding office under appointment by the precinct election board shall vacate the office and deliver to the office to the person entitled to it. [P.L.5-1986, § 2.]

**3-6-6-18. Appointees pursuant to IC 3-6-6-14 and 3-6-6-16 — Necessity of oath.** — A person appointed to a precinct election office by a precinct election board

or by a county election board may not assume the duties of inspector or judge until that person has taken the oath required by section 19 [IC 3-6-6-19] of this chapter. [P.L.5-1986, § 2.]

**3-6-6-19. Election inspectors — Taking of oath — Administration of oath to other precinct election officers.** — Before the polls are opened in a precinct, the inspector shall:

- (1) Take an oath to faithfully discharge the inspector's duties; and
- (2) Administer an oath to the judges, poll clerks, assistant poll clerks, and election sheriffs that they will faithfully discharge their duties. [P.L.5-1986, § 2.]

**3-6-6-20. Absence of person to administer inspector's oath of office — Procedure.** — If no person present is authorized by law to administer an oath of office under section 19 [IC 3-6-6-19] of this chapter, the inspector shall administer the oath to the judges, and one of the judges shall then administer the oath to the inspector. After the organization of the precinct election board, the inspector may administer all oaths required in the discharge of duties. [P.L.5-1986, § 2.]

**3-6-6-21. Oath — Written or printed — Signature by person taking and administering.** — All oaths required by this chapter must:

- (1) Be written or printed; and
- (2) Be signed by the person taking the oath before a person authorized by law to administer oaths and before the precinct election board. [P.L.5-1986, § 2.]

**3-6-6-22. Jurat to be attached to oath — Oath to be attached to poll list — Oath and jurat to be filed with clerk's office.** — The person administering an oath under this chapter shall attach the person's jurat to the oath. The oath shall be attached to the poll list and both documents returned to the circuit court clerk's office. [P.L.5-1986, § 2.]

**3-6-6-23. Inspector's and judge's oath — Form.** — The oath prescribed for inspectors and judges must be in the following form:

STATE OF INDIANA )  
 ) ss:  
 COUNTY OF \_\_\_\_\_ )

I do solemnly swear (or affirm) the following:

(1) I will support the Constitution of the United States and the Constitution of the State of Indiana.

(2) I will faithfully and impartially discharge the duties of inspector (or judge) of election assigned by law.

(3) I will not knowingly permit any person to vote who is not qualified and will not knowingly refuse the vote of any qualified voter or cause any delay to any person offering to vote other than is necessary to procure satisfactory information of the qualification of that person as a voter.

(4) I am now a bona fide resident of the county in which the precinct in which I am to act as a member of the election board is situated and am a qualified voter of that county.

(5) I will not disclose or communicate to any person how any voter has voted at this election or how any ballot has been folded or marked.

(6) I am able to read, write, and speak the English language.

(7) I have no property bet or wagered on the result of this election.

(8) I am not a candidate to be voted for at this election, except as an unopposed candidate for a political party office.

(9) I am not related to any person to be voted for at this election as the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, niece, or first cousin of that person, unless that person is an unopposed candidate.

(10) If an inspector, I will complete the Polling Place Accessibility Survey Form included in my election material. I waive any claim to the payment of compensation or any per diem if I fail to complete this report and properly return the report to the county election board.

.....

Subscribed and sworn to before me this ..... day ..... of ....., ..... [P.L.5-1986, § 2; P.L.3-1987, § 32; P.L.5-1989, § 9; P.L.3-1993, § 20.]

**3-6-6-24. Poll clerk's and assistant poll clerk's oath form.** — The oath prescribed for poll clerks and assistant poll clerks must be in the following form:

STATE OF INDIANA )  
 ) ss:  
 COUNTY OF ..... )

I do solemnly swear (or affirm) that I will faithfully and honestly discharge my duties as clerk (or assistant clerk) of the election in ..... precinct and ..... ward (or ..... township) in ..... County, Indiana, and that I will not disclose or communicate to any person how any voter voted or how any ballot was folded or marked.

.....

Subscribed and sworn to before me this ..... day of ....., .....

.....

Place Accessibility Survey Form to the county election board may not be paid any compensation under this section. [P.L.5-1986, § 2; P.L.3-1993, § 22.]

**3-6-6-26.5. Compensation of election workers.** — (a) This section applies to election workers subject to federal Social Security withholding.

(b) The circuit court clerk may compensate an election worker for the amount withheld for federal Social Security. [P.L.10-1992, § 1.]

**3-6-6-27. Fixing of compensation under IC 3-6-6-25 and 3-6-6-26.** — The county executive shall fix the compensation paid under sections 25 and 26 [IC 3-6-6-25 and 3-6-6-26] of this chapter for all elections except municipal elections held by towns under IC 3-10-7. The fiscal body of a town holding a municipal election under IC 3-10-7 shall fix the compensation paid under sections 25 and 26 of this chapter. [P.L.5-1986, § 2.]

**3-6-6-28. Compliance with IC 3-12-2-7 prerequisite to compensation under IC 3-6-6-25 and 3-6-6-26 — Violation of IC 3-12-2-7 bars further selection as member of precinct election board.** — A member of a precinct election board is entitled to compensation under sections 25 and 26 [IC 3-6-6-25 and 3-6-6-26] of this chapter only if the member complies with the requirements of IC 3-12-2-7. A person who violates IC 3-12-2-7, as determined by the county election board, may not be selected to serve as a member of a precinct election board in the county where the person committed the violation for five (5) years after the date of the violation. [P.L.5-1986, § 2.]

**3-6-6-29. Exceptions to IC 3-6-6-28 for violations of IC 3-12-2-7.** — If a county election board unanimously determines, after a public hearing, that there was good cause for a violation of IC 3-12-2-7, then the restrictions on compensation and subsequent membership on a precinct election board prescribed by section 28 [IC 3-6-6-28] of this chapter do not apply. However, the county election board must make such a determination as its first order of business at its first meeting after the election at which the violation occurred. [P.L.5-1986, § 2.]

**3-6-6-30. Determination of challenges and other matters by precinct election board — Duties of judges.** — Each precinct election board shall deter-

[P.L.5-1986, § 2.]

**3-6-6-25. Election day per diem.** —

(a) Except as provided in subsection (b), each inspector, judge, poll clerk, assistant poll clerk, and election sheriff is entitled to a per diem of at least thirty dollars (\$30) for the performance of all the duties of office imposed on the person by this title that are performed on election day.

(b) An inspector who fails to complete a Polling Place Accessibility Survey Form provided by the county election board and required under the Federal Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee) for the inspector's precinct or to properly return the Polling Place Accessibility Survey Form to the county election board may not be paid a per diem under this section. [P.L.5-1986, § 2; P.L.4-1991, § 17; P.L.3-1993, § 21.]

**3-6-6-26. Additional compensation of inspector.** — (a) Except as provided in subsection (b), in addition to the compensation required under section 25 [IC 3-6-6-25] of this chapter, an inspector may be paid an amount not exceeding:

- (1) Fifteen dollars (\$15) for the inspector's services in calling at the circuit court clerk's office for the precinct election supplies; and
- (2) Fifteen dollars (\$15) for the inspector's services in the return of the precinct election supplies to the clerk's office;

regardless of whether these services are rendered before, on, or after election day.

(b) An inspector who fails to complete a Polling Place Accessibility Survey Form provided by the county election board and required under the Federal Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee) for the inspector's precinct or to properly return the Polling

mine all questions of challenge and all other matters coming before the board. If necessary, the judges shall assist the inspector and poll clerks in the performance of their duties. Subject to IC 3-11-9, the judges shall also assist and instruct voters when assistance is requested. [P.L.5-1986, § 2; P.L.3-1987, § 33.]

**3-6-6-31. Meals or meal allowances for precinct election officers — Alcoholic beverages prohibited.** — (a) Each inspector shall have the precinct election officers furnished with good, plain, and substantial meals, at the regular hours for meals, throughout the day until their work is finished. Alcoholic beverages may not be furnished.

(b) If the county legislative body (as defined in IC 36-1-2-9) adopts an ordinance to provide meal allowances, each precinct election officer is entitled to a meal allowance instead of the meals provided under subsection (a). The ordinance must state the amount of the meal allowance to be provided. [P.L.5-1986, § 2; P.L.3-1987, § 34.]

**3-6-6-32. Duties of assistant poll clerks during paper ballot voting — Initialing of paper ballots by poll clerks and assistant poll clerks.** — If a precinct has both poll clerks and assistant poll clerks and the voting is entirely done by paper ballot, the assistant poll clerks shall perform the same duties required of the poll clerks regarding the initialing and giving out of the ballots and pencils when required to do so. However, it is necessary for only the two (2) poll clerks or assistant poll clerks giving out a ballot to place their initials on the back of the ballot, although the poll clerks or assistant poll clerks must be of opposite political parties. [P.L.5-1986, § 2; P.L.3-1987, § 35.]

**3-6-6-33. Assistant poll clerks to assist poll clerks in tallying votes — Signature of election returns and other certificates.** — After the close of the polls, the assistant poll clerks shall assist the poll clerks in tallying the votes under the direction of the precinct election board. However, the election returns or other certificates required to be signed by the poll clerks need not be signed by the assistant poll clerks. [P.L.5-1986, § 2.]

**3-6-6-34. Duties of poll clerks and assistant poll clerks in precincts using paper ballots and either voting machines or ballot card or electronic voting systems.** — In a precinct where the voting is by any voting and method

except entirely by paper ballot, the poll clerks of the precinct shall perform all the duties connected with voting by voting machine, ballot card voting system, or electronic voting system, and the assistant poll clerks shall perform all the duties connected with voting by paper ballot. It is necessary for only the two (2) assistant poll clerks to place their initials on the back of the paper ballots. The poll clerks shall tally the vote cast by paper ballot, and they alone shall sign the election certificates and returns. However, the precinct election board may call upon the assistant poll clerks to assist the poll clerks in any of their duties. [P.L.5-1986, § 2; P.L.3-1987, § 36.]

**3-6-6-35. Duties of election sheriff.** — Each election sheriff shall:

- (1) Attend the polls in the appointed precinct from the opening of the polls to the conclusion of the count;
- (2) Preserve order at the polls;
- (3) Enforce the election laws under the direction of the precinct election board; and
- (4) Make arrests on the demand of a member of the precinct election board or on affidavit, as provided in this title. [P.L.5-1986, § 2.]

**3-6-6-36. Law enforcement officers restricted from vicinity of polls.** — (a) As used in this section, "law enforcement officer" means a:

- (1) Police officer;
- (2) Sheriff;
- (3) Constable;
- (4) Marshal; or
- (5) A deputy of any of those persons.

(b) Law enforcement officers of the state and of political subdivisions may not come within fifty (50) feet of the polls, except:

- (1) To serve process of court;
  - (2) To vote;
  - (3) When summoned by the election sheriffs; or
  - (4) To serve as a pollbook holder.
- [P.L.5-1986, § 2; P.L.3-1987, § 37.]

## CHAPTER 7

### CHALLENGERS AND POLLBOOK HOLDERS

#### SECTION.

- 3-6-7-1. Appointment — Age qualification — Appointments to be in writing — Only one challenger and one pollbook holder to be present at polls.
- 3-6-7-1.5. Candidates ineligible for appointment.
- 3-6-7-2. Right to stand next to chute — Identification card may be requested.
- 3-6-7-3. Right to vote by absentee ballot.
- 3-6-7-4. Compensation.



**3-6-7-1. Appointment — Age qualification — Appointments to be in writing — Only one challenger and one pollbook holder to be present at polls.**

— (a) Each political party or independent candidate may appoint challengers and pollbook holders for each precinct. A challenger must be at least eighteen (18) years of age.

(b) The county chairman, other local chairman of the party, or independent candidate:

(1) Must make the appointments in writing; and

(2) Shall issue one (1) identification card for each person appointed under this section.

(c) Each political party or independent candidate described in subsection (a) may have only one (1) challenger and one (1) pollbook holder present at each precinct's polls at any time during election day. The challenger and pollbook holder present at the polls must possess an identification card issued under subsection (b). [P.L.5-1986, 2; P.L.5-1989, 10; P.L.7-1990, § 3; P.L.3-1993, § 23.]

**3-6-7-1.5. Candidates ineligible for appointment.** — A candidate to be voted for at an election, except as an unopposed candidate for precinct committeeman or state convention delegate, is not eligible to be appointed as a challenger or pollbook holder at an election. [P.L.4-1991, § 18.]

**3-6-7-2. Right to stand next to chute — Identification card may be requested.** — A challenger or pollbook holder is entitled to stand at the sides of the chute next to the entrance to the polls. If demanded by a member of the precinct election board, a challenger or pollbook holder shall produce the identification card issued by the chairman under section 1(b) [IC 3-6-7-1(b)] of this chapter. [P.L.5-1986, § 2; P.L.5-1989, § 11.]

**3-6-7-3. Right to vote by absentee ballot.** — A challenger or pollbook holder who is not a resident of the precinct is entitled to vote by absentee ballot. [P.L.5-1986, § 2.]

**3-6-7-4. Compensation.** — A challenger or pollbook holder is not entitled to compensation for services except from the political party making the appointment. [P.L.5-1986, § 2.]

## CHAPTER 8

### WATCHERS FOR POLITICAL PARTIES AND INDEPENDENT CANDIDATES

#### SECTION.

- 3-6-8-1. Parties entitled to appoint watchers — Only one watcher to be present at polls.
- 3-6-8-2. Candidates ineligible for appointment.
- 3-6-8-3. Identification card of watchers — Identification card may be requested — Signature by county party chairman.
- 3-6-8-4. Rights of watchers.
- 3-6-8-5. Certificates of vote summaries.
- 3-6-8-6. Report of election law violation.

**3-6-8-1. Parties entitled to appoint watchers — Only one watcher to be present at polls.** — (a) Each bona fide political party or an independent candidate for a federal or a state office is entitled to appoint watchers at each precinct.

(b) At any time during election day, each political party or an independent candidate for a federal or a state office may have only one (1) watcher present at each precinct's polls. [P.L.5-1986, § 2; P.L.5-1989, § 12; P.L.3-1993, § 24.]

**3-6-8-2. Candidates ineligible for appointment.** — A candidate to be voted for at an election, except as an unopposed candidate for precinct committeeman or state convention delegate, is not eligible to be appointed as a watcher at an election. [P.L.5-1986, § 2; P.L.4-1991, § 19.]

**3-6-8-3. Identification card of watchers — Identification card may be requested — Signature by county party chairman.** — (a) A watcher present at the polls must possess an identification card issued under this section and present the card if demanded by a member of the precinct election board.

(b) The county chairman or chairman of the committee of the independent candidate for a federal or a state office:

(1) Must appoint each watcher in writing; and

(2) Shall issue one (1) watcher identification card for each person appointed as a watcher.

(c) The identification card must be signed by the county chairman of the party or chairman of the committee of the independent candidate for a federal or a state office that the watcher represents. [P.L.5-1986, § 2; P.L.5-1989, § 13; P.L.7-1990, § 4; P.L.3-1993, § 25.]

**3-6-8-4. Rights of watchers.** — A watcher appointed under this chapter is entitled to:

- (1) Enter the polls at least thirty (30) minutes before the opening of the polls and remain there throughout election day until all tabulations have been completed;
- (2) Inspect the paper ballot boxes, voting machines, ballot card voting system, or electronic voting system before votes have been cast;
- (3) Inspect the work being done by any precinct election officer;
- (4) Enter, leave, and reenter the polls at any time on election day;
- (5) Witness the calling and recording of the votes, the reading of the totals from the voting machines, and any other proceedings of the precinct election officers in the performance of official duties;
- (6) Receive a summary of the vote, signed by the precinct election board, providing:
  - (A) The names of all candidates of the political party whose primary election is being observed by the watcher and the number of votes cast for each candidate; or
  - (B) The names of all candidates at a general, municipal, or special election and the number of votes cast for each candidate;
- (7) Accompany the inspector in delivering the tabulation and election returns to the county election board by the most direct route;
- (8) Be present when the inspector takes a receipt for the tabulation and election returns delivered to the county election board; and
- (9) Call upon the election sheriffs to make arrests.

[P.L.5-1986, § 2; P.L.3-1987, § 38; P.L.3-1993, § 26.]

**3-6-8-5. Certificates of vote summaries.** — The county election board shall provide blank certificates for the summaries required by section 4(6) [IC 3-6-8-4(6)] of this chapter. [P.L.5-1986, § 2.]

**3-6-8-6. Report of election law violation.** — A watcher appointed under this chapter shall report any violation of the election laws that comes to the watcher's attention to the county grand jury or prosecuting attorney. [P.L.5-1986, § 2.]

## CHAPTER 9

### WATCHERS FOR PRIMARY, SCHOOL BOARD, AND PRECINCT COMMITTEEMAN CANDIDATES

#### SECTION.

- 3-6-9-1. Candidates entitled to request watchers — Filing of written requests with circuit court clerk.
- 3-6-9-2. Contents of written requests — Designation of attorney-in-fact and precincts where watchers desired.
- 3-6-9-3. Candidate limited to one appointment of attorney-in-fact.
- 3-6-9-4. Attorney-in-fact to file names of watchers with circuit court clerk.
- 3-6-9-5. Certification of watchers — Rights granted by certification — Certification to state name of attorney-in-fact.
- 3-6-9-6. When request for watchers may be filed.
- 3-6-9-7. Circuit court clerk or deputy to be present during county canvassing board's tabulation of vote — Deputy to be qualified to sign credential for watchers.
- 3-6-9-8. Watcher's entitlement to credentials — Rights upon receipt of credentials.
- 3-6-9-9. Compensation — Reports of compensation.
- 3-6-9-10. Revocation of watcher's power — Forms.
- 3-6-9-11. Appointment of replacement watcher upon discharge of previous watcher — Powers, duties and credentials of substitute watcher.
- 3-6-9-12. Number of watchers allowable at precinct polls.

**3-6-9-1. Candidates entitled to request watchers — Filing of written requests with circuit court clerk.** — (a) If:

- (1) Twenty-six percent (26%) or more of all candidates of a political party who are candidates for:

(A) Nomination to elected offices of a county of municipal primary election, not including candidates for delegates to the state convention or candidates for precinct committeemen; or

(B) Precinct committeemen at an election for precinct committeemen, whose names are certified to the county election board as candidates to be voted for at the primary election for precinct committeemen; or

- (2) Any candidate or group of candidates for a school board office;

desire to have watchers at the polls in any precinct of the county or municipality, they shall sign a written statement indicating their desire to name watchers.

(b) If the candidates signing the statement are candidates for nomination at a county primary election or for election as precinct committeemen or to a school board office, the written statement shall be

filed with the circuit court clerk of the county where the candidates reside.

(c) If the candidates signing the statement are candidates for nomination at a municipal primary election, the written statement shall be filed with the circuit court clerk of the county that contains the greatest percentage of the population of the election district. [P.L.5-1986, § 2; P.L.3-1987, § 39; P.L.10-1988, § 10.]

**3-6-9-2. Contents of written requests — Designation of attorney-in-fact and precincts where watchers desired.** — The written statement required by section 1 [IC 3-6-9-1] of this chapter must designate:

- (1) A person to act as attorney-in-fact for the candidates; and
- (2) The precincts where the watchers are desired and where they are to serve. [P.L.5-1986, § 2.]

**3-6-9-3. Candidate limited to one appointment of attorney-in-fact.** — A candidate may not file more than one (1) appointment of an attorney-in-fact. [P.L.5-1986, § 2.]

**3-6-9-4. Attorney-in-fact to file names of watchers with circuit court clerk.** — An attorney-in-fact designated under section 2 [IC 3-6-9-2] of this chapter shall file with the circuit court clerk the names of the voters of the county or municipality who are to act as watchers in the precincts designated in the written statement. The attorney-in-fact may certify watchers from voters of the county or municipality without regard to precinct boundary lines. [P.L.5-1986, § 2.]

**3-6-9-5. Certification of watchers — Rights granted by certification — Certification to state name of attorney-in-fact.** — When the attorney-in-fact has certified the names of the watchers in writing under section 4 [IC 3-6-9-4] of this chapter to the circuit court clerk, the clerk shall immediately issue certificates to the persons named. The certificates entitle the watchers to go to the precincts designated in the statement. Each watcher's credentials must state the name of the attorney-in-fact who certified the watcher to the clerk. [P.L.5-1986, § 2.]

**3-6-9-6. When request for watchers may be filed.** — The written statement required by section 1 [IC 3-6-9-1] of this chapter may be filed with the circuit court clerk at any time until the official returns and ballots of the precincts have been

delivered to the county election board. [P.L.5-1986, § 2; P.L.3-1993, § 27.]

**3-6-9-7. Circuit court clerk or deputy to be present during county election board's tabulation of vote — Deputy to be qualified to sign credential for watchers.** — If the circuit court clerk is not present with the county election board, the clerk shall keep at least one (1) deputy in the room with the board at all times until the tabulation of the vote is final. The deputy must be qualified and ready to sign credentials for watchers when requests for the credentials have been properly filed. [P.L.5-1986, § 2; P.L.3-1993, § 28.]

**3-6-9-8. Watcher's entitlement to credentials — Rights upon receipt of credentials.** — A watcher is entitled to credentials immediately upon request. Upon receipt of credentials, a watcher may proceed to the precinct at any time and proceed with the discharge of the watcher's duties. [P.L.5-1986, § 2.]

**3-6-9-9. Compensation — Reports of compensation.** — A watcher may serve without compensation or for the compensation that the candidate or any group of candidates may pay. A person may contribute toward the compensation of the watchers by paying their contributions to the attorney-in-fact. The attorney-in-fact shall, within thirty (30) days after the primary election, make a report under oath to the circuit court clerk of all contributions received and expended by the attorney-in-fact. [P.L.5-1986, § 2; P.L.3-1987, § 40.]

**3-6-9-10. Revocation of watcher's power — Forms.** — The circuit court clerk shall immediately revoke the power of a watcher when requested by the attorney-in-fact to discharge the watcher. The clerk shall provide forms for the purpose of requesting the discharge of a watcher. [P.L.5-1986, § 2.]

**3-6-9-11. Appointment of replacement watcher upon discharge of previous watcher — Powers, duties and credentials of substitute watcher.** — Upon discharge of a watcher under section 10 [IC 3-6-9-10] of this chapter, the circuit court clerk shall immediately appoint another watcher named by the attorney-in-fact. The new watcher has the same powers and duties as the watcher originally appointed and is entitled to credentials from the clerk. The credentials must state the name of the person whose creden-

tials have been revoked. When the new watcher receives the credentials, the duties of the previous watcher immediately terminate. [P.L.5-1986, § 2.]

**3-6-9-12. Number of watchers allowable at precinct polls.** — Only one (1) watcher representing a candidate or group of candidates may enter or be in the polls for a precinct at the same time, but watchers representing different groups may be in the polls at the same time. [P.L.5-1986, § 2; P.L.3-1987, § 41.]

## CHAPTER 10

### WATCHERS FOR THE MEDIA

#### SECTION.

3-6-10-1. Media entitled to appoint watchers.

3-6-10-2. List of appointed watchers — Preparation and signature.

3-6-10-3. Time and place to which list is to be filed.

3-6-10-4. IC 3-6-10-2 and 3-6-10-3 inapplicable to persons regularly employed by the media.

3-6-10-5. Watcher identification card — Restriction on activity of watchers.

3-6-10-6. Watchers in more than one county — Identification card.

**3-6-10-1. Media entitled to appoint watchers.** — The following media may appoint in writing one (1) watcher for each precinct:

- (1) Each daily, weekly, or semiweekly newspaper of general circulation in the county where an election is held.
- (2) Each news service operating in the county where an election is held.
- (3) Each radio or television station operating in the county where an election is held. [P.L.5-1986, § 2; P.L.3-1987, § 42.]

**3-6-10-2. List of appointed watchers — Preparation and signature.** — A list of all persons appointed under section 1 [IC 3-6-10-1] of this chapter shall be prepared and signed by an individual or an officer of the corporation owning the newspaper, news service, radio station, or television station. The signature must be verified. [P.L.5-1986, § 2; P.L.3-1987, § 43.]

**3-6-10-3. Time and place to which list is to be filed.** — The list required by section 2 of this chapter shall be furnished the day before election day to the following:

- (1) The circuit court clerk.
- (2) The county election board.

(3) The county chairman of each political party that is entitled to appoint a watcher under IC 3-6-8.

(4) The chairman of each independent candidate's committee that is entitled to appoint a watcher under IC 3-6-8. [P.L.5-1986, § 2; P.L.3-1993, § 29.]

**3-6-10-4. IC 3-6-10-2 and 3-6-10-3 inapplicable to persons regularly employed by the media.** — Sections 2 and 3 [IC 3-6-10-2 and 3-6-10-3] of this chapter do not apply to persons who are employed by a newspaper, news service, radio station, or television station as their regular occupation. [P.L.5-1986, § 2; P.L.3-1987, § 44.]

**3-6-10-5. Watcher identification card — Restriction on activity of watchers.** — (a) Each person who acts as a watcher under this chapter must obtain a watcher identification card from the county election board.

(b) Watchers appointed under this chapter do not have a voice or vote in any proceeding of a precinct election board. The watchers may attend the election as witnesses only and shall remain silent and subject to the orders of the board.

(c) Except as provided in subsection (d), a watcher appointed under this chapter may photograph the proceedings of a precinct election board.

(d) A watcher appointed under this chapter may not photograph a voter:

- (1) While the voter is in the polls if the voter informs the precinct election board that the voter objects to being photographed by the watcher; or
- (2) In a manner that permits the watcher to see or know for what ticket, candidates, or public questions the voter has voted. [P.L.5-1986, § 2; P.L.3-1987, § 45; P.L.7-1990, § 5.]

**3-6-10-6. Watchers in more than one county — Identification card.** — If a person desires to act as a watcher for a newspaper, news service, radio station, or television station in more than one (1) county in Indiana, the person must obtain a watcher identification card from the state election board. The state election board may adopt rules under IC 4-22-2 to implement this section. [P.L.3-1987, § 46.]

## CHAPTER 11

### POLL TAKERS

#### SECTION.

3-6-11-1. Entities entitled to take polls.

3-6-11-2. Poll taker's certificate.

3-6-11-3. List of persons reported as voters.

## SECTION.

- 3-6-11-4. Persons to respond to poll takers — Information to be given.
- 3-6-11-5. Obtaining list of voters in boarding or lodging houses or condominiums — Voter registration.
- 3-6-11-6. Contents of list required by IC 3-6-11-5.
- 3-6-11-7. Time during which list pursuant to IC 3-6-11-5 must be retained — Examination of list by poll taker — Violations.
- 3-6-11-7.5. Use of poll list.
- 3-6-11-8. Exemption from IC 3-6-11-5 for boarders of three or less.
- 3-6-11-9. Chapter inapplicable to armed forces camps and barracks.

**3-6-11-1. Entities entitled to take polls.** — A political party, civic association, or other organization may, at any time before an election, take a poll of voters qualified to vote at the election. [P.L.5-1986, § 2.]

**3-6-11-2. Poll taker's certificate.** — The chairman, president, or other chief officer of the organization taking a poll under section 1 [IC 3-6-11-1] of this chapter shall issue to the persons taking the poll a certificate showing the nature of the poll and the organization for which the poll is to be taken. [P.L.5-1986, § 2; P.L.7-1990, § 6.]

**3-6-11-3. List of persons reported as voters.** — Each poll taker shall make a full, true, and complete list of all persons whose names are reported as voters, with such comments as the poll taker considers proper concerning the voters' respective qualifications. [P.L.5-1986, § 2.]

**3-6-11-4. Persons to respond to poll takers — Information to be given.** — Each person who is requested to provide information for a poll authorized under section 1 [IC 3-6-11-1] of this chapter shall respond to the poll taker upon the exhibition of the certificate required under section 2 [IC 3-6-11-2] of this chapter. The person responding shall provide all information in the possession of the person concerning the name, residence, and other qualifications for voting of each person within the election district. [P.L.5-1986, § 2.]

**3-6-11-5. Obtaining list of voters in boarding or lodging houses or condominiums — Voter registration.** — (a) This subsection does not apply to the proprietor or manager of a residential mental health facility. The proprietor or manager of each:

- (1) Boarding house;

- (2) Lodging house;
- (3) Residential building;
- (4) Apartment; or
- (5) Other place within which persons are lodged;

shall maintain a complete and accurate list of all residents so domiciled during the period beginning seventy (70) days before each election and ending fifty (50) days before the election.

(b) The proprietor, manager, or association of co-owners of a condominium (as defined in IC 32-1-6) shall maintain a complete and accurate list of all residents of the condominium during the period beginning seventy (70) days before each election and ending fifty (50) days before the election.

(c) A poll taker for a political party or an independent candidate for a federal or a state office, after presenting the poll taker's certificate of appointment issued under IC 3-7-2-15, is entitled to enter a place described in subsection (a) or a condominium during reasonable hours to take a poll of residents and perform voter registration if the poll taker is a deputy registration officer. [P.L.5-1986, § 2; P.L.7-1990, § 7; P.L.4-1991, § 20; P.L.3-1993, § 30.]

**3-6-11-6. Contents of list required by IC 3-6-11-5.** — The list required by section 5 [IC 3-6-11-5] of this chapter must state the following:

- (1) Name and address (including apartment, room, or unit number) of each person residing:

(A) At the place of lodging listed in section 5(a) [IC 3-6-11-5(a)] of this chapter; or

(B) In the condominium.

- (2) Address of each vacant place of lodging or living unit of the condominium. [P.L.5-1986, § 2; P.L.4-1991, § 21.]

**3-6-11-7. Time during which list pursuant to IC 3-6-11-5 must be retained — Examination of list by poll taker — Violations.** — (a) The proprietor, manager, or association of co-owners shall retain the list required by section 5 [IC 3-6-11-5] of this chapter for at least forty (40) days after the election.

(b) The list required by section 5 of this chapter shall be submitted to each poll taker for examination within ten (10) days after a request. The proprietor, manager, or association and the poll taker may agree that the list will be mailed to the poll taker or will be available at the place of lodging or condominium. If no agreement can be reached, the list shall be made

available at the place of lodging or the condominium.

(c) If the proprietor, manager, or association of co-owners does not:

- (1) Permit a poll taker for a political party or an independent candidate for a federal or a state office to enter the place or condominium under section 5(c) [IC 3-6-11-5(c)] of this chapter;
- (2) Maintain a complete and accurate list as required under section 5 of this chapter; or
- (3) Provide the list required under this section to a political party upon request;

the chairman of the county election board of the county in which the place or condominium is located shall call a meeting of the board under IC 3-6-5.

(d) The secretary of the county election board shall notify the proprietor, manager, or association of the meeting by certified mail, return receipt requested.

(e) The county election board shall receive evidence concerning violations of this section and, if the board determines that reasonable cause exists to believe that a violation has occurred, forward a copy of the minutes of the meeting to the prosecuting attorney of the county in which the place or condominium is located for proceedings under IC 34-4-32. [P.L.5-1986, § 2; P.L.7-1990, § 8; P.L.4-1991, § 22; P.L.3-1993, § 31.]

**3-6-11-7.5. Use of poll list.** — An organization that takes a poll of voters under this chapter or a poll taker taking the poll may not:

- (1) Use the poll list for any purpose except conducting a campaign or voter registration; or
- (2) Give, loan, sell, or transfer the poll list to a person who intends to use the list for any purpose except conducting a campaign or voter registration. [P.L.7-1990, § 9.]

**3-6-11-8. Exemption from IC 3-6-11-5 for boarders of three or less.** — The keeping of three (3) or fewer persons as guests or lodgers in a building does not constitute a building subject to section 5 [IC 3-6-11-5] of this chapter. [P.L.5-1986, § 2.]

**3-6-11-9. Chapter inapplicable to armed forces camps and barracks.** — This chapter does not apply to a camp or barracks maintained by or for the armed services of the United States. [P.L.5-1986, § 2.]

## ARTICLE 7

### VOTER REGISTRATION

#### CHAPTER.

1. QUALIFICATIONS FOR VOTERS, 3-7-1-1 — 3-7-1-15.
2. REGISTRATION OFFICERS, 3-7-2-1 — 3-7-2-26.
3. REGULAR REGISTRATION PROCEDURES, 3-7-3-1 — 3-7-3-27.
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#### CHAPTER 1

##### QUALIFICATIONS FOR VOTERS

#### SECTION.

- 3-7-1-1. Age, citizenship, and residency requirements.
- 3-7-1-2. Registration for primary and special elections — Voter eligibility requirements — When requirements must be met.
  - 3-7-1-2.2. "Residence" defined.
  - 3-7-1-2.4. Residence in a precinct.
- 3-7-1-2.6. Presumptions regarding residency in precinct.
- 3-7-1-3. Residency — Movement into precinct for temporary employment, education, or other purposes.
- 3-7-1-4. Residency — Movement into another precinct or into another state with intent of changing residence.
- 3-7-1-5. Residency — Movement to another state for an indefinite time.
- 3-7-1-6. Residency of person with immediate family.
- 3-7-1-7. Residency of person with immediate family in one place and doing business in another.
- 3-7-1-8. Separate voting residence of married person.
- 3-7-1-9. Residence of unmarried person.
- 3-7-1-10. [Repealed.]
- 3-7-1-11. [Repealed.]
- 3-7-1-12. Residency of veterans' home residents.
- 3-7-1-13. Residency — Effect of absence due to state or United States governmental business.
- 3-7-1-14. Residency of persons committed to institutions for the mentally ill.
- 3-7-1-15. Prison inmates disfranchised — Exceptions.

**3-7-1-1. Age, citizenship, and residency requirements.** — A person who:

(1) Will be at least eighteen (18) years old at the next general or municipal election;

(2) Is a United States citizen; and

(3) Resides in a precinct continuously before the general or municipal election for at least thirty (30) days;

may, upon proper application, register to vote in that precinct. [P.L.5-1986, § 3.]

**3-7-1-2. Registration for primary and special elections — Voter eligibility requirements must be met.** — (a) A person who on the day of the next general or municipal election will meet the age and residency requirements of section 1 [IC 3-7-1-1] of this chapter may register before and vote in a primary election.

(b) A person who:

(1) On the day of the next general or municipal election will meet the age and residency requirements of section 1 of this chapter; and

(2) Does not meet the age or residency requirements on primary election day; may not vote for candidates for elected office at the primary election.

(c) A person who on the day of a special election will meet the age and residency requirements of section 1 of this chapter may register and vote in the special election. [P.L.5-1986, § 3; P.L.10-1988, § 11; P.L.5-1989, § 14; P.L.4-1991, § 23.]

**3-7-1-2.2. "Residence" defined.** — (a) As used in this chapter, "residence" means the place where a person has the person's true, fixed, permanent home and principal establishment, and to which place the person has, whenever absent, the intention of returning.

(b) A person's residence may be established by:

(1) Origin or birth;

(2) Intent and conduct taken to implement the intent; or

(3) Operation of law. [P.L.14-1993, § 3.]

**3-7-1-2.4. Residence in a precinct.** — For the purposes of this chapter, a person does not have residence in more than one (1) precinct. A person who has a residence in a precinct retains residency in that precinct until the person abandons the residence by:

(1) Having the intent to abandon the residence;

(2) Having the intent to establish a new residence; and

(3) Acting in accordance with this intent by establishing a residence in a new precinct. [P.L.14-1993, § 4.]

**3-7-1-2.6. Presumptions regarding residency in precinct.** — Sections 3 through 9, 12, and 14 [IC 3-7-1-3 through IC 3-7-1-9, IC 3-7-1-12, and IC 3-7-1-14] of this chapter establish presumptions regarding the residency of a person in a precinct. A person can rebut these presumptions by demonstrating intent to reside in another precinct and conduct taken to implement that intent. [P.L.14-1993, § 5.]

**3-7-1-3. Residency — Movement into precinct for temporary employment, education, or other purposes.** — A person does not gain residency in a precinct into which the person moves for temporary employment, educational, or other purposes without the intention of making a permanent home in the precinct. [P.L.5-1986, § 3; P.L.3-1987, § 47.]

**3-7-1-4. Residency — Movement into another precinct or into another state with intent of changing residence.** — If a person moves into another precinct in Indiana or into another state with the intention of making it the person's residence, the person loses residency in Indiana or in the precinct the person left. [P.L.5-1986, § 3; P.L.3-1987, § 48.]

**3-7-1-5. Residency — Movement to another state for an indefinite time.** — If a person moves to another state with the intention of remaining there for an indefinite time as a place of residence, the person loses residency in this state, even if the person intends to return at some time. [P.L.5-1986, § 3.]

**3-7-1-6. Residency of person with immediate family.** — The place where a person's immediate family resides is the person's residence, unless it is a temporary location for the person's immediate family or for transient purposes. [P.L.5-1986, § 3; P.L.3-1987, § 49.]

**3-7-1-7. Residency of person with immediate family in one place and doing business in another.** — If a person's immediate family resides in one place and the person does business in another, the residence of the immediate family is the person's residence. However, if the person is living at a place other than the residence of the person's immediate family with the intention of remaining there, then that place is the person's residence. [P.L.5-1986, § 3; P.L.3-1987, § 50.]

**3-7-1-8. Separate voting residence of married person.** — A married person not living in a household with the person's spouse may establish a separate voting residence from that of the person's spouse. [P.L.5-1986, § 3; P.L.3-1987, § 51.]

**3-7-1-9. Residence of unmarried person.** — The residence of an unmarried person who does not have an immediate family is where the person usually sleeps. [P.L.5-1986, § 3; P.L.3-1987, § 52.]

**3-7-1-10. [Repealed.]**

**3-7-1-11. [Repealed.]**

**3-7-1-12. Residency of veterans' home residents.** — A resident of a veterans' home is a resident of the precinct in which the home is located. [P.L.5-1986, § 3.]

**3-7-1-13. Residency — Effect of absence due to state or United States governmental business.** — A person does not lose residency in this state because of absence either on business of the state or of the United States. [P.L.5-1986, § 3.]

**3-7-1-14. Residency of persons committed to institutions for the mentally ill.** — If a person is adjudged mentally ill and is committed to an institution for the mentally ill, the person does not gain residency for voting purposes in the precinct in which the institution is located. [P.L.5-1986, § 3.]

**3-7-1-15. Prison inmates disfranchised — Exceptions.** — (a) A person imprisoned following conviction of a crime is disfranchised during the person's imprisonment.

(b) This section does not disfranchise a person who:

- (1) Is on probation or parole; and
- (2) Is not subject to lawful detention (as defined in IC 35-41-1-18) on election day. [P.L.5-1986, § 3; P.L.3-1987, § 53.]

## CHAPTER 2

### REGISTRATION OFFICERS

#### SECTION.

- 3-7-2-1. Counties without boards of registration — Circuit court clerk as ex officio registration officer.
- 3-7-2-2. Counties with populations of 125,000 or more — Board of registration established.

#### SECTION.

- 3-7-2-3. Counties with populations of less than 125,000 — Establishment of board of registration by county executive.
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- 3-7-2-15. Deputy registration officers — Certificate of appointment — List of deputy registration officers appointed.
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- 3-7-2-21. Assistants to board of registration — Compensation — Employment by alternating political party method.
- 3-7-2-22. Custody of voter registration facilities, records, equipment, forms and supplies.
- 3-7-2-23. Boards of registration — Office space.
- 3-7-2-24. Boards of registration — Seal.
- 3-7-2-25. Electronic data processing equipment.
- 3-7-2-26. "Voter Registration" telephone directory listing.

**3-7-2-1. Counties without boards of registration — Circuit court clerk as ex officio registration officer.** — Except in a county that establishes:

- (1) A board of registration under this chapter; or
- (2) A combined county election board and board of registration under IC 3-6-5.2;



the circuit court clerk is ex officio the registration officer of each county and shall supervise the registration of voters of the county. [P.L.5-1986, § 3; P.L.3-1993, § 32.]

**3-7-2-2. Counties with populations of 125,000 or more — Board of registration established.** — (a) Except as provided in subsection (b), in each county having a population of one hundred twenty-five thousand (125,000) or more, a board of registration is established. The board shall supervise the registration of voters of the county.

(b) In a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) a combined county election board and board of registration is established by IC 3-6-5.2. [P.L.5-1986, § 3; P.L.4-1991, § 24; P.L.3-1993, § 33.]

**3-7-2-3. Counties with populations of less than 125,000 — Establishment of board of registration by county executive.** — In a county having a population of less than one hundred twenty-five thousand (125,000), the county executive may establish a board of registration at least sixty (60) days before the next primary, general, or municipal election. The board then shall supervise the registration of voters of the county. [P.L.5-1986, § 3; P.L.4-1991, § 25.]

**3-7-2-4. Referral of matters by board of registration to election board.** — If a board of registration is unable to resolve any dispute among its members or with the circuit court clerk or requires an interpretation or clarification of the law, it shall refer the matter to the county election board for determination. [P.L.5-1986, § 3; P.L.3-1987, § 54.]

**3-7-2-5. Members of board of registration — Number — Appointment — Qualifications — Term.** — A board of registration consists of two (2) persons. On January 1 of each odd-numbered year in each county that has a board of registration, the county chairmen of the major political parties of the county shall each appoint one (1) member of the board. The two (2) appointed persons must be voters of the county and serve a term of two (2) years or until their successors are appointed. [P.L.5-1986, § 3.]

**3-7-2-6. Members of board of registration — Service at pleasure of county political party chairman — Filling of vacancies.** — A person appointed to a

board of registration serves at the pleasure of the county chairman whose political party initially appointed the person. A vacancy on the board shall be filled in the same manner as the original appointment was made. [P.L.5-1986, § 3.]

**3-7-2-7. Members of board of registration — Oath.** — Before entering upon the discharge of their duties, the members of a board of registration shall take an oath administered by the circuit court judge for the county that they will faithfully and honestly discharge their official duties. [P.L.5-1986, § 3.]

**3-7-2-8. Service of incumbent registration officers until registration board members appointed and qualified.** — In a county that establishes a board of registration under this chapter, the incumbent registration officers serve until registration board members are appointed and qualified. [P.L.5-1986, § 3.]

**3-7-2-9. Members of board of registration — Salaries.** — In a county having a population of two hundred fifty thousand (250,000) or more, each member of the board of registration shall be paid an annual salary of not less than four thousand five hundred dollars (\$4,500). In a county having a population of more than eighty thousand (80,000) and less than two hundred fifty thousand (250,000), each member of the board of registration shall be paid an annual salary of not less than two thousand four hundred dollars (\$2,400). The salaries of the board members shall be fixed in the manner prescribed by IC 36-2-5 or IC 36-3-6 and paid out of the county general fund in accordance with IC 3-5-3-1 as other election expenses are paid. All payments of salaries shall be made upon proper certification by the board. [P.L.5-1986, § 3; P.L.9-1987, § 4.]

**3-7-2-10. Circuit court clerk — Per diem compensation for service as registration officer.** — In a county where the circuit court clerk serves as the registration officer, the clerk is entitled to per diem compensation. The per diem shall be paid out of the general fund of the county in accordance with IC 3-5-3-1 in the same manner as election expenses are paid. [P.L.5-1986, § 3; P.L.9-1987, § 5.]

**3-7-2-11. Ex officio deputy registration officer.** — The precinct committeemen and vice committeemen of the major political parties of the county are ex officio deputy registration officers of the county.

The county chairmen of the major political parties shall file with the circuit court clerk or board of registration a list of the names, addresses, and precinct numbers of the precinct committeemen and vice committeemen, who shall take an oath to faithfully discharge their duties as deputy registration officers. [P.L.5-1986, § 3.]

**3-7-2-12. Additional deputy registration officers — Residency requirement — Terms — Vacancies — Revocation of appointment — Prohibition of reappointment.** — (a) In addition to the ex officio deputy registration officers, each circuit court clerk or board of registration shall appoint, upon the written recommendation of the each county chairman of a major political party of the county, additional deputy registration officers not exceeding two (2) for each party from each precinct.

(b) A deputy registration officer appointed under this section must reside in the county of the circuit court clerk or board of registration that appointed the officer.

(c) Except as provided in subsections (d) and (e), the term of each deputy registration officer expires on the date of the following election of precinct committeemen under IC 3-10-1-4.5. A vacancy under this section shall be filled in the same manner as the original appointment was made.

(d) The county election board, by unanimous vote, may:

(1) Revoke the appointment of a deputy registrar for failure to deliver registration affidavits to the proper officer in conformity with IC 3-7-3-24; and

(2) Prohibit the reappointment of a person described in subdivision (1) as a deputy registrar for two (2) years.

(e) The term of a deputy registration officer who is a candidate for a legislative office expires on the date that the general election for that office is held. [P.L.5-1986, § 3; P.L.3-1987, § 55; P.L.10-1988, § 12; P.L.4-1991, § 26.]

**3-7-2-13. Deputy registration officer — Cancellation of appointment — Filling of vacancy.** — (a) The appointment of an additional deputy registration officer is cancelled by:

(1) The death of the appointee;  
 (2) The resignation of the appointee;  
 (3) The loss of residency of the appointee in the county in which the appointment was made; or

(4) Recommendation of revocation by the county chairman of the political party of the appointee.

(b) The county chairman must give recommendation of revocation in writing to the circuit court clerk or board of registration, who, within ten (10) days after receipt of the recommendation, shall terminate the appointment by written notice to the appointee. The vacancy then created shall be filled within ten (10) days after mailing of the notice of revocation upon written recommendation of the county chairman from whose political party the vacancy exists. [P.L.5-1986, § 3; P.L.10-1988, § 13.]

**3-7-2-14. Other deputy registration officers in substation registration boards — Residency requirement.** —

(a) In addition to the ex officio deputy registration officers and the required additional deputy registration officers requested by the county chairmen in each precinct:

(1) The circuit court clerk in a county without a board of registration; or

(2) The board of registration in a county with a board of registration; may appoint other deputy registration officers and establish substation registration boards as necessary to ensure adequate opportunity for persons to register to vote.

(b) A deputy registration officer appointed under this section must reside in the county of the circuit court clerk or board of registration that appointed the officer. [P.L.5-1986, § 3; P.L.10-1988, § 14; P.L.8-1992, § 3.]

**3-7-2-15. Deputy registration officers — Certificate of appointment — List of deputy registration officers appointed.** —

The circuit court clerk or board of registration shall issue a certificate of appointment to each deputy registration officer. The certificate of appointment must contain the name and address of the appointee, a statement of the fact that the person has been appointed, and the signature of the clerk or board. Each deputy registration officer shall keep the certificate in the officer's possession at all times while engaged in the discharge of official duties and shall show the certificate to an interested voter upon request. The clerk or board shall also keep a list of the names and addresses of all deputy registration officers appointed and the dates on which the appointments were made. The list is a public record and shall be kept available for inspection by inter-

ested persons at all times during office hours. [P.L.5-1986, § 3.]

**3-7-2-16. Deputy registration officers subject to circuit court clerk or board of registration supervision.** — A deputy registration officer shall perform the duties of this article subject at all times to the supervision of the circuit court clerk or board of registration. [P.L.5-1986, § 3.]

**3-7-2-17. Persons authorized to execute affidavits and forms and take acknowledgments — Limitation.** — (a) The circuit court clerk or the members of a board of registration, and every deputy registration officer appointed by the clerk or board, may execute the affidavits and forms and take the acknowledgments that are required by this chapter without regard to precinct, ward, or township boundaries during the registration period prescribed by IC 3-7-3-5.

(b) Except as provided in subsection (c), the circuit court clerk, a member of a registration board, or a deputy registration officer may only execute affidavits and forms and take acknowledgments required by this chapter for an individual who resides in the county where the clerk, member, or officer resides. An officer shall use the registration forms prescribed by the clerk or board of the county where the officer resides.

(c) A deputy registration officer who holds a legislative office or who is a candidate for a legislative office in a general election with an election district located in more than one (1) county may:

- (1) Execute affidavits and forms; and
- (2) Take acknowledgments;

required by this chapter in a county wholly or partially located within the election district. [P.L.5-1986, § 3; P.L.10-1988, § 15; P.L.333-1989(ss), § 1; P.L.8-1992, § 4; P.L.10-1992, § 2; P.L.11-1992, § 1.]

**3-7-2-18. Comparison of registration blanks and transfers with voter registration records.** — Upon receipt of a registration blank or transfer of registration, the circuit court clerk or board of registration shall compare the registration blank or transfer to the records of voter registration. This is for the purpose of preventing duplicate registration of the same person. [P.L.5-1986, § 3.]

**3-7-2-19. Deputy registration officers' supplies.** — The circuit court clerk or board of registration shall furnish all deputy registration officers adequate sup-

plies to enable them to register and transfer during the entire registration period prescribed by IC 3-7-3-5. [P.L.5-1986, § 3.]

**3-7-2-20. Lake and Marion counties — Appointment and compensation of chief clerks.** — In a county having a population of four hundred thousand (400,000) or more, the board of registration shall appoint two (2) chief clerks, of different political parties, at a salary:

- (1) Fixed in the manner prescribed by IC 36-2-5 or IC 36-3-6; and
- (2) Paid in accordance with IC 3-5-3-1. [P.L.5-1986, § 3; P.L.12-1992, § 1; P.L.15-1993, § 2.]

**3-7-2-21. Assistants to board of registration — Compensation — Employment by alternating political party method.** — Each board of registration may employ all necessary assistants, whose salaries shall be fixed in the manner prescribed by IC 36-2-5 or IC 36-3-6, and paid in accordance with IC 3-5-3-1. The number of employees shall be equally divided between the major political parties of the county, and all employees shall be appointed only upon the written recommendation of the respective county chairmen. [P.L.5-1986, § 3; P.L.9-1987, § 6.]

**3-7-2-22. Custody of voter registration facilities, records, equipment, forms and supplies.** — Each board of registration has custody of all registration facilities, equipment, supplies, forms, records (including the permanent records of registered voters of the county), registration affidavits, and other property used in connection with the registration of voters in the county. [P.L.5-1986, § 3.]

**3-7-2-23. Boards of registration — Office space.** — In each county that has a board of registration, the county executive shall provide suitable quarters for the board. The quarters must be:

- (1) Located in the county courthouse or in a building easily accessible to the courthouse;
- (2) Easily accessible to the public; and
- (3) Adequate to meet the needs of the board.

[P.L.5-1986, § 3; P.L.3-1987, § 56.]

**3-7-2-24. Boards of registration — Seal.** — Each board of registration shall have a seal, a description of which shall be filed by the board and recorded. [P.L.5-1986, § 3.]

**3-7-2-25. Electronic data processing equipment.** — The circuit court clerk or board of registration may keep records by use of electronic data processing equipment and may enter into contracts for this purpose. [P.L.5-1986, § 3.]

**3-7-2-26. "Voter Registration" telephone directory listing.** — The circuit court clerk or board of registration shall arrange for a separate listing in the local telephone directory under the heading for county offices, styled "Voter Registration" and including the appropriate address and telephone number. [P.L.5-1986, § 3.]

## CHAPTER 3

### REGULAR REGISTRATION PROCEDURES

#### SECTION.

- 3-7-3-1. Permanent registration record.
- 3-7-3-2. Voters not required to re-register.
- 3-7-3-3. Unusable registration records.
- 3-7-3-4. Registrations and transfers under prior law.
- 3-7-3-5. Persons who must register or transfer — Registration period.
- 3-7-3-5.5. Individuals who registered to vote before a deputy registration officer — Registration not filed — Replacement form.
- 3-7-3-6. Appearance of name in registration record — Right to vote — Certificate of error for voters not in record.
- 3-7-3-7. Certificates of error — Execution — Transmittal of copies.
- 3-7-3-8. Affidavits of registration and absentee registration forms — Adequate supplies — Paper type — Execution in duplicate — Other supplies.
- 3-7-3-9. Election forms — Modification.
- 3-7-3-10. [Repealed.]
- 3-7-3-11. Affidavits and forms of registration — Signatures.
- 3-7-3-12. [Repealed.]
- 3-7-3-12.5. Improperly completed registration form — Duties of clerk or board.
- 3-7-3-12.7. Receipt of registration form from nonresident.
- 3-7-3-13. Voter registration receipts — Issuance.
- 3-7-3-14. Voter registration receipts — Cancellation of affidavit of registration upon return.
- 3-7-3-15 — 3-7-3-17. [Repealed.]
- 3-7-3-18. Blank affidavits and forms of registration — Numbering — Responsibilities of deputy registration officers.
- 3-7-3-19. Blank affidavits and forms of registration — Mutilated and unusable forms.
- 3-7-3-20. Registration and transfers of registration — Convenient locations — Registration substations.
- 3-7-3-21. Registration at colleges and universities.
- 3-7-3-22. Registration — Location — Completion of affidavit of registration.
- 3-7-3-23. Affidavits of registration — Execution and signing.
- 3-7-3-24. Affidavits of registration — Filing — Non-compliance as vote fraud.

#### SECTION.

- 3-7-3-25. Voter name changes.
- 3-7-3-26. Registration of public secondary school students.
- 3-7-3-27. Voter eligibility for registrant who is under 18 — Registration record.

**3-7-3-1. Permanent registration record.** — The registration affidavits or forms of each precinct constitute a permanent registration record of all voters residing in and entitled to vote in the precinct. The permanent registration record shall be compiled, purged, supplemented, and preserved as prescribed by this article. [P.L.5-1986, § 3; P.L.7-1990, § 10.]

**3-7-3-2. Voters not required to re-register.** — A voter who is a resident of a precinct and whose name appears on the registration record of the precinct is not required to register again, as long as:

- (1) The voter continues to reside at the same address at which the voter is registered;
- (2) The voter is not disfranchised according to law; and
- (3) The voter's registration is not cancelled as provided in this title. [P.L.5-1986, § 3; P.L.7-1990, § 11.]

**3-7-3-3. Unusable registration records.** — If the registration records of a precinct are destroyed, mutilated, inaccessible, or for any other reasonable cause unfit to be used, as determined by the county election board of the county in which the precinct is located, a registration of all voters residing in the precinct shall be held. Each voter who is a resident of the precinct must register as provided in this article. [P.L.5-1986, § 3; P.L.7-1990, § 12.]

**3-7-3-4. Registrations and transfers under prior law.** — All registrations and transfers of registration executed under prior law are valid and continued in effect, except those names that are purged from registration lists according to law. [P.L.5-1986, § 3; P.L.3-1987, § 57.]

**3-7-3-5. Persons who must register or transfer — Registration period.** — (a) During each registration period only those voters whose names do not appear on the registration record of the proper precincts of a county, as provided in this article, must register or transfer a previous registration.

(b) The registration period begins on the first business day of December of each year in which a general or municipal election is held. The period continues through the

twenty-ninth day before the date fixed by this title for a primary election. The period resumes on May 15 and continues through the twenty-ninth day before the date on which the general or municipal election will be held. A deputy registration officer may not receive registrations and transfers after the forty-fourth day preceding the date fixed by this title for a primary, general, or municipal election.

(c) A person desiring to register or transfer may do so at the office of the circuit court clerk or board of registration through the close of business at the office of the clerk or board on the twenty-ninth day.

(d) Except as otherwise provided in this chapter, if a clerk or board receives a properly completed registration form in the office of the clerk or board during a time other than the registration period described in subsection (b), the clerk or board shall process the form on the first day of the next registration period under subsection (b). [P.L.5-1986, § 3; P.L.11-1987, § 2; P.L.5-1989, § 15; P.L.7-1990, § 13; P.L.14-1993, § 6.]

**3-7-3-5.5. Individuals who registered to vote before a deputy registration officer — Registration not filed — Replacement form.** — (a) This section applies to an individual:

(1) Who registered to vote before a deputy registration officer during the period in which a deputy registration officer is authorized to receive registrations and transfers under section 5 [IC 3-7-3-5] of this chapter; and

(2) Whose registration was not filed under section 24 [IC 3-7-3-24] of this chapter by the date that the registration period ended under section 5 of this chapter.

(b) The individual may request a hearing before the county election board not later than the date that the certified list of voters is prepared under IC 3-7-7-9.

(c) If the county election board determines by a unanimous vote of its entire membership that the individual established by a preponderance of the evidence that:

(1) The individual completed a registration form before a deputy registration officer during the period that a deputy registration officer is authorized to receive registrations;

(2) The registration was not filed by the end of the registration period under section 5 of this chapter; and

(3) The individual is willing to complete a replacement registration form at that time;

the county election board shall order the individual to complete the replacement form and shall order the clerk or board to process the registration form and add the name of the voter to the list prepared under IC 3-7-7-9. [P.L.14-1993, § 7.]

**3-7-3-6. Appearance of name in registration record — Right to vote — Certificate of error for voters not in record.** — (a) A voter whose name appears on the registration record of the precinct of which the voter is a legal resident, and who is otherwise qualified, is entitled to vote at a general or municipal election.

(b) A voter whose name does not appear on the registration record may not vote, unless the circuit court clerk or board of registration provides a signed certificate of error in the office where the permanent registration record is kept showing that the voter is legally registered in the precinct where the voter resides. [P.L.5-1986, § 3; P.L.7-1990, § 14.]

**3-7-3-7. Certificates of error — Execution — Transmittal of copies.** — Certificates of error prescribed by section 6 [IC 3-7-3-6] of this chapter shall be executed in duplicate and numbered serially. One (1) copy shall be delivered to the inspector in the precinct of the voter's residence. The inspector shall return that copy to the circuit court clerk when ballots and other election material are returned to the clerk as provided in this title. The other copy shall be delivered to the county election board and shall be returned to the circuit court clerk at the close of the election. In a county having a board of registration, the circuit court clerk shall promptly transmit certificates to the board. [P.L.5-1986, § 3; P.L.3-1987, § 58.]

**3-7-3-8. Affidavits of registration and absentee registration forms — Adequate supplies — Paper type — Execution in duplicate — Other supplies.** —

The circuit court clerk or board of registration shall provide a sufficient number of affidavits of registration for the registration of voters residing in the county. The clerk or board shall also provide a sufficient number of forms for absentee registration for the registration of voters absent from the county with bona fide residence in the county. The blank affidavits and forms consist of looseleaf sheets or cards of durable quality. All affidavits and forms shall be executed in

duplicate or recorded by use of electronic data processing equipment. The clerk or board shall also prepare and provide all other supplies needed to secure the registration of voters as provided in this title. [P.L.5-1986, § 3.]

**3-7-3-9. Election forms — Modification.** — (a) The:

- (1) Affidavits and forms of registration;
- (2) Registration receipts;
- (3) Name change forms;
- (4) Registration transfers;
- (5) Transfer stubs; and
- (6) Authorization to cancel former registrations;

required by this article must be on forms prescribed by the state election board.

(b) The state election board shall prescribe forms for the use of counties whose voter registration records are maintained on a computer system and forms for the use of all other counties.

(c) The affidavits and forms of registration prescribed under subsection (a) must provide for the residence address and the mailing address of the individual completing the forms. The registration receipt prescribed under subsection (a) must specify that the receipt will be mailed to the mailing address when the receipt is mailed under section 13 [IC 3-7-3-13] of this chapter.

(d) A circuit court clerk or board of registration may make minor modifications to the form prescribed under subsection (a) to use the form in the county registration records. [P.L.5-1986, § 3; P.L.3-1987, § 59; P.L.10-1988, § 16; P.L.14-1993, § 8.]

**3-7-3-10. [Repealed.]**

**3-7-3-11. Affidavits and forms of registration — Signatures.** — The affidavits and forms of registration must be signed in ink or with an indelible pencil. [P.L.5-1986, § 3.]

**3-7-3-12. [Repealed.]**

**3-7-3-12.5. Improperly completed registration form — Duties of clerk or board.** — (a) This section applies when a circuit court clerk or board of registration receives a registration form that is not properly filled out under IC 3-7-3-22.

(b) The clerk or board shall promptly make:

- (1) One (1) effort to contact the voter by mail where possible; and
- (2) One (1) effort to contact the voter by telephone if a telephone number is listed;

to notify the voter that the voter's registration has not been completed and to obtain the information required to complete the registration form.

(c) If the clerk or board obtains information under subsection (b) that permits the clerk or board to complete the registration form, the clerk or board shall process the registration form under this chapter.

(d) If a registration form contains all of the information required to be supplied by the voter, but does not include the information to be supplied by the deputy registration officer, the clerk or board shall promptly make one (1) effort to contact the deputy registration officer to obtain the information. If the clerk or board obtains the information from the registration officer required to complete the form, the clerk or board shall process the registration form under this chapter. If the clerk or board cannot obtain the information from the deputy registration officer and the form is otherwise complete, the clerk or board shall process the form under this chapter.

(e) The clerk or board shall certify to the county election board a list of registration forms that remain incomplete after the effort required under subsection (b). Upon certification, the clerk or board shall void the registrations of voters on the list.

(f) The clerk or board shall certify to the county election board a list of registration forms that have been processed under subsection (d) but do not contain information required to be supplied by a deputy registration officer. The county election board shall notify each deputy registration officer by United States first class mail that the officer is required to supply the omitted information not later than thirty (30) days after the date of the letter. [P.L.10-1992, § 3; P.L.14-1993, § 9.]

**3-7-3-12.7. Receipt of registration form from nonresident.** — (a) This section applies when a circuit court clerk or board of registration receives a registration form for a voter whose address is:

- (1) Located in Indiana; and
- (2) Not located in the county where:
  - (A) The office of the clerk or board is located; or
  - (B) The deputy registration officer resides.

(b) The clerk or board shall promptly mail the registration form described in subsection (a) to the clerk or board of the county in which the voter resides.

(c) The clerk or board of the county in which the voter resides shall:

(1) Process the registration form and register the voter under this chapter; or

(2) If the registration form is not compatible with the registration system of the county, notify the voter that:

(A) The voter's registration has not been completed; and

(B) The voter must register in the voter's county of residence.

(d) If a clerk or board of the county in which the voter resides receives the registration form after the registration period ends under section 5 [IC 3-7-3-5] of this chapter and before the date on which the clerk or board prepares the certified list of voters under IC 3-7-7-9, the clerk or board shall process the registration form unless the form is not compatible under subsection (c). If the form is received after the certified list of voters has been prepared, the clerk or board shall process the form on the first day of the next registration period under section 5 of this chapter. [P.L.7-1990, § 15; P.L.14-1993, § 10.]

**3-7-3-13. Voter registration receipts — Issuance.** — A receipt shall be issued and given to each registered voter upon the completion of the voter's registration at the office of the circuit court clerk or board of registration. If a voter registers at a place other than the office of the clerk or board, the clerk or board shall mail a receipt to the voter within fourteen (14) days after the entry of the voter's name upon the registration list. The receipt shall be marked for return if not deliverable as addressed. [P.L.5-1986, § 3.]

**3-7-3-14. Voter registration receipts — Cancellation of affidavit of registration upon return.** — If the circuit court clerk or board of registration mails a registration receipt to the address stated on the registration receipt and the registration receipt is returned by the United States Postal Service as addressed, the clerk or board shall cancel the corresponding affidavit of registration by writing the word "canceled" and the date of the cancellation across the face of the affidavit. Registration receipts returned by the United States Postal Service, including envelopes and post cards, shall be filed with the canceled affidavits of registration. [P.L.5-1986, § 3; P.L.3-1987, § 60; P.L.10-1992, § 4.]

**3-7-3-15 — 3-7-3-17. [Repealed.]**

**3-7-3-18. Blank affidavits and forms of registration — Numbering — Re-**

**sponsibilities of deputy registration officers.** — Each blank affidavit or form of registration must have a distinctive number. This number must appear on both the original and duplicate sheets. Each deputy registration officer shall give a receipt to the circuit court clerk or board of registration for all blank affidavits and forms of registration issued to the deputy specifying the number of blanks received. The deputy is responsible for the blanks until the deputy returns them to the clerk or board. [P.L.5-1986, § 3.]

**3-7-3-19. Blank affidavits and forms of registration — Mutilated and unusable forms.** — If for any cause a blank affidavit or form of registration is mutilated or rendered unfit for use, or if a mistake has been made on it, the blank may not be destroyed, but the word "mutilated" shall be written across the face of the blank. The blank shall be returned to the office of the circuit court clerk or board of registration and shall be preserved in the same manner as court records are preserved. [P.L.5-1986, § 3.]

**3-7-3-20. Registration and transfers of registration — Convenient locations — Registration substations.** — Each deputy registration officer may register or transfer the registration of a voter at the voter's legal residence or at any other convenient place, except places where alcoholic beverages are sold and consumed on the premises, without reference to precinct boundaries. In addition, a board of registration may establish substations. The registration officers comprising the substation board must be equally divided between the major political parties of the county. [P.L.5-1986, § 3.]

**3-7-3-21. Registration at colleges and universities.** — (a) Colleges and universities shall permit voter registration by deputy registration officers:

(1) In the public areas, excluding restrooms, hallways, and study lounges, of their student or teacher housing facilities; and

(2) As provided in subsection (b); between 10 A.M. and 8 P.M. on each day of March and September on which registration is allowed by section 5 [IC 3-7-3-5] of this chapter.

(b) During the last thirty (30) days of each registration period, excluding school holidays, colleges and universities shall permit a student who complies with subsection (c) to knock on the door of each room in the living areas of student housing

at the college or university for the following reasons:

- (1) To solicit voter registration.
- (2) To distribute applications for absentee ballots.
- (3) To conduct polls as provided under IC 3-6-11.

(c) An organization or individual conducting the activities permitted under subsection (b) shall follow the following procedures:

- (1) Submit a written list of deputy registrars and poll takers to the person designated by the college or university.
- (2) If the student housing is not covered by a policy limiting visitation by members of the opposite sex in the living areas of the student housing, conduct the activities permitted under subsection (b) between 10 A.M. and 8 P.M.
- (3) If the student housing is covered by a policy limiting visitation by members of the opposite sex in the living areas of the student housing, conduct the activities permitted under subsection (b) during the most restrictive of the following times:

(A) Between 10 A.M. and 8 P.M.

(B) During the hours visitation is permitted.

(d) A deputy registrar or poll taker entering student housing under subsection (b) must:

- (1) Be a student enrolled at the college or university;
- (2) Be named on a list submitted under subsection (c)(1);
- (3) Carry a poll taker's certificate issued under IC 3-6-11-2 or a certificate of appointment as a deputy registration officer issued under IC 3-7-2-15;
- (4) Carry a picture identification card; and
- (5) Check in at the main desk, or with the person in charge of security for the building, upon arrival at the student housing and check out before departure. [P.L.5-1986, § 3; P.L.4-1991, § 27.]

### **3-7-3-22. Registration — Location — Completion of affidavit of registration.**

— A voter who desires to register, unless otherwise provided in this article, shall appear in person before the circuit court clerk or board of registration in the county in which the voter resides, or before a deputy registration officer appointed by the clerk or board, and shall fill out or cause to be filled out an affidavit of

registration with the statements and information required. [P.L.5-1986, § 3.]

**3-7-3-23. Affidavits of registration — Execution and signing.** — After an affidavit has been properly filled out under section 22 [IC 3-7-3-22] of this chapter, the voter shall sign the affidavit in the presence of the officer before whom the affidavit is executed, and the officer shall also sign the affidavit in the presence of the voter. Each voter shall execute and sign an original and a duplicate affidavit. If the voter is unable to write, the voter may procure a resident of the county to write the voter's name and the voter shall make the voter's mark. The person writing the name of the voter shall also write the person's own name and address on the affidavit as attesting witness. [P.L.5-1986, § 3.]

**3-7-3-24. Affidavits of registration — Filing — Noncompliance as vote fraud.** — (a) Each deputy registration officer shall file all affidavits or forms of registration with the circuit court clerk or board of registration from time to time, as the clerk or board requires, but all affidavits and forms shall be filed not later than noon of the day following the close of any registration period whether the affidavits have been filled out and executed, are unused, or have been mutilated.

(b) Failure to comply with this section is vote fraud under IC 3-14-2-5 and may result in the actions described under IC 3-7-2-12. [P.L.5-1986, § 3; P.L.10-1988, § 17; P.L.4-1991, § 28.]

**3-7-3-25. Voter name changes.** — A voter whose name is changed by marriage, divorce, or court order after registration but before an election day may vote at the election by filing with the county clerk or board of registration a verified statement using the form described in section 9 [IC 3-7-3-9] of this chapter. The statement may be filed at any time or with the precinct election board on election day before receiving a ballot. The filed statement entitles the person to vote if otherwise qualified. The statement shall be preserved in the office of the clerk or board. [P.L.5-1986, § 3; P.L.3-1987, § 61.]

**3-7-3-26. Registration of public secondary school students.** — (a) Notwithstanding section 5 [IC 3-7-3-5] of this chapter, the circuit court clerk or board of registration shall contact each school corporation with a public secondary school in the county to arrange to register eligible students of the school who are more than



sixteen (16) years of age each school year during the months of December, January, and February.

(b) The school corporation shall allow a team of deputy registration officers to:

- (1) Address students who are eligible to register; and
- (2) Register students who desire to register;

during instructional time.

(c) The clerk or board shall request from the county chairman of each major political party a list of the party's deputy registrars eligible to serve under subsection (b).

(d) A team of deputy registration officers under subsection (b) must have an equal number of members from each major political party in the county. However, if:

- (1) A county chairman of a political party does not provide a list of deputy registrars under subsection (c); or
- (2) The deputy registrars on the list are unable or unwilling to perform the duties in subsection (a);

the clerk or board may appoint any deputy registrar to perform the duties in subsection (a). [P.L.4-1991, § 29; P.L.8-1992, § 5; P.L.11-1992, § 2; P.L.3-1993, § 34.]

**3-7-3-27. Voter eligibility for registrant who is under 18 — Registration record.** — (a) This section applies to the registration record of a voter who is eligible to register under IC 3-7-1-1 but is not yet eighteen (18) years of age.

(b) The circuit court clerk or board of registration shall make a notation on the registration record to indicate that the name of the voter should not be included on a poll list unless the voter will be at least eighteen (18) years of age when the election is conducted or the voter will be eligible to vote under IC 3-7-1-2.

(c) The clerk or board shall make a notation on the registration record to indicate that the name of the voter should not be used for jury service unless the voter will be at least eighteen (18) years of age when the jury is empaneled. [P.L.3-1993, § 35.]

## CHAPTER 4

### SPECIAL REGISTRATION PROCEDURES FOR CERTAIN VOTERS IN PRESIDENTIAL ELECTIONS

#### SECTION.

- 3-7-4-1. Applicability to general elections.
- 3-7-4-2. Eligibility for voting.
- 3-7-4-3. Execution of affidavit of eligibility.
- 3-7-4-4. Affidavits, forms and records of special registrations — Notation of limited voting privileges.
- 3-7-4-5. Contents of affidavit of eligibility.

#### SECTION.

- 3-7-4-6. Sworn statement of eligibility.
- 3-7-4-7. Form of affidavit.

**3-7-4-1. Applicability to general elections.** — Notwithstanding other provisions of this article concerning residency requirements for voting, special procedures apply for voting in presidential elections. The presidential voting procedures in this chapter apply only to a general election at which electors for President and Vice President of the United States are voted upon. [P.L.5-1986, § 3; P.L.3-1987, § 62.]

**3-7-4-2. Eligibility for voting.** — The presidential voting procedures in this chapter apply to a person who satisfies all of the following conditions:

- (1) The person resided in a precinct in Indiana.
- (2) The person lost residency in Indiana within the thirty (30) days immediately before the general election.
- (3) The person was a qualified and registered voter while a resident of that precinct.
- (4) The person is otherwise legally qualified to vote.
- (5) The person does not meet the residency requirements of the state, precinct, or political subdivision in which the person resides. [P.L.5-1986, § 3; P.L.3-1987, § 63; P.L.17-1993, § 1.]

**3-7-4-3. Execution of affidavit of eligibility.** — (a) The affidavit required under section 6 [IC 3-7-4-6] of this chapter for voting in presidential elections may be executed only:

- (1) At the office of the circuit court clerk or board of registration before the day of the general election;
- (2) Before the precinct election board of the precinct where the person formerly resided, if the affidavit is executed on the day of the general election; or
- (3) When the application for an absentee ballot is filed.

(b) In years in which a presidential election is conducted, at least one (1) copy of the affidavit must be included in the material provided for the inspector of each precinct.

(c) The circuit court clerk or board of registration shall mail a copy of the affidavit to any voter who requests a copy not later than five (5) days before election day. If the voter returns the affidavit to the office of the clerk or board before the day of the general election, the affidavit shall be

processed as if the affidavit had been executed in the office. [P.L.5-1986, § 3; P.L.3-1987, § 64; P.L.3-1993, § 36.]

**3-7-4-4. Affidavits, forms and records of special registrations — Notation of limited voting privileges.** — All affidavits, forms, and records of voter registration must be clearly marked to indicate that, in this general election, the voter may only vote for electors for President and Vice President of the United States. [P.L.5-1986, § 3; P.L.3-1987, § 65.]

**3-7-4-5. Contents of affidavit of eligibility.** — The affidavits for presidential voting under this chapter must contain the following information:

- (1) The person's last, first, and middle name, in that order.
- (2) The person's assigned identification number.
- (3) The person's birthplace and date of birth.
- (4) If the person is a naturalized foreign born citizen, the date and place of naturalization and the court in which naturalized.
- (5) The person's present residence address.
- (6) The address of the person's previous residence in Indiana, including the county.
- (7) The person's statement that the person satisfies the conditions set forth in section 2 [IC 3-7-4-2] of this chapter. [P.L.5-1986, § 3; P.L.3-1987, § 66, P.L.17-1993, § 2.]

#### 3-7-4-6. [Repealed.]

**3-7-4-7. Form of affidavit.** — The state election board shall prescribe the form of the affidavit required by this chapter. [P.L.17-1993, § 3.]

### CHAPTER 4.5

#### ELIGIBILITY OF CERTAIN INDIANA VOTERS TO VOTE IN PRECINCT OF FORMER RESIDENCE

##### SECTION.

- 3-7-4.5-1. Applicability to general, municipal, primary, school district and special election.
- 3-7-4.5-2. Applicability to certain persons.
- 3-7-4.5-3. "Precinct of the person's former residence" defined.
- 3-7-4.5-4. Voting in precinct of former residence.
- 3-7-4.5-5. Contents of affidavit.
- 3-7-4.5-6. Request for transfer of registration — Affidavit.
- 3-7-4.5-7. Execution of affidavit.
- 3-7-4.5-8. Copy of affidavit — presentation.

**3-7-4.5-1. Applicability to general, municipal, primary, school district and special election.** — This chapter applies to a general, municipal, primary, school district, and special election. [P.L.17-1993, § 4.]

**3-7-4.5-2. Applicability to certain persons.** — This chapter applies to a person who satisfies all of the following conditions:

- (1) The person resided in a precinct in Indiana.
- (2) The person currently resides in Indiana.
- (3) The person lost residency under IC 3-7-1 in the precinct of the person's former residence not more than thirty (30) days immediately before the election.
- (4) The person was a qualified and registered voter of the precinct of the person's former residence.
- (5) The person is otherwise legally qualified to vote.
- (6) The person is not registered in the precinct of the person's present residence.
- (7) The person requests a transfer of the person's registration under IC 3-7-8. [P.L.17-1993, § 4.]

**3-7-4.5-3. "Precinct of the person's former residence" defined.** — As used in this chapter, "precinct of the person's former residence" refers to the precinct in which the person resided on the thirty first day before the election. [P.L.17-1993, § 4.]

**3-7-4.5-4. Voting in precinct of former residence.** — (a) Notwithstanding other provisions of this article concerning residency requirements for voting, but subject to subsection (b), a person described in section 2 [IC 3-7-4.5-2] of this chapter may vote in the precinct of the person's former residence by executing an affidavit described in this chapter.

(b) A person who changes residence from a location outside a municipality to a location within a municipality within thirty (30) days before a municipal primary election, municipal election, or special election held only within the municipality may not vote in the election in the precinct of the person's former residence. [P.L.17-1993, § 4.]

**3-7-4.5-5. Contents of affidavit.** — An affidavit executed under this chapter must contain the following information:

- (1) The person's last, first, and middle name, in that order.

(2) The person's birthplace and date of birth.

(3) If the person is a naturalized foreign born citizen, the date and place of naturalization and the court in which the person was naturalized.

(4) The person's current address, including the county. If the person resides in a municipality, the address must include the street address, including apartment number or other designation, or the name and room number of the hotel or lodging house. If the person does not reside in a municipality, the address must include the mailing address and the street or road.

(5) The address of the person's previous residence, including the county.

(6) The person's statement that the person satisfies the conditions set forth in section 2 [IC 3-7-4.5-2] of this chapter. [P.L.17-1993, § 4.]

**3-7-4.5-6. Request for transfer of registration — Affidavit.** — The state election board shall prescribe the form of the affidavit required by this chapter which must permit the person to execute a request for transfer of the person's registration. [P.L.17-1993, § 4.]

**3-7-4.5-7. Execution of affidavit.** — The affidavit required by this chapter may be executed as follows:

(1) At the office of the circuit court clerk or the board of registration for the county of the precinct of the person's former residence, not later than 4 p.m. on the day before the election.

(2) Before the inspector of the precinct of the person's former residence, if the application and statement are executed on the day of the election.

(3) When the application for an absentee ballot is filed with the county election board of the county of the precinct of the person's former residence. [P.L.17-1993, § 4.]

**3-7-4.5-8. Copy of affidavit — Presentation.** — (a) If the person executes the affidavit under this chapter at the office of the circuit court clerk or board of registration before the day of the election, the circuit court clerk or board of registration shall furnish a copy of the affidavit to the person. The person shall present the copy to the inspector of the precinct of the person's former residence when the person offers to vote in that precinct under IC 3-11-8.

(b) If the person executes the affidavit under this chapter when filing an applica-

tion for an absentee ballot, the county election board shall attach the original or a copy of the affidavit to the person's application for an absentee ballot before the application and ballot are delivered to the inspector of the precinct of the person's former residence.

(c) If the person executes the affidavit under this chapter before the inspector of the precinct of the person's former residence on the day of the election, the inspector shall return the original affidavit to the circuit court clerk or board of registration after the closing of the polls. [P.L.17-1993, § 4.]

## CHAPTER 5

### ABSENTEE REGISTRATION PROCEDURES

#### 3-7-5-1 — 3-7-5-12. [Repealed.]

## CHAPTER 5.1

### ABSENTEE REGISTRATION PROCEDURES

#### SECTION.

- 3-7-5.1-1. Applicability of article.
- 3-7-5.1-2. Affidavits or forms for absentee registration.
- 3-7-5.1-3. Forms of registration for voters confined to home or hospital.
- 3-7-5.1-4. Execution of affidavit or form of registration.
- 3-7-5.1-5. When signature in presence of person authorized to administer oath not required.
- 3-7-5.1-6. Execution of affidavit or form of registration by voters confined to home or hospital.
- 3-7-5.1-7. Duties of circuit court clerk or board of registration upon receiving an application for absentee registration.
- 3-7-5.1-8. Duties of board of registration upon receiving an application for absentee registration.
- 3-7-5.1-9. Duties of secretary of state upon receipt of affidavit or form for absentee registration.
- 3-7-5.1-10. Duties of circuit court clerk upon receiving affidavit or form for absentee registration.
- 3-7-5.1-11. Duties of circuit court clerk in county where there is a board of registration.
- 3-7-5.1-12. Processing of absentee registration affidavit or form.

**3-7-5.1-1. Applicability of article.** — All provisions of this article concerning the registration of voters, unless otherwise provided, govern absentee registration. [P.L.1-1993; § 5.]

**3-7-5.1-2. Affidavits or forms for absentee registration.** — In addition to the information required on a form prescribed

under IC 3-7-3-9, the affidavits or forms for absentee registration must contain the following just before the voter signature line:

I expect to be absent from the county of my residence until after the time for registering for the next election to be held on the \_\_\_\_\_ day of \_\_\_\_\_ by reason of my business, profession, or military service as follows: (here state reason).

[P.L.1-1993, § 5; P.L.14-1993, § 11.]

**3-7-5.1-3. Forms of registration for a voter confined to home or hospital.** — The affidavits or forms of registration for a voter who, by reason of illness, injury, quarantine, or caring for a confined person, is or will be confined to the voter's home, a hospital, or a private residence and therefore unable to appear in person before the circuit court clerk or board of registration must also contain the following:

I expect to be confined to my home or a hospital by reason of illness, injury, or quarantine, or to a private residence due to caring for a confined person and will therefore be unable to appear in person before the clerk of the circuit court or the registration board in the county in which I reside until after the time for registering for the next election to be held on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Signature of Voter  
Witness to Mark:

Subscribed and sworn to (or affirmed) (or certified) before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Name of official administering oath or certifying.

[P.L.1-1993, § 5; P.L.14-1993, § 12.]

**3-7-5.1-4. Execution of affidavit or form of registration.** — (a) The circuit court clerk or board of registration is considered the registrar for the processing of registrations under this chapter.

(b) Except as provided in section 5 [IC 3-7-5.1-5] of this chapter, a voter who will be absent from the voter's county of residence until after the time for registering for a primary, general, or municipal election may execute the affidavit or form of registration prescribed by this chapter before anyone authorized to administer an oath. [P.L.1-1993, § 5; P.L.14-1993, § 13.]

**3-7-5.1-5. When signature in presence of person authorized to administer oath not required.** — A voter who:

(1) Is eligible for an absentee ballot under IC 3-11-4; and

(2) Wants to execute an affidavit or form for voter registration and:

(A) Is an absent uniformed services voter (as defined in 42 U.S.C. 1973ff-6(1)); or

(B) Is an overseas voter (as defined in 42 U.S.C. 1973ff-6(5));

is not required to sign the affidavit or form in the presence of a person authorized to administer an oath, and the affidavit or form need not be signed by such a person. The circuit court clerk or board of registration shall inform the voter that no signature other than that of the voter is required on the affidavit or form and that a voter who makes a false statement on the affidavit or form is subject to the penalties for perjury. [P.L.1-1993, § 5.]

**3-7-5.1-6. Execution of affidavit or form of registration by voters confined to home or hospital.** — (a) A voter who, by reason of illness, injury, quarantine, or caring for a confined voter:

(1) Is or will be confined to the voter's home, a hospital, or a private residence; and

(2) Will be unable to appear in person before the circuit court clerk or board of registration of the county in which the voter resides, or before a deputy registration officer appointed by the clerk or board of the county in which the voter resides;

may execute the affidavit or form of registration prescribed by this chapter for absentee registration before anyone authorized to administer an oath.

(b) If the voter is unable to sign or mark the registration form due to disability, any person designated by the voter may sign the voter's name on the form in the presence of the voter and the person administering the oath to the voter. [P.L.1-1993, § 5; P.L.14-1993, § 14.]

**3-7-5.1-7. Duties of circuit court clerk or board of registration upon receiving an application for absentee registration.** — When a circuit court clerk or board of registration receives an application for absentee registration, the clerk or board shall promptly mail or deliver to the applicant the affidavit prescribed by this chapter for the registration of an absentee voter by absentee process. When the properly executed and certified affidavit is returned to the clerk or board, the applicant becomes a registered voter in the

precinct of residence. [P.L.1-1993, § 5; P.L.14-1993, § 15.]

**3-7-5.1-8. Duties of board of registration upon receiving an application for absentee registration.** — When a board of registration receives an application for absentee registration, the board shall also record the name, address, and other pertinent information on a suitable record form and then promptly mail or deliver the applicant's affidavit or form to the circuit court clerk for the use of the clerk in mailing applications for absentee ballots. [P.L.1-1993; § 5.]

**3-7-5.1-9. Duties of secretary of state upon receipt of affidavit or form for absentee registration.** — If the secretary of state receives any affidavits or forms for absentee registration, the secretary of state shall promptly forward them to the circuit court clerk or board of registration of the county where the applicant resides according to the address on the affidavit or form. If the application is both an application for voter registration and an application for an absentee ballot, the secretary of state shall promptly forward the application to the clerk or board. [P.L.1-1993; § 5.]

**3-7-5.1-10. Duties of circuit court clerk upon receiving affidavit or form for absentee registration.** — When a circuit court clerk receives an affidavit or form for absentee registration, the clerk shall promptly mail the absentee ballot applications as soon as they are available. [P.L.1-1993; § 5.]

**3-7-5.1-11. Duties of circuit court clerk in county where there is a board of registration.** — If an affidavit or form is mailed to the circuit court clerk in a county where there is a board of registration, the clerk shall promptly mail or deliver to the board the affidavit or form requesting registration. If the application is both an application for registration and an application for an absentee ballot, the clerk shall record the name, address, and other necessary information on a suitable record for the use of the clerk's office in mailing an application for an absentee ballot. The requested application for an absentee ballot shall be mailed as soon as the applications are available. After making the required record, the clerk shall promptly mail or deliver the dual application to the board. The board shall promptly mail the absentee registration affidavits to the applicant at the address appearing on the affidavit or form submitted by the

applicant. [P.L.1-1993, § 5; P.L.14-1993, § 16.]

**3-7-5.1-12. Processing of absentee registration affidavit or form.** — (a) Except as provided in subsection (b), the circuit court clerk or board of registration shall process an absentee registration affidavit or form during the registration period described by IC 3-7-3-5. If the clerk or board receives a properly completed registration form during a time other than the registration period described by IC 3-7-3-5, the clerk or board shall process the form on the first day of the next registration period.

(b) Notwithstanding IC 3-7-3-5, the clerk or board shall process an absentee registration affidavit or form received from an absent uniformed services voter or an overseas voter during the registration period described by IC 3-7-3-5 or during the period beginning on the twenty-ninth day before the election and ending on the date that the clerk or board prepares the certified list under IC 3-7-7-9. [P.L.14-1993, § 17.]

## CHAPTER 6

### SUPPLEMENTAL VOTER REGISTRATION DAY

#### SECTION.

- 3-7-6-1. Voter Registration Day.
- 3-7-6-2. Voter Registration Day districts.
- 3-7-6-3. Resolution to conduct Voter Registration Day — Notice to political parties.
- 3-7-6-4. Party-recommended registration locations.
- 3-7-6-5. Registration facilities — Selection — Notice to political parties.
- 3-7-6-6. Registration hours.
- 3-7-6-7. Deputy registration officers.
- 3-7-6-8. Where person may register.
- 3-7-6-9. Notice to public.

**3-7-6-1. Voter Registration Day.** — Each county election board may conduct, on the second Tuesday of March before each primary election and on the second Tuesday of September before each general, special, or municipal election, a supplemental registration of voters at designated locations throughout the county. The designated day is known as Voter Registration Day. [P.L.5-1986, § 3.]

**3-7-6-2. Voter Registration Day districts.** — If a county election board decides to conduct a Voter Registration Day, the board shall divide the county into Voter Registration Day districts. No more than one (1) Voter Registration Day district may be located in any one (1) precinct although precincts may be combined to

form Voter Registration Day districts. [P.L.5-1986, § 3.]

**3-7-6-3. Resolution to conduct Voter Registration Day — Notice to political parties.** — A county election board shall designate, by written resolution, its intention to conduct a Voter Registration Day at least thirty (30) days before the date to be designated as Voter Registration Day. The secretary of the county election board shall notify the county chairmen of the major political parties of the county of the board's intention to conduct a Voter Registration Day, the date of the Voter Registration Day, the location of each Voter Registration Day district, and the precincts that are included in each Voter Registration Day district. [P.L.5-1986, § 3.]

**3-7-6-4. Party-recommended registration locations.** — The county chairmen of the major political parties of the county shall recommend one (1) location in each Voter Registration Day district at which registration can be held without cost to the county election board. The recommendation shall be filed with the county election board no later than noon fourteen (14) days before Voter Registration Day. [P.L.5-1986, § 3; P.L.10-1988, § 18.]

**3-7-6-5. Registration facilities — Selection — Notice to political parties.** — Registration on Voter Registration Day shall be conducted in facilities obtained by the county election board. Wherever possible, facilities shall be obtained without cost. At least seven (7) days before Voter Registration Day, the county election board shall designate the locations at which registration is to be held and shall notify the county chairmen of the major political parties of the county of the addresses of the locations. [P.L.5-1986, § 3.]

**3-7-6-6. Registration hours.** — The locations designated for registration on Voter Registration Day must be open for registration from noon to 8 P.M. [P.L.5-1986, § 3.]

**3-7-6-7. Deputy registration officers.** — Registration of voters at each designated location shall be conducted by at least two (2) deputy registration officers of the county appointed under IC 3-7-2. At each location each of the major political parties of the county may appoint one-half (½) of the deputy registrars. However, the failure of either political party to appoint deputy registrars at a location does not

prohibit the conduct of a Voter Registration Day at the location. [P.L.5-1986, § 3.]

**3-7-6-8. Where person may register.** — A person entitled to register to vote may register at any designated registration location in the person's county of residence. [P.L.5-1986, § 3.]

**3-7-6-9. Notice to public.** — The purpose of this chapter is to encourage voter registration by making voter registration facilities more accessible. To achieve this purpose, adequate notice shall be given to the public of the Voter Registration Day and the locations at which registration will be conducted. [P.L.1-1989, § 11.]

## CHAPTER 7

### POST-REGISTRATION PROCEDURES

#### SECTION.

- 3-7-7-1. Memoranda to be prepared for affidavits of registration or transfers of registration.
- 3-7-7-2. Transmittal of copy of memorandum of affidavits or transfers of registration to political party chairmen — Memorandum executed 65 days prior to election.
- 3-7-7-3. Transmittal of copy of memorandum of affidavits or transfers of registration — Memorandum executed less than 65 days prior to election.
- 3-7-7-4. Affidavits and forms of registration of voters inside municipalities — Filing of originals and duplicates — Inspection.
- 3-7-7-5. Affidavits and forms of registration of voters outside municipalities — Filing of originals and duplicates.
- 3-7-7-6. Affidavits and forms of registration — Custody of originals.
- 3-7-7-7. Affidavits and forms of registration — Binders or card files.
- 3-7-7-8. Municipal registration record.
- 3-7-7-9. Registered voter list — Preparation — Content.
- 3-7-7-10. Registered voter list — Distribution to precinct inspectors and political party chairmen — Public inspection.
- 3-7-7-10.5. Disclosure and use of information in registered voter list.
- 3-7-7-11. Registration record, computerized certified copies, and supplies — Copy of affidavit of registration of voters under computerized system — Procurement and return by inspector.
- 3-7-7-12. Report to state election board.

**3-7-7-1. Memoranda to be prepared for affidavits of registration or transfers of registration.** — In a county that has a board of registration, the board shall have prepared in triplicate a memoran-

dum for each voter's original affidavit of registration or transfer of an original registration executed by the board or an authorized deputy registration officer. The memorandum must indicate the name, assigned identification number, street and number, ward, and precinct of each resident voter of the county who has executed an original affidavit of registration. For a resident voter of the county who executes a transfer of an original registration or change of name, the memorandum must indicate the name, the assigned identification number, and the former and present addresses by street number, ward, and precinct. The board of registration shall retain the original copies of all memoranda or microfilmed copies of the memoranda as part of the permanent records in its office. [P.L.5-1986, § 3; P.L.3-1987, § 70.]

**3-7-7-2. Transmittal of copy of memorandum of affidavits or transfers of registration to political party chairmen — Memorandum executed 65 days prior to election.** — Copies of all memoranda executed under section 1 of this chapter during that part of a registration period ending sixty-five (65) days before a primary, general, or municipal election shall be forwarded not later than sixty (60) days before the election to:

- (1) Each of the county chairmen of the major political parties of the county; and
- (2) Upon request, to the county chairman of any other bona fide political party that has at least one (1) candidate on the ballot of the election or the chairman of an independent candidate's committee if the candidate is on the ballot at the election. [P.L.5-1986, § 3; P.L.3-1993, § 37.]

**3-7-7-3. Transmittal of copy of memorandum of affidavits or transfers of registration — Memorandum executed less than 65 days prior to election.** — Copies of all memoranda executed under section 1 of this chapter during that part of a registration period beginning sixty-five (65) days before a primary, general, or municipal election and ending twenty-nine (29) days before the election shall be forwarded daily and within forty-eight (48) hours of the date upon which the memoranda were originally made to:

- (1) Each of the county chairmen of the major political parties of the county; and
- (2) Upon request, to the county chairman of any other bona fide political party that has at least one (1) candi-

date on the ballot of the election or the chairman of an independent candidate's committee if the candidate is on the ballot at the election. [P.L.5-1993, § 3; P.L.3-1993, § 38.]

**3-7-7-4. Affidavits and forms of registration of voters inside municipalities — Filing of originals and duplicates — Inspection.** — The original affidavits or forms of registration of voters who reside inside the corporate boundaries of municipalities shall be filed by precincts, arranged either in alphabetical order or in numerical order of the houses located on each street separately and commencing with the lowest and ending with the highest number within the precinct. The affidavits or forms of voters registered at the same address shall be arranged in alphabetical order. The streets shall be arranged in alphabetical order. The affidavits or forms must be available at reasonable times during regular office hours for inspection, transcription, and duplication, including photocopy duplication and microfilming, in accordance with IC 5-14-3. The duplicate affidavits or forms shall be filed in exact alphabetical order for the entire county without regard to precincts. [P.L.5-1986, § 3; P.L.3-1993, § 39.]

**3-7-7-5. Affidavits and forms of registration of voters outside municipalities — Filing of originals and duplicates.** — The original affidavits or forms of registration of voters who reside outside the corporate boundaries of municipalities shall be filed in alphabetical order by precincts. The duplicate affidavits or forms shall be filed in alphabetical order for the entire county without regard to precincts. [P.L.5-1986, § 3.]

**3-7-7-6. Affidavits and forms of registration — Custody of originals.** — The circuit court clerk or board of registration shall keep all original affidavits or forms of registration in its office except when the affidavits or forms are in the possession of the precinct election boards for use on election day at the polls. The clerk or board shall keep all duplicate affidavits or forms at all times in its office. [P.L.5-1986, § 3.]

**3-7-7-7. Affidavits and forms of registration — Binders or card files.** — The affidavits or forms shall be securely arranged in suitable binders or card files before being delivered to the inspector of each precinct to be used at an election. [P.L.5-1986, § 3; P.L.7-1990, § 17.]

**3-7-7-8. Municipal registration record.** — The registration record used at any municipal primary or municipal election is that part of the registration record of the county in which the municipality is located. [P.L.5-1986, § 3; P.L.7-1990, § 18.]

**3-7-7-9. Registered voter list — Preparation — Content.** — Not later than ten (10) days before the election at which the registration record is to be used, the circuit court clerk or board of registration shall prepare certified copies of the list of registered voters for each precinct in the county. The lists must contain the full name, address, and assigned identification number of each registered voter. The names shall be arranged in the same order as they are in the registration record of the precinct. [P.L.5-1986, § 3; P.L.5-1989, § 16; P.L.7-1990, § 19.]

**3-7-7-10. Registered voter list — Distribution to precinct inspectors and political party chairmen — Public inspection.** — (a) Two (2) copies of the list required by section 9 [IC 3-7-7-9] of this chapter shall be furnished to the inspector of the precinct for use at the polls on election day, and one (1) copy of the list shall be furnished to each of the county chairmen of the major political parties of the county as soon as the lists are prepared.

(b) Upon request a copy of the list required by section 9 of this chapter shall be furnished to:

- (1) The county chairman of any political party that has at least one (1) candidate on the ballot in the next election;
- (2) The committee of a candidate whose name will appear on the ballot in the next election; and
- (3) The county chairman of any other bona fide political party; as soon as the lists are prepared.

(c) To qualify as a bona fide political party under subsection (b), a political party must file a certification with the clerk of the circuit court of the county that the political party is a bona fide political party together with verifiable factual representations to support the certification.

(d) Notwithstanding IC 5-14-3-4(c), additional copies of the registration lists as prepared under subsection (a) shall be kept open to the public for inspection and copying in the same manner as other public records under IC 5-14-3 at the office of the circuit court clerk or board of registration as soon as they are completed.

[P.L.5-1986, § 3; P.L.10-1992, § 5; P.L.13-1992, § 1; P.L.3-1993, § 40.]

**3-7-7-10.5. Disclosure and use of information in registered voter list.** —

(a) This section applies to the following:

(1) A county chairman who receives a list under section 10 [IC 3-7-7-10] of this chapter.

(2) A person who receives a list from a county chairman described in subdivision (1).

(b) A list received under subsection (a) may not be:

(1) Disclosed by a person who receives the list under subsection (a) to a commercial entity for commercial purposes; or

(2) Used by a commercial entity for commercial purposes.

(c) Use of information obtained under this section in connection with the preparation of a news broadcast or a publication in a newspaper, and publication of information obtained under this section in a news broadcast or newspaper, is not prohibited. [P.L.10-1992, § 6.]

**3-7-7-11. Registration record, computerized certified copies, and supplies — Copy of affidavit of registration of voters under computerized system — Procurement and return by inspector.** —

(a) At the time the inspector of a precinct procures the ballots and other election supplies for an election, the inspector shall also procure from the circuit court clerk or board of registration:

(1) A copy of the registration record; or

(2) In a county with a computerized registration system, the certified copies prepared under section 9 [IC 3-7-7-9] of this chapter;

and other necessary registration supplies.

(b) The circuit court clerk or board of registration in a county with a computerized registration system may also provide the inspector of each precinct in the county with a certified photocopy of the signature on the affidavit of registration of each voter of the precinct for the comparison of signatures under IC 3-10-1-24.5 or IC 3-11-8-25.

(c) The inspector shall have the record or copies and supplies at the polls on election day. The inspector shall return the registration record or copies and supplies at the same time when other election supplies and ballots are returned. [P.L.5-1986, § 3; P.L.5-1989, § 17; P.L.1-1990, § 6; P.L.7-1990, § 20.]



**3-7-7.12. Report to state election board.** — In addition to the reports required under IC 3-7-7.5, the circuit court clerk or board of registration shall file a report with the state election board not later than noon January 31 of each year. The report must include:

- (1) A statement of the number of voters registered in each precinct of the county as of December 31 of the preceding year; and
- (2) Other data prescribed by the state election board.

[P.L.5-1986, § 3; P.L.10-1988, § 19; P.L.13-1992, § 2.]

## CHAPTER 7.5

### STATEWIDE VOTER REGISTRATION FILE

#### SECTION.

- 3-7-7.5-1. Applicability of chapter.
- 3-7-7.5-2. Statewide voter registration file.
- 3-7-7.5-3. Duty of circuit court clerk or board of registration to provide information.
- 3-7-7.5-4. Required information.
- 3-7-7.5-5. Form of information.
- 3-7-7.5-6. Compilation of information — Requests — Notice — Agreement — Publication — Fee.
- 3-7-7.5-7. Disclosure of information.
- 3-7-7.5-8. Incentives to computerize.
- 3-7-7.5-9. Annual appropriation.
- 3-7-7.5-10. Intentional failure to comply with chapter as Class B infraction.
- 3-7-7.5-11. [Repealed.]
- 3-7-7.5-12. Duty to obtain information.

**3-7-7.5-1. Applicability of chapter.** — This chapter applies to a county in which voter registration information is kept by computer. [P.L.13-1992, § 3.]

**3-7-7.5-2. Statewide voter registration file.** — The state election board shall develop and maintain a statewide voter registration file. [P.L.13-1992, § 3.]

**3-7-7.5-3. Duty of circuit court clerk or board of registration to provide information.** — (a) The circuit court clerk or board of registration shall provide the voter registration information required by section 4 [IC 3-7-7.5-4] of this chapter to the state election board. The clerk or board shall periodically update the voter registration information as provided in this section.

(b) In a year in which a general or municipal election is conducted within a county, the clerk or board shall submit the information two (2) times each year on February 15 and July 15. The information submitted February 15 must be current as

of February 1. The information submitted July 15 must be current as of July 1.

(c) In a year in which no election is conducted within the county, the circuit court clerk or board of registration shall submit the information on February 15. The information submitted must be current as of February 1.

(d) If a special election is conducted under IC 3-10-8 to fill a vacancy in the office of United States Senator or Representative, the circuit court clerk or board of registration shall submit the information at least thirty (30) days before the date of the special election. The information submitted must be current as of forty-five (45) days before the date of the special election. [P.L.10-1992, § 7; P.L.13-1992, § 3.]

**3-7-7.5-4. Required information.** — The circuit court clerk or board of registration shall provide the following information in a format prescribed by the state election board for each voter who is registered in the county:

(1) Name.

(2) Address, in the form of:

(A) A physical address, in a city or town where a street address is insufficient to provide United States Postal Service delivery; and

(B) A mailing address, as recognized by the local United States post office, including city or town, state, and zip code;

in separate data fields, according to state election board formatting standards.

(3) Date of birth.

(4) Township.

(5) Ward, if applicable.

(6) Precinct.

(7) State senate district and house of representatives district.

(8) Congressional district.

(9) Gender.

(10) Telephone number, if available.

(11) Voting history for the previous ten (10) year period if available.

(12) A unique field established for each registered voter, so that future submissions may be linked and cross-referenced with previous data submitted by the county.

(13) Date of registration.

[P.L.13-1992, § 3; P.L.3-1993, § 41.]

**3-7-7.5-5. Form of information.** — The information required by section 4 [IC 3-7-7.4] of this chapter shall be provided on magnetic media or other machine readable form to the state election board. The state election board shall prescribe a for-

mat to ensure the standardization and the readability of this data. [P.L.13-1992, § 3; P.L.3-1993, § 42.]

**3-7-7.5-6. Compilation of information — Requests — Notice — Agreement — Publication — Fee.** — (a) Except as provided in subsection (c), the state election board shall adopt a nondiscriminatory uniform policy under IC 5-14-3-3(c) regarding the duplication of a complete and undivided compilation of the information all counties have provided to the statewide voter file. The state election board may not provide any division of the compilation.

(b) Upon request, and not later than five (5) days after the request is made, the state election board shall provide a complete compilation of the information provided under section 4 [IC 3-7-7.5-4] of this chapter, including format information and any other information required to decode this data, to the following entities:

- (1) State central committees of major political parties.
- (2) State organizations of bona fide political parties that are not major political parties if the political party has at least two (2) candidates on the ballot in the next election.
- (3) Committees of an independent candidate for federal or state office if the candidate is on the ballot in the next election.
- (4) Members of the media for publication as permitted under subsection (e).

All entities that have filed a written request under this subsection with the state election board prior to completion of the compilation shall be notified at the same time that the compilation is completed and available.

(c) This subsection applies to all persons not described by subsection (b)(1), (b)(2), (b)(3), or (b)(4). Upon request, the state election board, or an entity acting under an agreement with the state election board to perform this service, shall provide the information obtained under section 4 of this chapter, other than the information obtained under section 4(3), 4(9), 4(10), 4(12), or 4(13) [IC 3-7-7.5-4(3), IC 3-7-7.5-4(9), IC 3-7-7.5-4(10), IC 3-7-7.5-4(12), IC 3-7-7.5-4(13)] of this chapter, to any person who signs an agreement containing the terms set forth in subsection (d). The state election board may not provide the information obtained under section 4(3), 4(9), 4(10), 4(12), or 4(13) of this chapter to a person subject to this subsection.

(d) A person who requests a compilation of the information contained in the state-

wide voter file from the state election board under subsection (b) or (c) must execute an agreement with the state election board on a form prescribed by the state election board. The form must state that the person receiving information under this section may not:

- (1) Use the compilation obtained from the state election board to solicit merchandise, goods, services, or subscriptions; or
- (2) Sell, loan, give away, or otherwise deliver the information obtained by the request to any other person (as defined in IC 5-14-3-2);

for a purpose other than political activities or political fundraising activities.

(e) Publication of information obtained under this section in a news broadcast or newspaper is not prohibited.

(f) Notwithstanding IC 5-14-3-8, the state election board shall charge each recipient a reasonable fee not to exceed two hundred dollars (\$200) per county included in the statewide voter file to recover the cost of obtaining and providing the compilation described in subsection (a). [P.L.13-1992, § 3; P.L.3-1993, § 43.]

**3-7-7.5-7. Disclosure of information.**

— This chapter does not do the following:

- (1) Limit the ability of a circuit court clerk or board of registration to disclose the information in section 4 [IC 3-7-7.5-4] of this chapter to persons other than the state election board.
- (2) Change the procedure for disclosing the information in section 4 of this chapter to persons other than the state election board. [P.L.13-1992, § 3.]

**3-7-7.5-8. Incentives to computerize.**

— The state election board may offer counties that do not have computerized registration systems incentives to computerize. [P.L.13-1992, § 3.]

**3-7-7.5-9. Annual appropriation.** —

There is annually appropriated to the state election board from the state general fund an amount sufficient for the board to use to carry out the purposes of this chapter. [P.L.13-1992, § 3.]

**3-7-7.5-10. Intentional failure to comply with chapter as Class B infraction.** —

A circuit court clerk, member of a board of registration, or county official responsible for maintaining computerized voter registration information who fails to comply with this chapter commits a Class B infraction. [P.L.13-1992, § 3; P.L.3-1993, § 44.]

**3-7-7.5-11. [Repealed.]**

**3-7-7.5-12. Duty to obtain information.** — A circuit court clerk or a member of a board of registration shall make every effort to obtain the information required under this chapter for existing registered voter records contained on the clerk's or board's computer system on July 1, 1993. [P.L.3-1993, § 45.]

**CHAPTER 8****TRANSFER OF REGISTRATION****SECTION.**

- 3-7-8-1.** Sending or filing transfer form upon change of residence.
- 3-7-8-2.** When transfers may be made.
- 3-7-8-3.** Transfer form.
- 3-7-8-4.** [Repealed.]
- 3-7-8-5.** Signature on transfer form — Voter's stub.
- 3-7-8-6.** Form for cancellation and transfer — Numbering.
- 3-7-8-7.** Blank transfer forms — Accountability of deputy registration officer.
- 3-7-8-8.** [Repealed.]
- 3-7-8-9.** Transfer forms — Filing.
- 3-7-8-10.** Use of registration receipt or stub to effectuate transfer.
- 3-7-8-11.** Procedure on receipt of transfer form.
- 3-7-8-11.5.** Cancellation of registration in former residence where person has moved in-state.
- 3-7-8-11.7.** Cancellation of registration in former residence where person has moved out-of-state.
- 3-7-8-12.** County-to-county transfers — Information concerning prior addresses — Cancellation of previous registration.
- 3-7-8-13.** [Repealed.]
- 3-7-8-14.** Transmittal of authority to cancel prior registrations.
- 3-7-8-15.** Transfers of registration at polls.
- 3-7-8-16.** [Repealed.]
- 3-7-8-17.** Transfers of registration at polls — Effect.
- 3-7-8-18.** [Repealed.]
- 3-7-8-19.** Changes in precinct boundaries — Automatic transfers of registration.
- 3-7-8-20.** Naming or renaming streets — Numbering or renumbering lots or structures — Conversion of rural route addresses to numbered addresses.
- 3-7-8-21.** Change in voter address — Duties of clerk or board.

**3-7-8-1. Sending or filing transfer form upon change of residence.** — Upon a change of residence, a voter shall transfer the voter's registration to the voter's new address by sending a transfer on a prescribed form to the circuit court clerk or board of registration or by applying in person for a transfer. The transfer form shall be provided by the clerk or board and shall be executed as prescribed by this chapter. [P.L.5-1986, § 3.]

**3-7-8-2. When transfers may be made.** — (a) A voter may transfer registration at any time during the registration period prescribed in IC 3-7-3-5 at the office of the circuit court clerk or board of registration for the county in which the voter resides, or with any of the deputy registration officers appointed by the clerk or board.

(b) The clerk or board shall receive and execute transfers during regular office hours. [P.L.5-1986, § 3; P.L.3-1987, § 71; P.L.10-1988, § 20; P.L.3-1989, § 4; P.L.5-1991, § 1; P.L.17-1993, § 5.]

**3-7-8-3. Transfer form.** — The transfer of registration must be made on a form prescribed under IC 3-7-3-9. [P.L.5-1986, § 3; P.L.3-1987, § 72.]

**3-7-8-4. [Repealed.]**

**3-7-8-5. Signature on transfer form — Voter's stub.** — The transfer of registration of a voter must be signed in ink or with an indelible pencil. The transfer stub shall be given to the voter on executing the transfer. The stub must also contain the signature of the voter, the same number that appears on the attached transfer, and the signature of the registration officer. [P.L.5-1986, § 3; P.L.3-1987, § 73.]

**3-7-8-6. Form for cancellation and transfer — Numbering.** — The authorization to cancel a previous registration address and to transfer the registration to the precinct or address to which a voter has moved must bear a distinctive number and be on a form prescribed under IC 3-7-3-9. The number must appear both on the transfer form and on the stub attached. [P.L.5-1986, § 3; P.L.3-1987, § 74.]

**3-7-8-7. Blank transfer forms — Accountability of deputy registration officer.** — Each deputy registration officer shall give a receipt to the circuit court clerk or board of registration for the number of blank transfer forms issued to the deputy. The deputy is responsible for the forms until the deputy returns them to the clerk or board. [P.L.5-1986, § 3.]

**3-7-8-8. [Repealed.]**

**3-7-8-9. Transfer forms — Filing.** — All transfer of registration forms shall be filed with the circuit court clerk or board of registration from time to time as the clerk or board requires. However, all transfer of registration forms shall be filed not later than noon of the day following the close of any registration period, whether the trans-

fer forms have been filled out and executed, are unused, or have been mutilated. [P.L.5-1986, § 3; P.L.10-1988, § 21.]

**3-7-8-10. Use of registration receipt or stub to effectuate transfer.** — A voter may also request a transfer of registration by mailing the registration receipt or stub, or a duplicate of it, for cancellation to the circuit court clerk or board of registration. The voter must sign the request on the back of the receipt or stub containing the same information required for a transfer of registration under section 3 [IC 3-7-8-3] of this chapter. If the request is sufficient, the clerk or board shall transfer the registration of the voter as otherwise prescribed by this chapter. [P.L.5-1986, § 3; P.L.3-1987, § 75.]

**3-7-8-11. Procedure on receipt of transfer form.** — (a) Upon receipt of a properly executed transfer of registration form, the circuit court clerk or board of registration shall place the affidavit in the proper precinct registration record and enter the transfer in any computerized record.

(b) Upon receiving a properly executed affidavit for transfer of registration under IC 3-7-4.5 from a person whose new residence is in the same county as the former residence, the circuit court clerk or the board of registration shall transfer the person's registration to the proper precinct in the county as soon as the transfer is permitted under section 2 [IC 3-7-8-2] of this chapter. [P.L.5-1986, § 3; P.L.3-1987, § 76; P.L.5-1989, § 18; P.L.7-1990, § 21; P.L.17-1993, § 6.]

**3-7-8-11.5. Cancellation of registration in former residence where person moved in-state.** — (a) This section applies only to a person who has:

- (1) Moved from the county where the person is registered to another county in Indiana; and
- (2) Executed an affidavit under IC 3-7-4.5.

(b) Execution by a person of the affidavit under IC 3-7-4.5 constitutes authorization by the person to cancel the person's registration in the county of the person's former residence.

(c) The circuit court clerk or the board of registration of the county of the person's former residence shall mail the original affidavit of registration and the affidavit executed under IC 3-7-4.5 within thirty (30) days after the beginning of the next registration period under IC 3-7-3-5 to the circuit court clerk or board of registration in the county in which the person cur-

rently resides, as shown by the affidavit executed under IC 3-7-4.5.

(d) Upon receiving the affidavits sent under subsection (c), the circuit court clerk or board of registration of the county in which the person currently resides shall do either of the following:

- (1) Transfer the person's registration to the proper precinct registration record in the county under IC 3-7-8-11.

- (2) Mail to the person by first class mail a notice, in the form prescribed by the state election board, that the person's request to transfer the person's registration has been received and that the voter must complete an application for new registration to be registered in the proper precinct in that county for the next election.

(e) Upon mailing the person's affidavits to another county under this section, the person's registration in the county of the person's former residence shall be canceled. [P.L.17-1993, § 7.]

**3-7-8-11.7. Cancellation of registration in former residence where person has moved out-of-state.** — (a) This section applies only to a person who has:

- (1) Moved from Indiana to another state; and
- (2) Executed an affidavit under IC 3-7-4.

(b) Execution by a person of the affidavit under IC 3-7-4 constitutes authorization by the person to cancel the person's registration in the county of the person's former residence. [P.L.17-1993, § 8.]

**3-7-8-12. County-to-county transfers — Information concerning prior addresses — Cancellation of previous registration.** — A voter who has changed residence from the county in which registered to another county must give the voter's two (2) most recent previous addresses, listed separately on a form prescribed under IC 3-7-3-9. This form constitutes an authorization of cancellation of registration in each county of previous residence. At the time of registering, the voter shall sign the authorization to cancel the previous registration. [P.L.5-1986, § 3; P.L.3-1987, § 77.]

**3-7-8-13. [Repealed.]**

**3-7-8-14. Transmittal of authority to cancel prior registrations.** — The circuit court clerk or board of registration of the county in which a voter registers shall send the authorization of cancellation to the circuit court clerk or board of registra-

tion of the county or counties of previous residence within fifteen (15) days after receipt of the authorization. However, all authorizations shall be sent to the clerk or board not later than the fifteenth day before the date on which an election will be held. The clerk or board shall remove the affidavit of the voter from the registration record of the county and shall cancel the affidavit of registration by writing the word "cancelled" and the date of the cancellation across the face of the affidavit and entering the cancellation in any computerized record. If either of the addresses given by the person seeking registration is outside the state, the clerk or board shall, within fifteen (15) days after receipt, send the authorization of cancellation to the voter registration office of the political subdivision that has jurisdiction over the address. [P.L.5-1986, § 3; P.L.5-1989, § 19; P.L.7-1990, § 22; P.L.1-1991, § 4.]

**3-7-8-15. Transfers of registration at polls.** — In an election if a person who is registered to vote in a precinct:

- (1) Resides at an address in a precinct other than the address stated in the poll list or other registration records available to the precinct election board; and
- (2) Complies with:
  - (A) section 2 [IC 3-7-8-2] of this chapter; or
  - (B) IC 3-10-1-9 or IC 3-11-8-22, if challenged under IC 3-10-1-9 or IC 3-11-8-20;

the person shall be allowed to vote at the polls. However, before allowing the person to vote, a precinct election officer shall require the person to write the person's correct address on the poll list if that address is different from the address shown on the poll list and is located in that precinct. The circuit court clerk or board of registration shall, upon the return of the poll list from the precinct, correct the address of the voter on the county's permanent voter registration records. This section does not apply to a person who votes by absentee ballot. [P.L.5-1986, § 3; P.L.3-1987, § 78; P.L.10-1988, § 22.]

**3-7-8-16. [Repealed.]**

**3-7-8-17. Transfers of registration at polls — Effect.** — A transfer of registration completed under section 15 [IC 3-7-8-15] of this chapter is effective to the same extent as if it had been completed before a registration officer under IC 3-7-3. [P.L.5-1986, § 3.]

**3-7-8-18. [Repealed.]**

**3-7-8-19. Changes in precinct boundaries — Automatic transfers of registration.** — (a) If the county executive establishes any precincts under IC 3-11-1.5 so that voters who would not otherwise be required to register are transferred to or included within a precinct other than the one in which they were registered and voted at the last election, the circuit court clerk or board of registration shall transfer the affidavits of registration from the precinct registration record in which they are filed to the precinct registration record in which they belong.

(b) The transfer may be made at any time after the order establishing the precincts becomes effective and before the day on which the clerk or board is required to deliver the copy of the registration record or certified copies under IC 3-7-7-9 to the inspectors of the precincts.

(c) At the time of transfer, the clerk or board shall draw a red line through the name or number of the precinct appearing on the affidavit or form of registration and shall write the name or number of the precinct to which the voter has been transferred and make an appropriate entry in the computerized record for the precinct. [P.L.5-1986, § 3; P.L.13-1988, § 5; P.L.5-1989, § 20; P.L.7-1990, § 23.]

**3-7-8-20. Naming or renaming streets — Numbering or renumbering lots or structures — Conversion of rural route addresses to numbered addresses.** — (a) The local public officials (or plan commission under IC 36-7-4-405) responsible for:

- (1) Naming or renaming streets;
- (2) Numbering or renumbering lots or structures; and
- (3) Converting rural route addresses to numbered addresses;

shall report the changes to the circuit court clerk or board of registration no later than the last day of the month following the month in which the change was made.

(b) One (1) time each calendar year the clerk or board shall submit to the United States Postal Service a list of the names and addresses of voters with rural route addresses.

(c) With the information submitted under subsection (b) the clerk or board shall request that the United States Postal Service indicate the rural route addresses that have been converted and the numbered addresses that replace the converted rural route addresses.

(d) When notified of a conversion from rural route addresses to numbered ad-

dresses under subsections (a) and (b), the clerk or board shall, as soon as practicable, do the following:

(1) Draw a red line through the rural route address appearing on the affidavit or form of registration and write the numbered address that replaces the rural route address on the affidavit or form.

(2) Make an appropriate entry in each computerized record for the precinct. [P.L.5-1986, § 3; P.L.13-1988, § 6; P.L.10-1992, § 8; P.L.3-1993, § 46.]

**3-7-8-21. Change in voter address — Duties of clerk or board.** — (a) This section applies if the circuit court clerk or board of registration is notified by:

(1) The United States Postal Service; or

(2) A local public official or plan commission under section 20 [IC 3-7-8-20] of this chapter;

that the mailing address, street name, or residence number of a voter's residence has been changed by the United States Postal Service, local public official, or plan commission.

(b) This section does not apply to a change of residence by a voter.

(c) The clerk or board shall, as soon as practicable after the change becomes effective:

(1) Draw a red line through the mailing address, street name, or residence number appearing on the affidavit or form of registration and write the changed mailing address, street name, or residence number on the affidavit or form; and

(2) Make an appropriate entry in each computerized record for the precinct. [P.L.10-1992, § 9.]

## CHAPTER 9

### CANCELLATION OF REGISTRATION

#### SECTION.

3-7-9-1. Determining nonvoters in last four years.

3-7-9-2. Notice to nonvoters.

3-7-9-3. Form of notice to nonvoters — Application for reinstatement.

3-7-9-4. Applications for reinstatement — Acknowledgment of receipt — Voting records notation.

3-7-9-5. Cancellation of registration.

3-7-9-5.5. Appropriation for county fiscal body.

3-7-9-6. Registration after cancellation.

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3-7-9-8. List of voters not seeking reinstatement — Affidavit.

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#### SECTION.

3-7-9-10. Cancellation and purge of registration of deceased persons.

3-7-9-11. Notice of cancellation to disfranchised voters.

3-7-9-12. Cancellation by voter's authorization.

3-7-9-13. Voter challenges — Filing of affidavit by another voter — Contents of affidavit.

3-7-9-14. Voter challenges—Notification to challenged voter — Duties of challenged voter.

3-7-9-15. Cancelled registration affidavits.

3-7-9-16. Qualification at election of voter challenged pursuant to IC 3-7-9-13.

3-7-9-17 — 3-7-9-19. [Repealed.]

3-7-9-20. Notations on affidavits and forms of registration of cancellation.

3-7-9-21. Cancellation lists — Transmittal to political party chairmen.

**3-7-9-1. Determining nonvoters in last four years.** — (a) In June of each year the circuit court clerk or board of registration shall:

(1) Examine the registration record and poll lists of each precinct to ascertain the names of all voters who did not vote at any election in the forty-eight (48) month period from the first day of the month before the most recent election. However, a voter may not be included in the list of nonvoters if the voter has registered, transferred, or applied for reinstatement of registration during that period even though the voter did not vote at any election held during that period; and

(2) In a county that maintains a list of registered voters in a computerized system, submit the names of all registered voters in the county to the United States Postal Service Address Change Service.

(b) A clerk or board acting under subsection (a)(2) shall request that the United States Postal Service Address Change Service indicate the voters who are deceased or no longer reside at the submitted address. The clerk or board shall request that a voter who:

(1) Has a temporary forwarding order in effect;

(2) Is an absent uniformed services voter; or

(3) Is an overseas voter;

not be included in the list of deceased voters or voters who no longer reside at the submitted address. [P.L.5-1986, § 3; P.L.12-1987, § 1; P.L.10-1988, § 23; P.L.7-1990, § 24; P.L.3-1993, § 47; P.L.14-1993, § 18; S.B.22-1993(ss), § 1.]

**Editor's Note.** — This section was separately amended by P.L.3-1993 and P.L.14-1993, neither act referring to the other. Because the changes made by the acts were in conflict, corrective legislation is to be

introduced. For convenience, the State Election Board has directed the Publisher to implement the provisions of Senate Bill 22 of the 1993 First Special Session for this edition of "Indiana Election Code."

**3-7-9-2. Notice to nonvoters.** — (a) The circuit court clerk or board of registration shall send a notice:

(1) To each nonvoting voter, suspected deceased voter, or voter who may have moved, as ascertained under section 1 [IC 3-7-9-1] of this chapter, at the last known address of the voter;

(2) To the county chairmen of the major political parties of the county; and

(3) Upon request, to the county chairman of each other bona fide political party of the county or the chairman of an independent candidate's committee, if the independent candidate is on the ballot for the next election to be conducted in the county.

(b) A record of the notice and the date shall be made on the voter's affidavit or form of registration. [P.L.5-1986, § 3; P.L.12-1987, § 2; P.L.3-1993, § 48.]

**3-7-9-3. Form of notice to nonvoters — Application for reinstatement.** — The form of the notice required by section 2 [IC 3-7-9-2] of this chapter must be substantially as follows:

#### NOTICE OF SUSPENSION OF REGISTRATION

You are notified that your registration will be cancelled according to law, unless you apply for reinstatement no later than noon thirty (30) days from the date of this notice. You may reinstate your registration by signing the statement below and returning it to this office or by applying in person.

\_\_\_\_\_  
Clerk of the Circuit Court of  
or Board of Registration of  
\_\_\_\_\_ County.

#### APPLICATION FOR REINSTATEMENT OF REGISTRATION

I certify that I will reside at the address from which I am registered and am a legal voter of the precinct and apply for reinstatement of registration.

Signed \_\_\_\_\_  
Present Address \_\_\_\_\_

[P.L.5-1986, § 3; P.L.10-1988, § 24.]

**3-7-9-4. Applications for reinstatement — Acknowledgment of receipt — Voting records notation.** — The circuit

court clerk or board of registration shall, on a form provided for this purpose, acknowledge receipt of an application for reinstatement. A proper entry shall be made on the voting record of the affidavit or form of registration of each voter whose registration is reinstated. [P.L.5-1986, § 3.]

**3-7-9-5. Cancellation of registration.** — At the expiration of the period ending at noon thirty (30) days after the date on which notices of suspension are mailed, the circuit court clerk or board of registration shall cancel the registration of all voters who have not applied for reinstatement. [P.L.5-1986, § 3; P.L.10-1988, § 25.]

**3-7-9-5.5. Appropriation by county fiscal body.** — Each county fiscal body shall appropriate an adequate amount of funds for the circuit court clerk or board of registration to conduct:

(1) The ascertainment of nonvoters under section 1 [IC 3-7-9-1] of this chapter; and

(2) The mailing of notices under section 2 [IC 3-7-9-2] of this chapter. [P.L.12-1987, § 3.]

**3-7-9-6. Registration after cancellation.** — A voter whose registration has been cancelled may register again by making application to the circuit court clerk or board of registration of the county of residence or to any deputy registration officer of the county. [P.L.5-1986, § 3.]

**3-7-9-7. Registration after cancellation — Military personnel.** — (a) A voter whose registration has been canceled according to this chapter while in the armed services of the United States may, upon return from service, have registration reinstated at any time by showing an honorable discharge from service to the circuit court clerk or board of registration, except during the period beginning on the date that the certified list of voters is prepared under IC 3-7-7-9 and ending on election day.

(b) In addition, the person must complete an affidavit before the clerk, board, or any deputy registration officer in the form prescribed by IC 3-7-3-9.

(c) If the voter presents the honorable discharge and affidavit during the period beginning on the date that the certified list of voters is prepared under IC 3-7-7-9 and ending on election day, the clerk or board shall reinstate the registration on the first day of the next registration period under IC 3-7-3-5. [P.L.5-1986, § 3; P.L.14-1993, § 19.]

**3-7-9-8. List of voters not seeking reinstatement — Affidavit.** — (a) The circuit court clerk or board of registration shall, following the purge period provided in this chapter and following the period in which all registrants have reinstated their registrations by returning their notices as provided, prepare a master list of precincts showing all persons who have failed to return their notices and whose registrations have been cancelled and purged. The clerk or board shall also furnish copies to the county chairmen of the major political parties of the county and, upon request, to the county chairman of any other bona fide political party of the county or the chairman of an independent candidate's committee if the candidate is on the ballot for the next general election to be conducted in the county. The forms and copies shall be prepared and furnished within fifteen (15) days after the last day for reinstatement.

(b) The circuit court clerk or board of registration members shall, following the purge period provided in this chapter and following the period in which all registrants have reinstated their registrations by returning their notices as provided, file an affidavit under affirmation with the county auditor. The affidavit must be on a form prescribed by the state election board and must state that the clerk or board has:

- (1) Conducted the ascertainment of nonvoters under section 1 [IC 3-7-9-1] of this chapter;
- (2) Conducted the mailing required under section 2 [IC 3-7-9-2] of this chapter;
- (3) Processed the applications for reinstatement under section 4 [IC 3-7-9-4] of this chapter; and
- (4) Canceled the registrations required under section 5 [IC 3-7-9-5] of this chapter.

(c) If a circuit court clerk or any board of registration member fails to file the affidavit required by subsection (b) no later than noon September 1, the clerk or board member is not entitled to receive a salary for the month of October. The county executive and the county auditor may not allow claims or issue warrants to pay these salaries. The county auditor shall notify the county executive and the county fiscal body that the affidavit has not been filed. [P.L.5-1986, § 3; P.L.12-1987, § 4; P.L.10-1988, § 26; P.L.3-1993, § 49.]

**3-7-9-9. Reports to election officials of deaths and burial permits.** — (a) Not later than January 31, April 30, July 31, and October 31 of each year the state department of health, each county health

officer, and each municipal health officer shall submit a report to the circuit court clerk or board of registration of the county.

(b) The state department of health shall report to each county the names, ages, and known residence addresses of all persons who:

- (1) Died within Indiana but outside of the county during the preceding three (3) months; and
- (2) Maintained a residence address within the county during the two (2) years preceding the date of death.

(c) Each county health officer and municipal health officer shall report the names, ages, and known voting addresses in the county of all persons:

- (1) Who have died within the jurisdiction of the officer; or
- (2) For whom burial permits have been issued by the officer;

during the previous three (3) months. [P.L.5-1986, § 3; P.L.5-1989, § 21; P.L.7-1990, § 25; P.L.2-1992, § 26.]

**3-7-9-10. Cancellation and purge of registration of deceased persons.** — Within thirty (30) days after receipt of the reports required by section 9 [IC 3-7-9-9] of this chapter, each circuit court clerk or board of registration shall:

- (1) Cancel and purge the registration of each deceased person listed in the reports; and
- (2) Send a list of the deceased persons whose registrations have been cancelled and purged to the county chairman of each major political party of the county and, upon request, to the county chairman of each other bona fide political party of the county and the chairman of an independent candidate's committee, if the candidate is on the ballot for the next election to be conducted in the county. [P.L.5-1986, § 3; P.L.7-1990, § 26; P.L.3-1993, § 50.]

**3-7-9-11. Notice of cancellation to disfranchised voters.** — (a) On the last day of each month each circuit court clerk shall prepare a list of the names and last known addresses of all persons within the county who have been disfranchised. The board of registration may secure the list at any time, but not later than the twenty-ninth day before a primary, general, or municipal election.

(b) Not later than thirty (30) days after preparation of the list, the clerk or board of registration shall send a notice to:

- (1) Each alleged disfranchised person at the person's last known address; and



(2) The county chairmen of the major political parties of the county and, upon request, to the county chairman of each other bona fide political party of the county and the chairman of an independent candidate's committee, if the candidate is on the ballot for the next general election to be conducted in the county;

using the form and procedure for cancellation and reinstatement of registration provided in this chapter. [P.L.5-1986, § 3; P.L.7-1990, § 27; P.L.3-1993, § 51.]

**3-7-9-12. Cancellation by voter's authorization.** — (a) Upon receipt of written authorization from a voter to cancel the voter's registration, the circuit court clerk or board of registration shall cancel the registration.

(b) Except as specifically provided in this chapter, a clerk or board may not cancel the registration of a voter solely due to the return of an envelope mailed by the clerk to the voter. [P.L.5-1986, § 3; P.L.14-1993, § 20.]

**3-7-9-13. Voter challenges — Filing of affidavit by another voter — Contents of affidavit.** — Any voter of a county or municipality may challenge the registration of any other voter of the county or municipality by filing a sworn affidavit with the circuit court clerk or board of registration of the county not later than noon seventy (70) days before an election. The affidavit must:

(1) Allege that the challenged voter is not qualified to vote in the precinct in which the voter registered;

(2) Specify the reasons why the challenged voter is disqualified; and

(3) Contain the following statement:

"I understand that making a false statement on this affidavit is punishable under the penalties of perjury." [P.L.5-1986, § 3; P.L.12-1987, § 5; P.L.10-1988, § 27; P.L.4-1991, § 30.]

**3-7-9-14. Voter challenges — Notification to challenged voter — Duties of challenged voter.** — (a) Except as provided in subsection (c), upon receipt of the affidavit prescribed by section 13 [IC 3-7-9-13] of this chapter the circuit court clerk or board of registration shall mail a notification of the challenge to the challenged voter at the voter's registered address.

(b) The challenged voter must then:

(1) Appear before the clerk or board within fourteen (14) days after the date on which the notice was mailed to

answer the questions and take the oath required of persons who are challenged on the same grounds at an election; or

(2) Mail to the clerk or board a sworn statement that the voter is qualified and entitled to vote in the precinct in which registered.

If the voter fails to do either, the clerk or board shall cancel the voter's registration.

(c) If the challenge is based on the residence of a voter at an address and the voter has filed a timely request for transfer, the clerk or board is not required to cancel the voter's registration even if the voter fails to act under subsection (b). [P.L.5-1986, § 3; P.L.14-1993, § 21.]

**3-7-9-15. Cancelled registration affidavits.** — The cancelled registration affidavits of challenged voters shall be kept in a separate group and delivered to the inspector of each precinct along with the other election supplies used on election day. [P.L.5-1986, § 3.]

**3-7-9-16. Qualification at election of voter challenged pursuant to IC 3-7-9-13.** — If a voter challenged under section 13 [IC 3-7-9-13] of this chapter appears to vote at an election, the voter may vote if the voter takes the oath required by law of other challenged voters. [P.L.5-1986, § 3.]

**3-7-9-17 — 3-7-9-19. [Repealed.]**

**3-7-9-20. Notations on affidavits and forms of registration of cancellation.** — When a registration is canceled for any reason prescribed in this chapter, the circuit court clerk or board of registration shall have a proper entry made upon both the original and the duplicate affidavits or forms of registration indicating the date and the cause for cancellation. The person who canceled the affidavits or forms shall also sign the affidavits or forms. The original canceled affidavit or form shall be filed and preserved in the office of the clerk or board for the period required by IC 3-10-1-31(b) and then transferred to the county commission of public records for disposal under IC 5-15-6-7. [P.L.5-1986, § 3; P.L.14-1993, § 22.]

**3-7-9-21. Cancellation lists — Transmittal to political party chairmen.** — Except as otherwise provided in this chapter, a list of the names and addresses of all persons whose registrations have been cancelled in accordance with this chapter shall be transmitted to the county chair-

men of the major political parties of each county, as well as upon request to the county chairman of any other political party or chairman of an independent candidate's committee participating in a primary, general, or municipal election, not later than sixty (60) days before election day. After that date cancellations shall be reported daily and within forty-eight (48) hours after the day on which the cancellations were made until election day. [P.L.5-1986, § 3; P.L.3-1993, § 52.]

## ARTICLE 8 CANDIDATES

### CHAPTER.

1. QUALIFICATIONS FOR CANDIDATES, 3-8-1-1 — 3-8-1-34.
2. DECLARATION OF CANDIDACY FOR FEDERAL, STATE, LEGISLATIVE, OR LOCAL OFFICE IN PRIMARY ELECTION, 3-8-2-1 — 3-8-2-23.
3. PRESIDENTIAL CANDIDATES, 3-8-3-1 — 3-8-3-11.
4. STATE CONVENTIONS, 3-8-4-1 — 3-8-4-24.
5. TOWN CONVENTIONS AND MAJOR POLITICAL PARTY NOMINATIONS IN SMALL TOWNS, 3-8-5-1 — 3-8-5-16.
6. NOMINATION BY PETITION FOR INDEPENDENT OR MINOR POLITICAL PARTY CANDIDATES, 3-8-6-1 — 3-8-6-16.
7. CERTIFICATION OF NOMINEES, 3-8-7-1 — 3-8-7-30.

### CHAPTER 1 QUALIFICATIONS FOR CANDIDATES

#### SECTION.

- 3-8-1-1. State, legislative, local, or school board office — Residency requirement.
- 3-8-1-1.5. Judge of certain cities and towns — Residency requirement.
- 3-8-1-1.7. "Before the election" defined.
- 3-8-1-2. Candidate challenges by county political party chairmen.
- 3-8-1-3. Holding of multiple lucrative offices prohibited.
- 3-8-1-4. Accounting for and paying over of public funds.
- 3-8-1-5. Disqualification for using bribe, threat or reward.
- 3-8-1-5.5. Ineligibility of person defeated in primary or at convention.
- 3-8-1-5.7. Appointments pro tempore to local offices.
- 3-8-1-6. President and Vice President; presidential elector.
- 3-8-1-7. United States Senator.
- 3-8-1-8. United States Representative.
- 3-8-1-9. Governor and lieutenant governor.
- 3-8-1-10. Attorney general.
- 3-8-1-10.5. Superintendent of public instruction.
- 3-8-1-11. Supreme court justice — Court of appeals judge.
- 3-8-1-11.5. Clerk of the supreme court.
- 3-8-1-12. Tax court judges.
- 3-8-1-13. State senator.
- 3-8-1-14. State representative.
- 3-8-1-15. [Repealed.]
- 3-8-1-16. Circuit court judge.
- 3-8-1-17. Superior and probate court judges.

#### SECTION.

- 3-8-1-18. County court judge.
- 3-8-1-19. Prosecuting attorney.
- 3-8-1-19.5. Circuit court clerk.
- 3-8-1-20. County auditor, recorder, treasurer, sheriff, coroner and surveyor.
- 3-8-1-21. County commissioner.
- 3-8-1-22. County council members.
- 3-8-1-23. County assessor.
- 3-8-1-24. Mayor.
- 3-8-1-25. City-county council member.
- 3-8-1-26. Mayor — Second and third class cities.
- 3-8-1-27. Common council member — Second and third class cities.
- 3-8-1-28. City clerk of second class city — City clerk-treasurer of third class city.
- 3-8-1-28.5. Judge of a city court.
- 3-8-1-29. Town council member.
- 3-8-1-30. Small claims court judge.
- 3-8-1-31. Small claims court constable.
- 3-8-1-32. Precinct committeeman — Delegate to state convention.
- 3-8-1-33. Economic interest statement.
- 3-8-1-34. School board officer.

**3-8-1-1. State, legislative, local, or school board office — Residency requirement.** — (a) This section does not apply to a candidate for the office of:

(1) Judge of a city court in a city located in a county having a population of:

- (A) More than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or
- (B) More than two hundred thousand (200,000) but less than three hundred thousand (300,000);

(2) Judge of a city court in a third class city; or

(3) Judge of a town court.

(b) A person is not qualified to run for:

- (1) A state office;
- (2) A legislative office;
- (3) A local office; or
- (4) A school board office;

unless the person is registered to vote in the election district the person seeks to represent not later than the deadline for filing the declaration or petition of candidacy or certificate of nomination. The secretary of state or circuit court clerk may check voter registration records and question filings by a person not registered to vote in the district the person seeks to represent. If a candidate filing error is made by the secretary of state, the error does not invalidate the filing. [P.L.5-1986, § 4; P.L.3-1987, § 80; P.L.4-1991, § 31; P.L.12-1992, § 2.]

**3-8-1-1.5. Judge of certain cities and towns — Residency requirement.** — (a) This section applies to a candidate for any of the following offices:

(1) Judge of a city court in a city located in a county having a population of:

(A) More than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(B) More than two hundred thousand (200,000) but less than three hundred thousand (300,000).

(2) Judge of a city court in a third class city.

(3) Judge of a town court.

(b) A person is not qualified to run for an office subject to this section unless the person is registered to vote in a county in which the municipality is located. The circuit court clerk may check voter registration records and question filings by a person not registered to vote in a county in which the municipality is located. [P.L.10-1988, § 29; P.L.12-1992, § 3.]

**3-8-1-1.7. "Before the election" defined.** — As used in this chapter, "before the election" refers to a general, municipal, or special election. [P.L.3-1993, § 53.]

**3-8-1-2. Candidate challenges by county political party chairmen.** — Upon the request of the county chairman of a political party that has a candidate for an office on a ballot or upon the request of any candidate for that office, the secretary of state or circuit court clerk shall check voter registration records and determine if the person is registered to vote in the election district the person seeks to represent. The state election board and each county election board acting upon such a question shall use the standards established in IC 3-7-1 to determine the validity of the questioned declaration of candidacy, petition of nomination, certificate of nomination, or certificate of candidate selection issued under IC 3-13-1-15 or IC 3-13-2-8. The secretary of state or circuit court clerk may deny a filing if the state election board or county election board determines that the candidate has not complied with section 1 [IC 3-8-1-1] of this chapter. [P.L.5-1986, § 4; P.L.3-1987, § 81.]

**3-8-1-3. Holding of multiple lucrative offices prohibited.** — A person may not hold more than one (1) lucrative office at a time, as provided in Article 2, Section 9 of the Constitution of the State of Indiana. [P.L.5-1986, § 4.]

**3-8-1-4. Accounting for and paying over of public funds.** — A person may not hold an office of trust or profit unless the person has accounted for and paid over as required by law all sums of public

money for which the person was liable as a collector or holder, as provided in Article 2, Section 10 of the Constitution of the State of Indiana. [P.L.5-1986, § 4; P.L.6-1991, § 1.]

**3-8-1-5. Disqualification for using bribe, threat or reward.** — (a) This section does not apply to a candidate for federal office.

(b) A person is disqualified from holding or being a candidate for an elected office if the person:

(1) Gave or offered a bribe, threat, or reward to procure the person's election, as provided in Article 2, Section 6 of the Constitution of the State of Indiana;

(2) Does not comply with IC 5-8-3; or

(3) Has:

(A) Entered a plea of guilty or nolo contendere to; or

(B) Been convicted of;

a felony (as deemed in IC 35-50-2-1). [P.L.5-1986, § 4; P.L.3-1987, § 82; P.L.4-1991, § 32; P.L.3-1993, § 54.]

**3-8-1-5.5. Ineligibility of person defeated in primary or at convention.** —

(a) Except as provided in IC 3-13-1-19 and IC 3-13-2-10 for filling a vacancy on a ticket, a person who:

(1) Is defeated in a primary election; or

(2) Appears as a candidate for nomination at a state convention or files a declaration of candidacy for nomination by a town convention and is defeated;

is not eligible to become a candidate for the same office in the next general or municipal election.

(b) For the purposes of subsection (a), a candidate for an at-large seat on a fiscal body is considered a candidate for the same office as a candidate for a district seat on a fiscal body. [P.L.10-1988, § 30.]

**3-8-1-5.7. Appointments pro tempore to local offices.** — (a) Except as expressly provided by law, a candidate for selection under IC 3-13-11 for an appointment pro tempore to an office must comply with the requirements imposed under this chapter on a candidate for election to the office.

(b) If a town council member:

(1) Was elected or selected as a candidate from a town council district; and

(2) Served on a council that subsequently adopted an ordinance under IC 36-5-2-4.1 abolishing town council districts;

a candidate for selection for an appointment pro tempore to succeed the town council member is not required to reside within the district formerly represented by the town council member. [P.L.7-1990, § 28; P.L.3-1993, § 55.]

**3-8-1-6. President and Vice President; presidential elector.** — (a) A candidate for the office of President or Vice President of the United States must have the qualifications provided in Article 2, Section 1, clause 4 of the Constitution of the United States.

(b) A candidate for the office of elector for President and Vice President of the United States must have the qualifications provided in Article 2, Section 1, clause 2 of the Constitution of the United States and Section 3 of the Fourteenth Amendment to the Constitution of the United States. [P.L.5-1986, § 4; P.L.3-1987, § 83; P.L.3-1993, § 56.]

**3-8-1-7. United States Senator.** — A candidate for the office of United States Senator must have the qualifications provided in Article 1, Section 3, Clause 3 of the Constitution of the United States. [P.L.5-1986, § 4.]

**3-8-1-8. United States Representative.** — A candidate for the office of United States Representative must have the qualifications provided in Article 1, Section 2, Clause 2 of the Constitution of the United States. [P.L.5-1986, § 4.]

**3-8-1-9. Governor and lieutenant governor.** — A candidate for the office of governor or lieutenant governor:

- (1) Must have been a United States citizen for at least five (5) years before the election;
- (2) Must have resided in the state for at least five (5) years before the election;
- (3) Must be thirty (30) years old upon taking office; and
- (4) May not hold any other office of the United States or of this state upon taking office;

as provided in Article 5, Sections 7 and 8 of the Constitution of the State of Indiana. [P.L.5-1986, § 4.]

**3-8-1-10. Attorney general.** — A candidate for the office of attorney general must:

- (1) Have resided in Indiana for at least two (2) years before the election; and
- (2) Have been admitted to the practice of law in Indiana for at least five

(5) years upon taking office. [P.L.5-1986, § 4; P.L.3-1987, § 84; P.L.10-1992, § 10; P.L.11-1992, § 3.]

**3-8-1-10.5. Superintendent of public instruction.** — A candidate for the office of state superintendent of public instruction must have resided in Indiana for at least two (2) years before the election. [P.L.3-1987, § 85.]

**3-8-1-11. Supreme court justice — Court of appeals judge.** — A nominee for appointment as a justice of the supreme court or judge of the court of appeals must:

- (1) Be a United States citizen;
- (2) Reside in the appropriate court of appeals district, if applicable; and
- (3) Have been admitted to the practice of law in Indiana for at least ten (10) years or have served as a circuit, superior, or criminal court judge for at least five (5) years;

upon nomination, as provided in Article 7, Section 10 of the Constitution of the State of Indiana. [P.L.5-1986, § 4; P.L.3-1987, § 86.]

**3-8-1-11.5. Clerk of the supreme court.** — A candidate for the office of clerk of the supreme court must have resided in Indiana for at least two (2) years before the election. [P.L.3-1987, § 87.]

**3-8-1-12. Tax court judges.** — A nominee for appointment as the judge of the tax court must:

- (1) Have resided in Indiana for at least two (2) years before the election; and
- (2) Have been admitted to the practice of law in Indiana for at least five (5) years upon nomination. [P.L.5-1986, § 4; P.L.3-1987, § 88.]

**3-8-1-13. State senator.** — A candidate for the office of senator in the general assembly must:

- (1) Be a United States citizen at the time of election;
- (2) Have resided in the state for at least two (2) years and in the senate district for at least one (1) year before the election; and
- (3) Be at least twenty-five (25) years old upon taking office;

as provided in Article 4, Section 7 of the Constitution of the State of Indiana. [P.L.5-1986, § 4.]

**3-8-1-14. State representative.** — A candidate for the office of representative in the general assembly must:

(1) Be a United States citizen at the time of election;  
 (2) Have resided in the state for at least two (2) years and in the house district for at least one (1) year before the election; and  
 (3) Be at least twenty-one (21) years old upon taking office;  
 as provided in Article 4, Section 7 of the Constitution of the State of Indiana. [P.L.5-1986, § 4.]

**3-8-1-15. [Repealed.]**

**3-8-1-16. Circuit court judge.** — A candidate for the office of judge of a circuit court must:

- (1) Reside in the circuit; and
- (2) Be admitted to the practice of law in the state; upon taking office, as provided in Article 7, Section 7 of the Constitution of the State of Indiana. [P.L.5-1986, § 4.]

**3-8-1-17. Superior and probate court judges.** — A candidate for the office of judge of a superior or probate court must:

- (1) Be admitted to the practice of law in Indiana upon filing a declaration of candidacy or petition of nomination, or upon the filing of a certificate of candidate selection under IC 3-13-1-15 or IC 3-13-2-8; and
- (2) Comply with any other requirement for that office set forth in IC 33-5 or IC 33-8. [P.L.5-1986, § 4; P.L.3-1987, § 89; P.L.5-1989, § 22.]

**3-8-1-18. County court judge.** — A candidate for the office of judge of a county court must:

- (1) Be a United States citizen; and
- (2) Be admitted to the practice of law in Indiana upon filing a declaration of candidacy or petition of nomination, or upon the filing of a certificate of candidate selection under IC 3-13-1-15 or IC 3-13-2-8. [P.L.5-1986, § 4; P.L.3-1987, § 90.]

**3-8-1-19. Prosecuting attorney.** — A candidate for the office of prosecuting attorney must be admitted to the practice of law in the state before the election, as provided in Article 7, Section 16 of the Constitution of the State of Indiana. [P.L.5-1986, § 4.]

**3-8-1-19.5. Circuit court clerk.** — A candidate for the office of circuit court clerk must comply with Article 6, Section 2 of the Constitution of the State of Indiana. [P.L.10-1988, § 31.]

**3-8-1-20. County auditor, recorder, treasurer, sheriff, coroner and surveyor.** — A candidate for the office of county auditor, recorder, treasurer, sheriff, coroner, or surveyor must have resided in the county for at least one (1) year before the election, as provided in Article 6, Section 4 of the Constitution of the State of Indiana. [P.L.5-1986, § 4.]

**3-8-1-21. County commissioner.** — A candidate for the office of county commissioner must:

- (1) Have resided in the county for at least one (1) year before the election, as provided in Article 6, Section 4 of the Constitution of the State of Indiana; and
- (2) Have resided in the district in which seeking election, if applicable, for at least six (6) months before the election. [P.L.5-1986, § 4.]

**3-8-1-22. County council members.** — A candidate for membership on the county council of a county must:

- (1) Have resided in the county for at least one (1) year before the election, as provided in Article 6, Section 4 of the Constitution of the State of Indiana; and
- (2) Have resided in the district in which seeking election, if applicable, for at least six (6) months before the election. [P.L.5-1986, § 4.]

**3-8-1-23. County assessor.** — A candidate for the office of county assessor must:

- (1) Have resided in the county for at least one (1) year before the election, as provided in Article 6, Section 4 of the Constitution of the State of Indiana; and
- (2) Own real property located in the county upon taking office. [P.L.5-1986, § 4; P.L.3-1987, § 91.]

**3-8-1-24. Mayor.** — A candidate for the office of mayor of a first class city must have resided in the city for at least five (5) years before the date of taking office. [P.L.5-1986, § 4.]

**3-8-1-25. City-county council member.** — A candidate for membership on city-county council of a first class city must have resided in the district in which seeking election, if applicable, for at least two (2) years before the date of taking office. [P.L.5-1986, § 4.]

**3-8-1-26. Mayor — Second and third class cities.** — A candidate for the office of mayor of a second or third class city must have resided in the city for at least one (1) year before the election. [P.L.5-1986, § 4.]

**3-8-1-27. Common council member — Second and third class cities.** — A candidate for membership on common council of a second or third class city must:

- (1) Have resided in the city for at least one (1) year; and
- (2) Have resided in the district in which seeking election, if applicable, for at least six (6) months;

before the election. [P.L.5-1986, § 4.]

**3-8-1-28. City clerk of second class city — City clerk-treasurer of third class city.** — A candidate for the office of city clerk of a second-class city or city clerk-treasurer of a third-class city must have resided in the city for at least one (1) year before the election. [P.L.5-1986, § 4.]

**3-8-1-28.5. Judge of a city court.** — (a) This section does not apply to a candidate for the office of judge of a city court in a city located in a county having a population of:

- (1) More than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or
- (2) More than two hundred thousand (200,000) but less than three hundred thousand (300,000).

(b) A candidate for the office of judge of a city court in a second class city must reside in the city upon filing a declaration of candidacy required under IC 3-8-2 or a petition of nomination under IC 3-8-6 or upon the filing of a certificate of candidate selection under IC 3-13-1-15 or IC 3-13-2-8. [P.L.3-1987, § 92; P.L.12-1992, § 4.]

**3-8-1-29. Town council member.** — A candidate for membership on a town council must reside in the district in which seeking election, if applicable. [P.L.5-1986, § 4; P.L.8-1989, § 3.]

**3-8-1-30. Small claims court judge.** — A candidate for the office of judge of a small claims court must:

- (1) Be a United States citizen upon taking office;
- (2) Have resided in the county for at least one (1) year upon taking office;
- (3) Be of high moral character and reputation; and
- (4) Either:

(A) Be admitted to the practice of law in Indiana upon filing a declara-

tion of candidacy or petition of nomination or upon the filing of a certificate of candidate selection under IC 3-13-1-15 or IC 3-13-2-8; or

(B) Have at least one (1) year of experience as a justice of the peace before January 1, 1976, and have served as a justice of the peace on December 31, 1975. [P.L.5-1986, § 4; P.L.3-1987, § 93.]

**3-8-1-31. Small claims court constable.** — A candidate for the office of constable of a small claims court must:

- (1) Have resided in the township for more than one (1) year upon taking office; and
- (2) Be at least twenty-one (21) years old upon taking office. [P.L.5-1986, § 4; P.L.18-1993, § 1.]

**3-8-1-32. Precinct committeeman — Delegate to state convention.** — A candidate for:

- (1) Precinct committeeman; or
  - (2) Delegate to a state convention;
- of each political party in the state whose nominee received at least ten percent (10%) of the total vote cast for secretary of state at the last election must 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. However, a candidate is not disqualified for not having previously voted in a primary election. [P.L.5-1986, § 4.]

**3-8-1-33. Economic interest statement.** — (a) A candidate for an office listed in subsection (b) must file a statement of economic interests.

(b) Whenever a candidate for any of the following offices is also required to file a declaration of candidacy or is nominated by petition, the candidate shall file a statement of economic interests before filing the declaration of candidacy, before the petition of nomination is filed, before the certificate of nomination is filed, or before being appointed to fill a candidate vacancy under IC 3-13-1 or IC 3-13-2:

(1) Governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, and state superintendent of public instruction, in accordance with IC 4-2-6-8.

(2) Senator and representative in the general assembly, in accordance with IC 2-2-1-3-2.

(3) Justice of the supreme court, clerk of the supreme court, judge of the court of appeals, judge of the tax court,

judge of a circuit court, judge of a superior court, judge of a county court, judge of a probate court, and prosecuting attorney, in accordance with IC 33-2.1-8-6 and IC 33-2.1-8-7. [P.L.5-1986, § 4; P.L.3-1987, § 94.]

**3-8-1-34. School board officer.** — A candidate for a school board office must have resided in the school district for at least one (1) year before the election, unless a longer period is required under IC 20. [P.L.3-1987, § 95.]

CHAPTER 2

DECLARATION OF CANDIDACY FOR FEDERAL, STATE, LEGISLATIVE, OR LOCAL OFFICE IN PRIMARY ELECTION

SECTION.

- 3-8-2-1. Applicability of chapter.
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- 3-8-2-2.5. Form required for write-in candidates.
- 3-8-2-2.7. Declaration of intent — Withdrawal.
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- 3-8-2-22. Withdrawal of candidacy — No remaining candidates — Nominations by parties.
- 3-8-2-23. Removal of ineligible candidate from ballot — Filling vacancy.

**3-8-2-1. Applicability of chapter.** — This chapter applies to the following:

- (1) Each political party in the state whose nominee received at least ten percent (10%) of the total vote cast for secretary of state at the last election.
- (2) Write-in candidates.

[P.L.5-1986, § 4; P.L.4-1991, § 33.]

**3-8-2-2. Primary election nominees.** — A person who desires to be nominated at a primary election as a candidate of a political party subject to this chapter for a federal, state, legislative, or local office shall file a declaration of candidacy. [P.L.5-1986, § 4.]

**3-8-2-2.5. Form required for write-in candidates.** — (a) A person who desires to be a write-in candidate for a federal, state, legislative, or local office or school board office in a general, municipal, or school board election must file a declaration of intent to be a write-in candidate with the officer with whom declaration of candidacy must be filed under IC 3-8-2-5 and IC 3-8-2-6.

(b) The declaration required under subsection (a) must be in substantially the following form:

DECLARATION OF INTENT TO BE A WRITE-IN CANDIDATE

STATE OF INDIANA )  
 ) ss:  
COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_, (Name must be printed or typewritten as the candidate wishes it to appear on the ballot) the undersigned, certify that:

- (1) I am a registered voter of \_\_\_\_\_ precinct of the Township of \_\_\_\_\_, or of the \_\_\_\_\_ ward of the City or Town of \_\_\_\_\_, County of \_\_\_\_\_, State of \_\_\_\_\_;
- (2) I reside at \_\_\_\_\_; (Complete residence address must be inserted, and if the candidate's mailing address is different from the residence address, also insert the mailing address);
- (3) I am:
  - ( ) affiliated with the \_\_\_\_\_ party (Check the box and fill in the name of the party if this case applies.); or
  - ( ) an independent candidate (not affiliated with any party). (Check the box if this case applies.)
- (4) I declare my intention to be a write-in candidate for the office of \_\_\_\_\_

\_\_\_\_\_ (Name of office, including district) to be voted for at the general, municipal, or school board election to be held on the \_\_\_\_ day of \_\_\_\_\_ 19\_\_;

(5) if I am a candidate for the office of President or Vice President of the United States, I declare that the following individuals have consented and are eligible to be my candidates for presidential electors:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_;

(6) I have been a candidate for state or local office in a previous primary or general election:

- Yes
- No

(Check one) (If the answer to this question is no, skip to question 8);

(7) I have filed all reports required by IC 3-9-5-10 for all previous candidacies:

- Yes
- No

(Check one); and

(8) I comply with all requirements under the laws of the State of Indiana to be a candidate for the above named office, including any applicable residency requirements, and I am not ineligible to be a candidate due to a criminal conviction that would prohibit me from serving in this office.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Telephone No.)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

County of \_\_\_\_\_, State of \_\_\_\_\_.

\_\_\_\_\_  
(Notary Public)

My Commission expires:

County of Residence: \_\_\_\_\_

\_\_\_\_\_  
(Hour and Date)

Filed in the office of \_\_\_\_\_ at \_\_\_\_\_ p.m./a.m. local time this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

(c) At the time of filing the declaration of intent to be a write-in candidate, the write-in candidate is considered a candidate for all purposes.

(d) A write-in candidate must comply with the requirements under IC 3-8-1 that apply to the office to which the write-in candidate seeks election.

(e) A person may not be a write-in candidate in a contest for nomination or for election to a political party office.

(f) A write-in candidate for the office of President or Vice President of the United States must list at least one (1) candidate for presidential elector and may not list more than the total number of presidential electors to be chosen in Indiana. [P.L.4-1991, § 34; P.L.1-1992, § 3; P.L.10-1992, § 11; P.L.3-1993, § 57.]

**3-8-2-2.7. Declaration of intent — Withdrawal.** — A candidate may withdraw a declaration of intent to be a write-in candidate not later than noon seven (7) days before election day. [P.L.3-1993, § 58.]

**3-8-2-3. Precinct committeemen — State convention delegates — Presidential electors.** — A person who desires to be elected either or both of the following at a primary election shall file a declaration of candidacy:

- (1) Precinct committeeman.
- (2) Delegate to a state convention, including a candidate for presidential elector. [P.L.5-1986, § 4.]

**3-8-2-4. Filing of declaration by candidates for primary election and write-in candidates.** — (a) A declaration of candidacy for a primary election must be filed no later than noon seventy-four (74) days and no earlier than one hundred four (104) days before the primary election. The declaration must be subscribed and sworn to before a person authorized to administer oaths.

(b) A declaration of intent to be a write-in candidate must be filed not later than noon seventy-four (74) days and not earlier than ninety (90) days before a general election. The declaration must be subscribed and sworn to before a person authorized to administer oaths.

(c) During a year in which a federal decennial census, federal special census, special tabulation, or corrected population count becomes effective under IC 1-1-3.5, a declaration of:

- (1) Candidacy may be filed for an office that will appear on the primary election ballot; or
- (2) Intent to be a write-in candidate for an office that will appear on the general, municipal, or school board election ballot;

that year as a result of the new tabulation of population or corrected population count. [P.L.5-1986, § 4; P.L.3-1987, § 96; P.L.1-1988, § 5; P.L.10-1988, § 32; P.L.5-1989, § 23; P.L.2-1990, § 6;



P.L.4-1991, § 35; P.L.10-1992, § 12; P.L.3-1993, § 59.]

**3-8-2-5. Filing of declaration for federal, state or legislative office or local judicial office.** — A declaration of candidacy for:

- (1) A federal office;
- (2) A state office;
- (3) A legislative office; or
- (4) The local office of:
  - (A) Judge of a circuit, superior, probate, county, or small claims court; or
  - (B) Prosecuting attorney of a judicial circuit;

shall be filed with the secretary of state. [P.L.5-1986, § 4; P.L.3-1987, § 97; P.L.5-1988, § 2.]

**3-8-2-6. Filing of declaration for local non-judicial offices or precinct committeemen or state convention delegates.** — (a) A declaration of candidacy for:

- (1) Any local office not described in section 5 [IC 3-8-2-5] of this chapter;
- (2) Precinct committeeman; or
- (3) Delegate to a state convention;

shall be filed with the circuit court clerk.

(b) Whenever the election district for a local office includes more than one (1) county, the declaration of candidacy shall be filed with the circuit court clerk of the county that contains the greatest percentage of population of the election district.

(c) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). The circuit court clerk shall post for public inspection a copy of each declaration of candidacy filed under this section on the day the declaration is filed. [P.L.5-1986, § 4; P.L.3-1987, § 98; P.L.7-1991, § 1; P.L.12-1992, § 5.]

**3-8-2-7. Form of declaration.** — The declaration of each candidate required by this chapter must be in substantially the following form:

**DECLARATION OF CANDIDACY**

STATE OF INDIANA )  
 ) ss:  
 COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_, (Name must be printed or typewritten as the candidate wishes it to appear on the ballot) the undersigned, certify that I am a registered voter of \_\_\_\_\_ precinct of the Township of \_\_\_\_\_, or of the \_\_\_\_\_ ward of the

City or Town of \_\_\_\_\_, County of \_\_\_\_\_, State of Indiana, and reside at \_\_\_\_\_, (Complete residence address must be inserted, and if the candidate's mailing address is different from the residence address, also insert the mailing address) and that I am a member of the \_\_\_\_\_ party. I comply with all requirements under the laws of the State of Indiana to be a candidate for the above named office, including any applicable residency requirements, and I am not ineligible to be a candidate due to a criminal conviction that would prohibit me from serving in this office. I request that you place my name on the official primary ballot of that party to be voted on for the office of \_\_\_\_\_ at the primary election to be held the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_. I have/have not (circle one) been a candidate for state or local office in a previous primary or general election, and I have/have not (circle one) filed all reports required by IC 3-9-5-10 for all previous candidacies.

(Signature) \_\_\_\_\_  
 Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
 My commission expires: \_\_\_\_\_  
 County of residence: \_\_\_\_\_  
 (Hour and Date) Filed in the office of \_\_\_\_\_ at \_\_\_\_\_ p.m./a.m. local time this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**3-8-2-8. Voter petition — Candidates for United States Senator or governor.** — (a) A declaration of candidacy for the office of United States Senator or for the office of governor must be accompanied by a petition signed by at least five thousand (5,000) voters of the state, including at least five hundred (500) voters from each congressional district.

(b) Each petition must contain the following:

- (1) The signature of each petitioner.
- (2) The name of each petitioner legibly printed.
- (3) The residence mailing address of each petitioner.

(c) This subsection applies to a petition filed during the period:

- (1) Beginning on the date that a congressional district plan has been adopted under IC 3-3; and
- (2) Ending on the date that the part of the act or order issued under IC 3-3-2 establishing the previous congressional district plan is repealed or superseded.

The petition must be signed by at least five thousand (5,000) voters of Indiana, including at least five hundred (500) voters from each congressional district created by the

most recent congressional district plan adopted under IC 3-3. [P.L.5-1986, § 4; P.L.10-1992, § 13.]

**3-8-2-9. Voter petition — Contents — Certification of signatures.** — A petition required by section 8 [IC 3-8-2-8] of this chapter must request that the name of the candidate be placed on the ballot at the primary election. In order for the secretary of state to consider a petition valid, the circuit court clerk or board of registration in the county where a petitioner is registered must certify that each petitioner is a voter of the county. The certification must accompany and be part of the petition. If a county is part of more than one (1) congressional district, the certificate must indicate the number of petitioners from that county who reside in each congressional district. [P.L.5-1986, § 4.]

**3-8-2-10. Voter petition — Submission.** — A petition required by section 8 [IC 3-8-2-8] of this chapter must be submitted to the circuit court clerk or board of registration during the period beginning January 1 of the year in which the primary election will be held and ending at noon seventy-seven (77) days before the primary election. [P.L.5-1986, § 4; P.L.10-1988, § 33; P.L.5-1989, § 24.]

**3-8-2-11. Mailing of declaration — Telegraphing prohibited — Time for filing.** — A declaration of candidacy may be made by mail and is considered filed as of the date and hour it is received in the office of the secretary of state or circuit court clerk. A declaration of candidacy may not be made by telegraph. A declaration is not valid unless received in the office of the secretary of state or circuit court clerk by noon on the seventy-fourth day before a primary election. An officer receiving a declaration may require information supporting the eligibility of the candidate and, where applicable, shall require a receipt showing that statements of economic interest or other prerequisite filings have been made. [P.L.5-1986, § 4; P.L.5-1989, § 25; P.L.3-1993, § 61.]

**3-8-2-12. Confirmation of filing of declaration.** — Not more than one (1) day after a person files a declaration of candidacy in the office of the secretary of state or circuit court clerk, the secretary of state or circuit court clerk shall mail to the candidate at the address listed in the declaration a statement showing the following:

- (1) That the candidate has filed a declaration.
- (2) The name of the candidate.
- (3) The office for which the declarant is a candidate.
- (4) The date on which the declaration was filed.

[P.L.5-1986, § 4.]

**3-8-2-13. Public listing of candidates — Listing of questioned candidates.** — Immediately after the deadline for filing, the secretary of state and each circuit court clerk shall certify and release to the public a list of the candidates of each political party for each office. The secretary of state and circuit court clerk shall also release to the public a list of all declarations of candidacy whose validity is questioned. [P.L.5-1986, § 4.]

**3-8-2-14. Referral and determination of candidate challenges.** — (a) All questions concerning the validity of a declaration filed with the secretary of state shall be referred to and determined by the state election board in accordance with the deadline prescribed by section 18 [IC 3-8-2-18] of this chapter.

(b) All questions concerning the validity of a declaration of candidacy filed with a circuit court clerk shall be referred to and determined by the county election board not later than the fifty-fourth day before the primary election.

(c) A question concerning the validity of a declaration of intent to be a write-in candidate shall be determined by the state election board or the county election board not later than noon seven (7) days before election day. [P.L.5-1986, § 4; P.L.4-1991, § 36; P.L.3-1993, § 62.]

**3-8-2-15. Restriction on declaring for multiple offices — Exception.** — (a) A person who files a declaration of candidacy for an elected office for which a per diem or salary is provided for by law is disqualified from filing a declaration of candidacy for another office for which a per diem or salary is provided for by law until the original declaration is withdrawn.

(b) A person may file both:

- (1) A declaration of candidacy under this chapter for nomination to a federal or state office; and
- (2) A written request under IC 3-8-3-1 that the person's name be placed on the ballot in a primary election as a candidate for nomination for the office of President of the United States. [P.L.5-1986, § 4; P.L.12-1988, § 1.]

**3-8-2-16. Candidates limited to declaring for one party.** — A person who files a declaration of candidacy for an elected office may not file a declaration of candidacy for that office in the same primary election for a different political party until the original declaration is withdrawn. [P.L.5-1986, § 4.]

**3-8-2-17. Primary elections — Certified list of declared candidates.** — At least sixty (60) days before a primary election in a county, the secretary of state shall transmit to the circuit court clerk a certified list containing the name and address of each person for whom a declaration of candidacy has been filed in the secretary's office and for which voters at the primary election may vote. The list must designate the office for which the person is a candidate and the political party the person represents. [P.L.5-1986, § 4; P.L.5-1989, § 26.]

**3-8-2-18. Declarations questioned by circuit court clerk.** — A circuit court clerk who raises questions about the validity of a declaration filed with the secretary of state and certified to the clerk by the secretary of state shall present the questions to the state election board and give notice to the secretary of state. The state election board shall act upon the questions by the fifty-fourth day before the primary election. [P.L.5-1986, § 4; P.L.5-1989, § 27.]

**3-8-2-19. Public notice of candidates, date of election, and poll hours.** — Upon receipt of the certified list under section 17 [IC 3-8-2-17] of this chapter, a circuit court clerk shall immediately publish under the proper political party designation the title of each office, the names and addresses of all persons for whom nomination papers have been filed, the date of the primary election, and the hours during which the polls will be open. The clerk shall publish this notice before the primary election in accordance with IC 5-3-1. [P.L.5-1986, § 4; P.L.10-1988, § 34.]

**3-8-2-20. Withdraw a declaration — Filing of statement by candidate.** — A person who files a declaration of candidacy under this chapter may, at any time no later than noon seventy-four (74) days before the date set for holding the primary election, file a statement with the secretary of state or circuit court clerk, as appropriate, that the person is not a candidate and does not wish the person's name to appear on the primary election ballot as

a candidate. [P.L.5-1986, § 4; P.L.10-1988, § 35; P.L.5-1989, § 28; P.L.4-1991, § 37.]

**3-8-2-21. Withdrawal of declaration — Election official's duties.** — Upon receipt of notice under section 20 [IC 3-8-2-20] of this chapter, the secretary of state or circuit court clerk shall withdraw the declaration of candidacy from the files and may not certify the name of the person as a candidate to be voted for at the primary election. [P.L.5-1986, § 4.]

**3-8-2-22. Withdrawal of candidacy — No remaining candidates — Nominations by parties.** — If a withdrawal under section 20 [IC 3-8-2-20] of this chapter leaves no candidate for an office:

(1) The secretary of state shall notify the state chairman or county chairman; or

(2) The circuit court clerk shall notify the county chairman;

of the political party affected by the withdrawal. The chairman shall arrange to nominate a candidate to fill the vacancy as provided in IC 3-13-1. The name of the person selected then shall be placed upon the ballot to be voted for at the primary election. [P.L.5-1986, § 4.]

**3-8-2-23. Removal of ineligible candidate from ballot — Filling vacancy.**

— (a) This section applies if a person:

(1) Files a declaration of candidacy under this chapter;

(2) Moves from the election district that the person sought to represent following the filing of the declaration of candidacy;

(3) Does not file a notice of withdrawal of candidacy under section 20 [IC 3-8-2-20] of this chapter; and

(4) Is no longer an active candidate.

(b) The county chairman of any political party on the ballot in the election district or a candidate for the office sought by the person described in subsection (a) may, upon determining that this section applies, file an action in the circuit court in the county where the person described in subsection (a) resided. The complaint in this action must:

(1) State that this section applies to the person;

(2) Name the person described in subsection (a) and the public official responsible for placing that person's name on the ballot as defendants; and

(3) Be filed no later than a notice of withdrawal could have been filed under section 20 of this chapter.

(c) When a complaint is filed under subsection (b), the circuit court shall con-

duct a hearing and rule on the petition within ten (10) days after it is filed.

(d) If the court finds in favor of the plaintiff, a candidate vacancy occurs on the:

- (1) General election ballot; and
- (2) Primary election ballot if no other person is:

(A) A member of the same political party as the person described in subsection (a); and

(B) A candidate on the ballot for the office sought by the person described in subsection (a).

(e) The candidate vacancy shall be filled under IC 3-13-1. [P.L.3-1987, § 99.]

## CHAPTER 3

### PRESIDENTIAL CANDIDATES

#### SECTION.

- 3-8-3-1. Filing of candidacy prior to primary — Request for ballot placement.
- 3-8-3-2. Voters' petition — Voters required — Voter information.
- 3-8-3-3. Voters' petition — Certification.
- 3-8-3-4. Voters' petition — Filing period.
- 3-8-3-5. Voters' petition — Deadline for receipt by secretary of state.
- 3-8-3-6. Public list of candidates — List of questioned candidates.
- 3-8-3-7. Referral and determination of questions.
- 3-8-3-8. Certified list of candidates — Ballot preparation.
- 3-8-3-9. Primary election returns.
- 3-8-3-10. Certification of election results.
- 3-8-3-11. National convention delegates and alternates — First ballot voting.

**3-8-3-1. Filing of candidacy prior to primary — Request for ballot placement.** — A candidate for nomination for the office of President of the United States shall, no later than noon sixty (60) days and no earlier than ninety (90) days before the primary election held in the year in which a President is to be elected, file with the secretary of state a written request that the candidate's name be placed upon the ballot under the label of the political party whose nomination the candidate is seeking. [P.L.5-1986, § 4; P.L.10-1988, § 36.]

**3-8-3-2. Voters' petition — Voters required — Voter information.** — A request filed under section 1 [IC 3-8-3-1] of this chapter must be accompanied by a petition signed by at least five thousand (5,000) voters of the state, including at least five hundred (500) voters from each congressional district. Each petition must contain the following:

- (1) The signature of each petitioner.

(2) The name of each petitioner legibly printed.

(3) The residence mailing address of each petitioner.

[P.L.5-1986, § 4.]

**3-8-3-3. Voters' petition — Certification.** — A petition required by section 2 [IC 3-8-3-2] of this chapter must request that the candidate's name be placed on the ballot at the primary election. In order for the secretary of state to consider a petition valid, the circuit court clerk or board of registration in the county where the petitioner is registered must certify each petitioner is a voter of the county. The certification must accompany and be part of the petition. If a county is part of more than one (1) congressional district, the certificate must indicate the number of petitioners from that county who reside in each congressional district. [P.L.5-1986, § 4.]

**3-8-3-4. Voters' petition — Filing period.** — A petition required by section 2 [IC 3-8-3-2] of this chapter must be submitted to the circuit court clerk or board of registration during the period beginning January 1 of the year in which the primary election will be held and ending at noon seventy (70) days before the primary election. [P.L.5-1986, § 4; P.L.10-1988, § 37.]

**3-8-3-5. Voters' petition — Deadline for receipt by secretary of state.** — A request or petition filed under this chapter is not valid unless received in the office of the secretary of state by noon Indianapolis time on the sixtieth day before a primary election. [P.L.5-1986, § 4.]

**3-8-3-6. Public list of candidates — List of questioned candidates.** — Immediately after the deadline for filing, the secretary of state shall certify and release to the public a list of the candidates for each political party. The secretary of state shall also release to the public a list of all requests whose validity is questioned. [P.L.5-1986, § 4.]

**3-8-3-7. Referral and determination of questions.** — All questions concerning the validity of a request shall be referred to and determined by the state election board. [P.L.5-1986, § 4.]

**3-8-3-8. Certified list of candidates — Ballot preparation.** — At least fifty-three (53) days before a presidential primary election, the secretary of state shall

transmit to each circuit court clerk a certified list containing the name of each person qualified as a candidate for nomination for the office of President of the United States and the name of the political party whose nomination the candidate is seeking. Each clerk shall have the names of the candidates certified by the secretary of state placed on the ballot as provided by law. [P.L.5-1986, § 4.]

**3-8-3-9. Primary election returns.** — Each circuit court clerk shall, not later than the Tuesday after the day the primary election is held, send to the secretary of state by certified mail one (1) complete copy of all returns for presidential candidates. The clerk shall state the number of votes received by each candidate in each congressional district within the county. [P.L.5-1986, § 4; P.L.3-1987, § 100.]

**3-8-3-10. Certification of election results.** — The secretary of state shall certify to the state chairman of each political party the result of the presidential primary vote for the candidates of that party. [P.L.5-1986, § 4; P.L.3-1987, § 101.]

**3-8-3-11. National convention delegates and alternates — First ballot voting.** — A delegate or alternate delegate selected from a congressional district to the national convention of a political party shall, on the first ballot at the national convention, support the candidate for President of the United States who received the highest number of votes in the congressional district at the primary election if the person is in fact a candidate at the convention. A delegate-at-large or alternate delegate-at-large to the national convention is not required to support a specific candidate for President on any ballot at the convention. [P.L.5-1986, § 4.]

## CHAPTER 4

### STATE CONVENTIONS

#### SECTION.

- 3-8-4-1. Applicability of chapter.
- 3-8-4-2. Nomination of candidates — Election of national convention delegates and alternates.
- 3-8-4-3. Delegates — Apportionment.
- 3-8-4-4. Delegates — Vacancies.
- 3-8-4-5. List of delegates elected.
- 3-8-4-6. Notification of presidential primary election results.
- 3-8-4-7. Procedure for nominating candidates and electing national convention delegates and alternates.
- 3-8-4-8. Voting procedures.
- 3-8-4-9. Poll watchers.
- 3-8-4-10. Candidates for Senator and governor.

#### SECTION.

- 3-8-4-11. State committee and convention rules.
- 3-8-4-12 — 3-8-4-24. [Repealed.]

**3-8-4-1. Applicability of chapter.** — This chapter applies to each political party in the state whose nominee received at least two percent (2%) of the total vote cast for secretary of state at the last election. [P.L.5-1986, § 4; P.L.3-1987, § 102.]

**3-8-4-2. Nomination of candidates — Election of national convention delegates and alternates.** — (a) A political party shall conduct a state convention to nominate the candidates of the political party for the following offices to be voted on at the next general election:

- (1) Lieutenant governor.
- (2) Secretary of state.
- (3) Auditor of state.
- (4) Treasurer of state.
- (5) Attorney general.
- (6) Superintendent of public instruction.
- (7) Clerk of the supreme court.

(b) The convention shall also:

- (1) Nominate candidates for presidential electors and alternate electors; and
- (2) Elect the delegates and alternate delegates to the national convention of the political party. [P.L.5-1986, § 4; P.L.3-1987, § 103.]

**3-8-4-3. Delegates — Apportionment.** — (a) This section applies to each political party that elects delegates to the party's state convention at a primary election.

(b) Delegates to a state convention shall be chosen from delegate districts in each county. Each delegate district is allotted one (1) delegate for every four hundred (400) votes in the district. If there are two hundred (200) or more votes remaining in a district, the district receives one (1) additional delegate. The county election board shall apportion the votes, although there may not be more than ten (10) delegates from one district. [P.L.5-1986, § 4; P.L.3-1987, § 104.]

**3-8-4-4. Delegates — Vacancies.** — If a delegate vacancy exists to a political party's state convention, the county chairman of the county in which the vacancy occurs shall select a voter from the county to fill the vacancy. [P.L.5-1986, § 4.]

**3-8-4-5. List of delegates elected.** — (a) This section applies to each political party that elects delegates to the party's state convention at a primary election.

(b) Each circuit court clerk, within twenty (20) days after a primary election, shall furnish the secretary of state a complete list of all delegates elected at the primary election to the state convention of a political party. The list must include the address of each delegate and the United States congressional district in which each delegate resides. [P.L.5-1986, § 4; P.L.3-1987, § 105.]

**3-8-4-6. Notification of presidential primary election results.** — If the political party participated in a presidential primary during the year in which the state convention is held, the state chairman shall notify the convention of the results of the presidential primary furnished to the chairman under IC 3-8-3-10. [P.L.5-1986, § 4; P.L.3-1987, § 106.]

**3-8-4-7. Procedure for nominating candidates and electing national convention delegates and alternates.** — The state committee of the political party holding a state convention shall determine the procedure for nominating candidates and electing delegates and alternate delegates to the national convention. [P.L.5-1986, § 4; P.L.3-1987, § 107.]

**3-8-4-8. Voting procedures.** — Candidates shall be nominated or elected at a state convention by using voting machines, ballot card systems, or electronic voting systems. However, if there is no contest for an office, the nomination or election may be by motion and acclamation. [P.L.5-1986, § 4; P.L.3-1987, § 108.]

**3-8-4-9. Poll watchers.** — The state chairman of the political party holding a state convention shall appoint an inspector and two (2) poll clerks to attend each voting machine or system at the convention. Each candidate may have one (1) watcher at each voting machine or system to check the voting machine or system before and after each ballot and to check the work of any election officer. The inspector and poll clerks:

- (1) Shall take an oath to perform their duties faithfully and to the best of their abilities before anyone entitled to administer an oath;
- (2) Must be qualified in relationship to candidates in the same manner as precinct election officers under IC 3-6-6-7; and
- (3) Are subject to the same penalties as precinct election officers. [P.L.5-1986, § 4; P.L.3-1987, § 109.]

**3-8-4-10. Candidates for Senator and governor.** — (a) This section applies to a political party whose nominee received at least two percent (2%) but less than ten percent (10%) of the votes cast for secretary of state at the last election.

(b) A political party subject to this section shall also nominate its candidates for United States Senator and governor at the convention. [P.L.5-1986, § 4; P.L.3-1987, § 110.]

**3-8-4-11. State committee and convention rules.** — All matters regarding a state convention that are not prescribed by this chapter or by other laws are controlled by the rules of the state committee of the political party holding the convention and by the rules adopted by the convention. [P.L.5-1986, § 4.]

**3-8-4-12 — 3-8-4-24. [Repealed.]**

## CHAPTER 5

### TOWN CONVENTIONS AND MAJOR POLITICAL PARTY NOMINATIONS IN SMALL TOWNS

#### SECTION.

- 3-8-5-1. Applicability of chapter.
- 3-8-5-2. Nomination of town office candidates.
- 3-8-5-3. Town committees — Creation — Name.
- 3-8-5-4. Town committees — Membership.
- 3-8-5-5. Town committees — Organizational meeting — Term of existence.
- 3-8-5-6. Town committees — Person presiding over organizational meeting.
- 3-8-5-7. Town committees — Officers — Subcommittees.
- 3-8-5-8. Town committee meetings — Call — Notice.
- 3-8-5-9. Town committee meetings — Quorum.
- 3-8-5-10. Town conventions — Call — Location — Time — Purpose — Notice.
- 3-8-5-10.5. Declaration of candidacy.
- 3-8-5-11. Town conventions — Persons eligible to vote.
- 3-8-5-12. Town conventions — Chairman — Secretary — Vote necessary to nominate.
- 3-8-5-13. Certificate of nomination — Issuance — Contents — Acknowledgment — Filing.
- 3-8-5-14. Certificate of nomination — Form.
- 3-8-5-14.3. Convention not required — Municipal election.
- 3-8-5-14.5. Withdrawal by town convention nominee — Notice.
- 3-8-5-15. Preservation of certificate and petitions of nomination and declarations of candidacy.
- 3-8-5-16. [Repealed.]

**3-8-5-1. Applicability of chapter.** — This chapter applies to the nomination of candidates for town offices in each town having a population of less than three

thousand five hundred (3,500) that is not located entirely or partially within a county having a consolidated city. [P.L.5-1986, § 4; P.L.3-1987, § 111; P.L.11-1988, § 2.]

**3-8-5-2. Nomination of town office candidates.** — A candidate for a town office shall be nominated as follows:

- (1) By convention conducted under this chapter;
- (2) By petition filed under IC 3-8-6; or
- (3) If a town convention was not required under section 10 [IC 3-8-5-10] of this chapter for the political party of which the candidate is a member, by the candidate's declaration of candidacy. [P.L.5-1986, § 4; P.L.3-1993, § 63.]

**3-8-5-3. Town committees — Creation — Name.** — Each of the major political parties of the state shall have a committee in a town subject to this chapter known as the ..... town committee of the town of ..... (designating the name of the party and the town). [P.L.5-1986, § 4; P.L.3-1987, § 112.]

**3-8-5-4. Town committees — Membership.** — (a) A town committee consists of members of the county committee of the county in which the town is located that contains the greatest percentage of the population of the town who reside in the town and represent precincts situated wholly or partly in the town.

(b) If there are fewer than four (4) members of the county committee qualified to serve on the town committee, the county chairman of the county that contains the greatest percentage of the population of the town shall appoint to the town committee enough voters of the town to bring the total number of members on the committee to four (4). [P.L.5-1986, § 4; P.L.10-1988, § 38.]

**3-8-5-5. Town committees — Organizational meeting — Term of existence** — The organization of a town committee shall be completed by the first Saturday of July in each year in which a municipal election is to be held. The committee shall continue to function from the time of its organization until the election has been held and the result has been determined. [P.L.5-1986, § 4; P.L.3-1987, § 113.]

**3-8-5-6. Town committees — Person presiding over organizational meeting.** — The county chairman of each major political party of the county that contains

the greatest percentage of the population of the town shall designate a resident of the town to preside at the organizational meeting of a town committee. If a county chairman fails to make this designation by the last Saturday in June, the town clerk-treasurer shall appoint a resident of the town who is a member of the political party of the chairman who failed to make the designation to preside at the meeting. [P.L.5-1986, § 4; P.L.10-1988, § 39; P.L.4-1991, § 38.]

**3-8-5-7. Town committees — Officers — Subcommittees.** — A town committee shall organize by electing a chairman, a vice chairman, a secretary, a treasurer, and the subcommittees provided by its rules. [P.L.5-1986, § 4.]

**3-8-5-8. Town committee meetings — Call — Notice.** — A meeting of a town committee may be called by the chairman of the committee or by written notice signed by at least half the membership of the committee. Whenever the chairman calls a meeting, the chairman shall give a one (1) day notice of the meeting to all members of the committee. Whenever the members of the committee call a meeting, they shall give three (3) days notice in writing to each member not joining in the call. All notices given must state the purpose for which the meeting is called. [P.L.5-1986, § 4.]

**3-8-5-9. Town committee meetings — Quorum.** — A quorum for the transaction of business by a town committee is a majority of the members present representing a majority of the precincts or other election districts entitled to membership on the committee. [P.L.5-1986, § 4.]

**3-8-5-10. Town conventions — Call — Location — Time — Purpose — Notice.** — (a) If more than one (1) candidate from the same political party files a declaration of candidacy for the same office, that political party shall conduct a town convention under this chapter to choose the nominee of that party for that office.

(b) If a town convention is required under subsection (a), the town chairman elected under section 7 [IC 3-8-5-7] of this chapter shall issue a call for a town convention to be held in the town, or, if there is no suitable location in the town, then either at the nearest available location within any county in which the town is located or at the county seat of any county in which the town is located.

(c) The convention must be held before September 14 in each year in which a municipal election is to be held. The purpose of the convention is to select the nominees for all town offices to be elected at the next municipal election and for which more than one (1) declaration of candidacy has been filed.

(d) The chairman shall file a notice of the call with the circuit court clerk of the county containing the greatest percentage of population of the town. The chairman shall also have notice of the call posted at least three (3) days in three (3) prominent public places in the town, including the office of the clerk-treasurer. The notice must state the time, place, and purpose of the convention. [P.L.5-1986, § 4; P.L.3-1987, § 114; P.L.10-1988, § 40; P.L.3-1993, § 64.]

**3-8-5-10.5. Declaration of candidacy.** — (a) A person who desires to be nominated for a town office by a major political party must file a declaration of candidacy with the circuit court clerk of the county containing the greatest percentage of population of the town.

(b) A declaration of candidacy must be filed:

- (1) Not earlier than January 1; and
- (2) Not later than noon September 1; before a municipal election.

(c) The declaration must be subscribed and sworn to (or affirmed) before a notary public or other person authorized to administer oaths.

(d) The declaration of each candidate required by this section must be in substantially the following form:

**DECLARATION OF CANDIDACY**

STATE OF INDIANA )  
 )  
 COUNTY OF \_\_\_\_\_ ) ss:

I, \_\_\_\_\_, (Names must be printed or typewritten as the candidate wishes it to appear on the ballot) the undersigned, certify the following:

(1) That I am a registered voter of \_\_\_\_\_ precinct of the Township of \_\_\_\_\_, or of the \_\_\_\_\_ ward of the Town of \_\_\_\_\_, County of \_\_\_\_\_, State of Indiana.

(2) I reside at \_\_\_\_\_, (Complete residence address must be inserted). My mailing address is \_\_\_\_\_, (Complete only if the mailing address is different from the residence address.)

(3) That I am a member of the \_\_\_\_\_ party. I am a candidate

for nomination to the office of \_\_\_\_\_ (Include the district designation if you are seeking a town legislative body seat.)

(4) I comply with all requirements under the laws of the State of Indiana to be a candidate for the above named office, including any applicable residency requirements, and I am not ineligible to be a candidate due to a criminal conviction that would prohibit me from serving in this office.

(Signature) \_\_\_\_\_

Subscribed and sworn to (or affirmed) before me this \_\_\_\_\_ day of \_\_\_\_\_,

My commission expires: \_\_\_\_\_  
 County of Residence: \_\_\_\_\_

(Hour and Date) Filed in the office of \_\_\_\_\_ at \_\_\_\_\_ p.m./a.m. this \_\_\_\_\_ day of \_\_\_\_\_,

(e) Immediately after the deadline for filing, the circuit court clerk shall do all of the following:

(1) Certify to the town clerk-treasurer and release to the public a list of the candidates of each political party for each office. The list shall indicate any candidates of a political party nominated for an office under this chapter because of the failure of any other candidates of that political party to file a declaration of candidacy for that office.

(2) Post a copy of the list in a prominent place in the circuit court clerk's office.

(3) File a copy of each declaration of candidacy with the town clerk-treasurer.

(f) A person who files a declaration of candidacy for an elected office for which a per diem or salary is provided for by law is disqualified from filing a declaration of candidacy for another office for which a per diem or salary is provided for by law until the original declaration is withdrawn.

(g) A person who files a declaration of candidacy for an elected office may not file a declaration of candidacy for that office in the same year as a member of a different political party until the original declaration is withdrawn. [P.L.3-1987, § 115; P.L.10-1988, § 41; P.L.4-1991, § 39; P.L.3-1993, § 65.]

**3-8-5-11. Town conventions — Persons eligible to vote.** — To determine who may vote at the convention, the standards prescribed by IC 3-10-1-6 through IC 3-10-1-10 for determining po-



litical party affiliation at a primary election apply. [P.L.5-1986, § 4.]

§ 116; P.L.10-1988, § 43; P.L.3-1989, § 5; P.L.3-1993, § 67.]

**3-8-5-12. Town conventions — Chairman — Secretary — Vote necessary to nominate.** — (a) The town chairman and secretary of each political party shall act as chairman and secretary of their respective conventions. If the town chairman of the political party is unable or unwilling to act as chairman of the convention, the convention shall elect a chairman of the convention from among the voters attending the convention. If the town secretary of the political party is unable or unwilling to act as secretary of the convention, the convention shall elect a secretary of the convention from among the voters attending the convention.

(b) The candidates for town offices must be nominated by a majority of the voters present and voting, but:

- (1) If the town has a population of less than one thousand (1,000), at least ten (10) voters must attend the convention and vote; or
- (2) If the town has a population of at least one thousand (1,000), at least twenty (20) voters must attend the convention and vote. [P.L.5-1986, § 4; P.L.10-1988, § 42; P.L.4-1991, § 40; P.L.3-1993, § 66.]

**3-8-5-13. Certificate of nomination — Issuance — Contents — Acknowledgment — Filing.** — (a) The chairman and secretary of a town convention shall execute a certificate of nomination in writing, setting out the following:

- (1) The name of each nominee.
- (2) The residence address of each nominee.
- (3) The office for which each nominee was nominated.
- (4) That each nominee is legally qualified to hold office.
- (5) The political party device or emblem by which the ticket will be designated on the ballot.

(b) Both the chairman and secretary shall acknowledge the certificate before an officer authorized to take acknowledgment of deeds.

(c) The certificate must be filed with the circuit court clerk of the county having the greatest percentage of the population of the town.

(d) The certificate must be filed with the circuit court clerk no later than noon September 21 before the municipal election.

(e) The circuit court clerk shall file a copy of each certificate with the town clerk-treasurer no later than noon September 30. [P.L.5-1986, § 4; P.L.3-1987

**3-8-5-14. Certificate of nomination — Form.** — A certificate of nomination must be in the following form:  
To the Circuit Court Clerk of \_\_\_\_\_ County, State of Indiana.

The undersigned certify the following:

- (1) that a convention of the \_\_\_\_\_ party (insert the name of the party) was duly held in the town on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ for the purpose of nominating candidates of the party for the town election to be held at \_\_\_\_\_ on the \_\_\_\_\_ day of November, \_\_\_\_\_.
- (2) that twenty (20) or more registered voters attended the convention and voted, or in a town having a population of less than one thousand (1,000), that ten (10) or more registered voters attended the convention and voted.
- (3) that at the convention the following candidates were nominated for the respective offices and the residence of each candidate is stated as follows:

Name	Residence	Office
_____	_____	_____
_____	_____	_____
_____	_____	_____

- (4) that each candidate for town council resides in the ward for which the person is a candidate.
- (5) that each candidate is a registered voter of the town and legally qualified to hold the office for which the person is a candidate.
- (6) that the title of the party that the candidates represent is the \_\_\_\_\_ party, and the device by which the candidates may be designated on the ballots is the \_\_\_\_\_ (a symbol to designate the party).
- (7) that the undersigned were respectively the presiding officer and secretary of the convention.

In witness whereof, we have set our hands this \_\_\_\_\_ day of \_\_\_\_\_,

\_\_\_\_\_  
Presiding Officer, \_\_\_\_\_  
Town Convention of the Town of \_\_\_\_\_

\_\_\_\_\_  
Residence of Presiding Officer

\_\_\_\_\_  
Secretary of the \_\_\_\_\_

\_\_\_\_\_  
Town Convention of the Town of \_\_\_\_\_

\_\_\_\_\_  
Residence of the Secretary

STATE OF INDIANA )
COUNTY OF \_\_\_\_\_ ) ss:

The above named \_\_\_\_\_ and \_\_\_\_\_, who were respectively the presiding officer and secretary of the \_\_\_\_\_ Town Convention of the Town of \_\_\_\_\_ in \_\_\_\_\_ County, State of Indiana, held at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and as such officers personally appeared before the undersigned notary public, each acknowledges the execution of the above instrument and certificate.

Witness my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Notary Public

My Commission Expires: \_\_\_\_\_
County of Residence: \_\_\_\_\_
[P.L.5-1986, § 4; P.L.10-1988, § 44; P.L.8-1989, § 4; P.L.3-1993, § 68.]

3-8-5-14.3. Convention not required — Municipal election. — If a convention is not required under section 10 [IC 3-8-5-10] of this chapter, notwithstanding IC 3-10-7:

- (1) A municipal primary election or town convention may not be held; and
(2) Each candidate who filed a declaration of candidacy shall be placed on the municipal election ballot, unless IC 3-10-7-6(b) applies. [P.L.3-1993, § 69.]

3-8-5-14.5. Withdrawal by town convention nominee — Notice. — (a) A town election board or circuit court clerk conducting a municipal election under IC 3-10-7 may not include the name of a candidate nominated by a town convention on the municipal election ballot if the person files a notice to withdraw with the board or clerk.

- (b) The notice to withdraw must:
(1) Be signed and acknowledged before an officer authorized to take acknowledgments of deeds;
(2) Have the certificate of acknowledgment appended to the notice; and
(3) Be filed with the board or clerk no later than noon three (3) days following the adjournment of the convention. [P.L.10-1988, § 45.]

3-8-5-15. Preservation of certificate and petitions of nomination and declarations of candidacy. — A town clerk-

treasurer shall preserve in the clerk-treasurer's office:

- (1) All certificates of nomination and declarations of candidacy filed with the town clerk-treasurer under this chapter; and
(2) All petitions of nomination filed under IC 3-8-6-10; for the period required under IC 3-10-1-31 after the municipal election for which the nominations were made. [P.L.5-1986, § 4; P.L.3-1987, § 117; P.L.10-1988, § 46.]

3-8-5-16. [Repealed.]

CHAPTER 6

NOMINATION BY PETITION FOR INDEPENDENT OR MINOR POLITICAL PARTY CANDIDATES

SECTION.

- 3-8-6-1. Applicability of chapter.
3-8-6-2. Persons and candidates qualified to make nomination by petition.
3-8-6-3. Petition of nomination — Number of voter signatures required.
3-8-6-4. Political subdivision of candidate.
3-8-6-5. Petition of nomination — Contents.
3-8-6-6. Petition of nomination — Signature pages.
3-8-6-7. Petition of nomination — Signatures.
3-8-6-8. Petition of nomination — Certification.
3-8-6-9. [Repealed.]
3-8-6-10. Petition of nomination — Submission for certification — Filing — Census year.
3-8-6-11. Filing of petitions in certain counties — Verification of eligibility of petitioners.
3-8-6-12. Filing of certified petitions — Consent of candidate — Statement by circuit court clerk.
3-8-6-13. Petition of nomination — Special elections.
3-8-6-13.5. Withdrawal of petition of nomination.
3-8-6-14. Candidate's authorization — Candidate eligibility required.
3-8-6-15. [Repealed.]
3-8-6-16. Removal of ineligible candidate from ballot — Filling vacancy.

3-8-6-1. Applicability of chapter. — This chapter applies to a candidate for nomination to an elected office who:

- (1) Is an independent candidate; or
(2) Represents a political party not qualified to nominate candidates in a primary or by convention. [P.L.5-1986, § 4; P.L.3-1993, § 70.]

3-8-6-2. Persons and candidates qualified to make nomination by petition. — A candidate may be nominated for an elected office by petition of voters who are registered to vote at the time of

signing the petition and qualified to vote for the candidate. [P.L.5-1986, § 4.]

designated on the ballot. [P.L.5-1986, § 4; P.L.10-1988, § 47; P.L.3-1993, § 72.]

**3-8-6-3. Petition of nomination — Number of voter signatures required.** — A petition of nomination must be signed by the number of voters equal to two percent (2%) of the total vote cast at the last election for secretary of state in the election district that the candidate seeks to represent. However, a petition of nomination must be signed by at least five (5) voters. [P.L.5-1986, § 4.]

**3-8-6-4. Political subdivision of candidate.** — (a) Each candidate nominated by petition under section 2 [IC 3-8-6-2] of this chapter must be seeking an office that serves the entire state or a congressional or legislative district, or the same political subdivision.

(b) An independent candidate may not include the name of any other candidate on the petition, except for the other candidate included on a ticket for President and Vice President of the United States or governor and lieutenant governor. [P.L.5-1986, § 4; P.L.3-1993, § 71.]

**3-8-6-5. Petition of nomination — Contents.** — A petition of nomination:

- (1) Must state the name and address of each candidate, including the mailing address, if different from the residence address of the candidate;
- (2) Must state the office that each candidate seeks;
- (3) Must state the information required under IC 3-10-4-5, if the petition nominates candidates for presidential electors;
- (4) Must state whether or not each candidate:
  - (A) Has been a candidate for state or local office in a previous primary or general election; and
  - (B) Has filed all reports required by IC 3-9-5-10 for all previous candidates;
- (5) Must state that each candidate is legally qualified to hold the office that the candidate seeks, including any applicable residency requirements and restrictions on service due to a criminal conviction;
- (6) Must state that the petitioners desire and are registered and qualified to vote for each candidate; and
- (7) May designate a brief name of the political party that the candidates represent, or indicate that the candidate is an independent candidate, together with a simple figure or device by which its lists of candidates may be

**3-8-6-6. Petition of nomination — Signature pages.** — The signatures to a petition of nomination need not be appended to one (1) paper, but a petitioner may not be counted unless at the time of signing the petitioner is registered and qualified to vote. Each petition must contain the following:

- (1) The signature of each petitioner.
- (2) The name of each petitioner legibly printed.
- (3) The residence mailing address of each petitioner.

[P.L.5-1986, § 4.]

**3-8-6-7. Petition of nomination — Signatures.** — Each petitioner on a petition of nomination must sign the petitioner's name or have the petitioner's mark attested. [P.L.5-1986, § 4.]

**3-8-6-8. Petition of nomination — Certification.** — For a petition of nomination to be considered valid by the officer required to receive the petition, the circuit court clerk or board of registration in the county where the petitioner is registered must certify that each petitioner is a voter in the county. The certification must accompany and be part of each petition. The certification must indicate that each petitioner is eligible to vote for the candidates being nominated by the petition. [P.L.5-1986, § 4.]

**3-8-6-9. [Repealed.]**

**3-8-6-10. Petition of nomination — Submission for certification — Filing — Census year.** — (a) Except as provided in section 11 [IC 3-8-6-11] of this chapter, a petition of nomination must be submitted to the circuit court clerk or board of registration of each county in which the election district is located.

(b) The petition must be:

- (1) Filed during the period beginning January 1 of the year in which the election will be held and ending at noon July 15 before the election; and
- (2) Accompanied by the candidate's written consent to become a candidate and any statement of economic interests required under IC 3-8-1-33.

(c) The clerk or board shall certify and file a petition that complies with the requirements of this chapter with the public official authorized to place names on the ballot (and with the town clerk-

treasurer, if the petition of nomination is for a town office) by noon August 1.

(d) During a year in which a federal decennial census, federal special census, special tabulation, or corrected population count becomes effective under IC 1-1-3.5, a petition of nomination may be filed for an office that will appear on the primary election ballot that year as a result of the new tabulation of population or corrected population count. [P.L.5-1986, § 4; P.L.3-1987, § 118; P.L.1-1988, § 6; P.L.10-1988, § 48; P.L.2-1990, § 7.]

**3-8-6-11. Filing of petitions in certain counties — Verification of eligibility of petitioners.** — (a) Whenever a town is wholly or partly located in a county having a consolidated city, a petition of nomination must be filed with the circuit court clerk of the county having the consolidated city.

(b) Whenever a town not described in subsection (a) has entered into an agreement with a county under IC 3-10-7-4, the petition must be filed with the circuit court clerk or board of registration of that county.

(c) Whenever a school corporation is located in more than one (1) county, a petition for the nomination of a candidate to a school board office must be filed with the circuit court clerk or board of registration of the county having the greatest percentage of population of the election district.

(d) When a petition is filed under subsection (a), (b), or (c) for nomination to an office whose election district is in more than one (1) county, the circuit court clerk or board of registration shall examine the voter registration records of each county in the election district to determine if each petitioner is eligible to vote for the candidates being nominated by the petition. [P.L.5-1986, § 4; P.L.6-1986, § 5; P.L.3-1987, § 119; P.L.10-1988, § 49; P.L.3-1989, § 6.]

**3-8-6-12. Filing of certified petitions — Consent of candidate — Statement by circuit court clerk.** — (a) A petition of nomination for an office filed under section 10 [IC 3-8-6-10] of this chapter must be filed with and certified by the person with whom a declaration of candidacy must be filed under IC 3-8-2.

(b) The petition of nomination must be accompanied by:

- (1) Each candidate's written consent to become a candidate; and
- (2) If the petition is filed with the secretary of state for an office not elected by the electorate of the whole

state, a statement signed by the circuit court clerk of each county in the election district of the office sought by the individual.

(c) The statement required under subsection (b)(2) must:

- (1) Be certified by each circuit court clerk; and
- (2) Indicate the number of votes cast for secretary of state:
  - (A) At the last election for secretary of state; and
  - (B) In the part of the county included in the election district of the office sought by the individual filing the petition.

(d) The secretary of state shall, by noon August 20, certify each petition of nomination filed in the secretary of state's office to the appropriate county. [P.L.5-1986, § 4; P.L.3-1987, § 120; P.L.10-1988, § 50; P.L.4-1991, § 41.]

**3-8-6-13. Petition of nomination — Special elections.** — In a special election called by the governor, a petition of nomination shall be filed with the circuit court clerk or other public official with whom a petition is required to be filed, at any time after the election is called but no later than noon fifty (50) days before the date of the election. [P.L.5-1986, § 4; P.L.3-1987, § 121; P.L.10-1988, § 51.]

**3-8-6-13.5. Withdrawal of petition of nomination.** — A candidate may withdraw a petition of nomination by noon:

- (1) August 1 before a general or municipal election; or
- (2) Forty-five (45) days before a special election. [P.L.3-1987, § 122; P.L.10-1988, § 52; P.L.3-1993, § 73.]

**3-8-6-14. Candidate's authorization — Candidate eligibility required.** — (a) A person may not be selected as a candidate by petition of nomination without giving written consent and having it filed with the public official with whom certificates and petitions of nomination are required to be filed.

(b) Each candidate nominated by petition of nomination must satisfy all statutory eligibility requirements for the office for which the candidate is nominated, including the filing of statements of economic interest.

(c) All questions concerning the validity of a petition of nomination filed with the secretary of state shall be referred to and determined by the state election board.

(d) All questions concerning the validity of a petition of nomination filed with a

circuit court clerk shall be referred to and determined by the county election board.

(e) The state election board or a county election board shall rule on the validity of the petition of nomination not later than noon August 20 following the filing of the certificate. [P.L.5-1986, § 4; P.L.10-1988, § 53; P.L.3-1993, § 74.]

### 3-8-6-15. [Repealed.]

### 3-8-6-16. Removal of ineligible candidate from ballot — Filling vacancy.

— (a) This section applies if a person:

- (1) Files a petition of nomination under this chapter;
- (2) Moves from the election district that the person sought to represent following the filing of the petition of nomination;
- (3) Does not file a notice of withdrawal of candidacy under section 13.5 [IC 3-8-6-13.5] of this chapter; and
- (4) Is no longer an active candidate.

(b) The county chairman of any political party on the ballot in the election district or a candidate for the office sought by the person described in subsection (a) may, upon determining that this section applies, file an action in the circuit court in the county where the person described in subsection (a) resided. The complaint in this action must:

- (1) State that this section applies to the person;
- (2) Name the person described in subsection (a) and the public official responsible for placing that person's name on the ballot as defendants; and
- (3) Be filed no later than a notice of withdrawal could have been filed under section 13.5 of this chapter.

(c) When a complaint is filed under subsection (b), the circuit court shall conduct a hearing and rule on the petition within ten (10) days after it is filed.

(d) If the court finds in favor of the plaintiff, a candidate vacancy occurs on the:

- (1) General election ballot; and
- (2) Primary election ballot if no other person is:
  - (A) A member of the same political party as the person described in subsection (a); and
  - (B) A candidate on the ballot for the office sought by the person described in subsection (a).

(e) The candidate vacancy shall be filled under IC 3-13-1 if the candidate represents a political party not qualified to nominate candidates in a primary or by convention. [P.L.3-1987, § 123.]

## CHAPTER 7

### CERTIFICATION OF NOMINEES

#### SECTION.

- 3-8-7-1. Primary election winner is nominee.
- 3-8-7-2. Certification of primary results for federal, state and multiple county offices.
- 3-8-7-3. Certification errors.
- 3-8-7-4. Certification of county and municipal nominees.
- 3-8-7-5. List of local candidates nominated and state convention delegates elected in primary elections.
- 3-8-7-6. Lists of local, state and federal candidates nominated and state convention delegates elected in primary elections.
- 3-8-7-7. [Repealed.]
- 3-8-7-8. Certification of nominees selected at state conventions.
- 3-8-7-9. Certification of primary elections for United States Senator and governor.
- 3-8-7-10. Certificates of nomination — Form — Content.
- 3-8-7-11. Political party emblems.
- 3-8-7-12. Certificates of nomination — Official with whom filed.
- 3-8-7-13. Candidate eligibility requirements.
- 3-8-7-14. Certificates of nomination — Time for filing.
- 3-8-7-15. Certificates of nomination — Special elections.
- 3-8-7-16. Certified list of state-wide candidates — Ballot listings.
- 3-8-7-17. Refusal to accept nomination.
- 3-8-7-18. Certificate or petition of nomination containing multiple candidates.
- 3-8-7-19. Multiple listing of candidate on ballot prohibited — Exception.
- 3-8-7-20. Candidates nominated by both convention and petition.
- 3-8-7-21. Candidates nominated by multiple parties — Election of party by candidate.
- 3-8-7-22. Candidates nominated by multiple parties — Election of party by secretary of state or circuit court clerk.
- 3-8-7-23. Candidates nominated by multiple parties — Placement on list of nominees.
- 3-8-7-24. Certificates and petitions of nomination — Preservation following election.
- 3-8-7-25. Listing of candidates on general and municipal election ballots.
- 3-8-7-26. Political party divisions and factions — Selection of names and emblems.
- 3-8-7-27. Call of conventions by political party divisions or factions — Certain petition nominees treated as convention nominees.
- 3-8-7-28. Withdrawal of nomination.
- 3-8-7-29. Removal of ineligible candidate from ballot — Filling vacancy.
- 3-8-7-30. Certification of write-in candidates to circuit court clerk.

**3-8-7-1. Primary election winner is nominee.** — The candidate of a political party receiving the highest vote for an office at a primary election is the nominee

of that party for that office. [P.L.5-1986, § 4.]

**3-8-7-2. Certification of primary results for federal, state and multiple county offices.** — The secretary of state shall, by noon August 20, certify the primary election results canvassed and tabulated under IC 3-10-1-34 for:

- (1) Candidates for federal and state offices; and
- (2) Candidates for legislative and local offices representing election districts not wholly within one (1) county;

to the circuit court clerk of each county in which the candidates are to be voted for at the next general election. No other form of certification of nomination for the offices is necessary. [P.L.5-1986, § 4; P.L.3-1987, § 124.]

**3-8-7-3. Certification errors.** — (a) Except as provided in subsection (b), an error in certification discovered before sixty (60) days before a general election shall be corrected by the public officials charged with the duties of certification.

(b) An error in certification of candidates for a town office under IC 3-8-5 discovered before October 8 before a town election shall be corrected by the public officials charged with the duties of certification. [P.L.5-1986, § 4; P.L.3-1993, § 75.]

**3-8-7-4. Certification of county and municipal nominees.** — A person nominated at a primary election held under this title within a county or a municipality does not have to be certified as a candidate to any election board. [P.L.5-1986, § 4.]

**3-8-7-5. List of local candidates nominated and state convention delegates elected in primary elections.** — Each circuit court clerk, within twenty (20) days after a primary election conducted in a year in which a general election will be held, shall furnish the secretary of state a complete list of all:

- (1) Candidates nominated; and
- (2) State convention delegates elected;

at the primary election. The list must include the address of each candidate and delegate and the United States congressional district in which each candidate and delegate resides. [P.L.5-1986, § 4; P.L.10-1988, § 54.]

**3-8-7-6. Lists of local, state and federal candidates nominated and state convention delegates elected in primary elections.** — Within ten (10) days

after receipt of the candidate and delegate lists from each circuit court clerk under section 5 [IC 3-8-7-5] of this chapter, the secretary of state shall furnish to the state chairman of each political party in the state whose nominee received at least ten percent (10%) of the total vote cast for secretary of state at the last election a complete list, certified under the secretary's hand and seal, of:

- (1) All candidates nominated and delegates elected as certified by the clerks under section 5 of this chapter; and
- (2) All candidates shown to be nominated by the canvass of the secretary of state under IC 3-10-1-34.

Each list must include the address of each candidate and delegate. The delegate lists shall be certified in duplicate, separate from the candidate lists. [P.L.5-1986, § 4.]

**3-8-7-7. [Repealed.]**

**3-8-7-8. Certification of nominees selected at state conventions.** — Either the chairman and secretary of a state convention or the state chairman and state secretary of the political party holding the state convention shall certify each candidate nominated at the convention to the secretary of state by noon August 1 before the general election. No other form of certification of nomination for the offices is necessary. [P.L.5-1986, § 4; P.L.3-1987, § 125.]

**3-8-7-9. Certification of primary elections for United States Senator and governor.** — The secretary of state shall, by noon August 20, certify the tabulated results of the canvass of the primary election votes cast for candidates for United States Senator and governor made under IC 3-10-1-34. No other form of certification of nomination for the offices is necessary. [P.L.5-1986, § 4; P.L.3-1987, § 126.]

**3-8-7-10. Certificates of nomination — Form — Content.** — A certificate of nomination by convention or primary election must:

- (1) Be in writing;
- (2) Contain the name of each person nominated, the person's residence address, and the office for which the person is nominated;
- (3) Designate a title for the political party or principle that the convention or primary election represents, together with a simple figure or device by which its lists of candidates may be designated on the ballot; and

(4) Be signed by the chairman and secretary of the convention, or by the chairman and secretary of the state, county, city, or town committee, who shall also give their respective places of residence and acknowledge the certificate before an officer authorized to take acknowledgments of deeds. The certificate of acknowledgment must be appended to the certificate of nomination. [P.L.5-1986, § 4; P.L.10-1988, § 55.]

**3-8-7-11. Political party emblems.** — If the certificate of nomination of a state convention requests that the figure or device selected by the convention be used to designate the candidates of the political party on the ballot for all elections throughout the state, the figure or device must be used until changed by a subsequent state convention of the same party. The device may be any appropriate symbol. However, the coat of arms or seal of the state or of the United States, the national or state flag, or any other emblem common to the people at large may not be used as the figure or device. [P.L.5-1986, § 4; P.L.3-1987, § 127.]

**3-8-7-12. Certificates of nomination — Official with whom filed.** — A certificate of nomination for an office to be elected by the electorate of the whole state shall be filed with the secretary of state. A certificate of nomination for any other elected office shall be filed with the person with whom a declaration of candidacy shall be filed. The secretary of state shall, by noon August 20, certify each certificate of nomination filed in the secretary of state's office to the appropriate county. [P.L.5-1986, § 4; P.L.3-1987, § 128.]

**3-8-7-13. Candidate eligibility requirements.** — Each candidate nominated by certificate of nomination must satisfy all statutory eligibility requirements for the office for which the candidate is nominated, including filing statements of economic interest. [P.L.5-1986, § 4; P.L.10-1988, § 56.]

**3-8-7-14. Certificates of nomination — Time for filing.** — A certificate of nomination required to be filed with the secretary of state or circuit court clerk shall be filed no later than noon August 1 before the date fixed for the election of the person nominated. [P.L.5-1986, § 4; P.L.3-1987, § 129; P.L.10-1988, § 57.]

**3-8-7-15. Certificates of nomination — Special elections.** — In a special

election called by the governor, a certificate of nomination may be filed with the public official with whom a certificate is required to be filed at any time after the election is called but no later than noon fifty (50) days before the date of the election. [P.L.5-1986, § 4; P.L.10-1988, § 58.]

**3-8-7-16. Certified list of state-wide candidates — Ballot listings.** — The secretary of state shall certify to each circuit court clerk by noon August 20 (or noon September 2 for nominees for United States President and Vice President) before an election the name and place of residence of each person nominated for an office for which the electorate of the whole state may vote. The secretary of state shall designate the device under which the list of candidates of each political party will be printed and the order in which the political party ticket will be arranged under IC 3-10-4-2 and IC 3-11-2-6. [P.L.5-1986, § 4; P.L.3-1987, § 130; P.L.10-1988, § 59.]

**3-8-7-17. Refusal to accept nomination.** — The secretary of state may not certify the name of a person whose certificate or petition of nomination has been filed in the office of the secretary of state if the person has notified the secretary of state in writing that the person will not accept the nomination contained in the certificate or petition of nomination. The written notice must be signed and acknowledged before an officer authorized to take acknowledgments of deeds. The certificate of acknowledgment must be appended to the written notice. A circuit court clerk may not include on the ballot the name of a person whose certificate or petition of nomination has been filed in the clerk's office if the person has notified the clerk in the same manner that the person will not accept the nomination. The name of a candidate who has given notice under this section may not be included on the ballot. [P.L.5-1986, § 4; P.L.3-1987, § 131; P.L.10-1988, § 60.]

**3-8-7-18. Certificate or petition of nomination containing multiple candidates.** — If a certificate or petition of nomination contains the name of more than one (1) candidate for an elected office, neither name may be printed as a candidate for the office. [P.L.5-1986, § 4.]

**3-8-7-19. Multiple listing of candidates on ballot prohibited — Exception.** — (a) Except as provided in subsection (b), the name of a person who has been nominated as a candidate for an elected

office may not appear in more than one (1) place on a ballot.

(b) The name of a person who is nominated as a candidate of a political party:

(1) For a federal office in a primary election; and

(2) For Vice President of the United States during the same year;

may appear on the general election ballot as a candidate for the federal office and for Vice President of the United States. [P.L.5-1986, § 4; P.L.12-1988, § 2.]

**3-8-7-20. Candidates nominated by both convention and petition.** — If a person has been nominated as a candidate for the same office by both convention and petition, the person's name may be placed on the ballot only once. The person's name shall be placed on the list of candidates nominated by convention, and the place occupied by the person's name in the petition must be left blank. However, if the candidate files a written statement:

(1) Acknowledged before a person authorized to take acknowledgments;

(2) In the office where a petition of nomination for the office must be filed;

(3) No later than noon of the last day for filing a nomination; and

(4) Requesting that the person's name be printed as nominated by petition;

the person's name must be so printed and omitted from the list nominated by convention. [P.L.5-1986, § 4; P.L.10-1988, § 61.]

**3-8-7-21. Candidates nominated by multiple parties — Election of party by candidate.** — If a person has been nominated by two (2) or more political parties, or as an independent candidate and as the nominee of at least one (1) political party, the person must elect which of the nominations the person will accept. The election must be in writing, signed, acknowledged before an officer authorized to take acknowledgments, and filed. If the person has been nominated for an office for which the electorate of the whole state may vote, the person shall file the election with the secretary of state by noon August 1 before the election. If a person has been nominated for an office for which a certificate or petition of nomination shall be filed with the circuit court clerk, the person shall file the election with:

(1) The circuit court clerk of the county in which the nomination was made if for an office in the county; or

(2) The circuit court clerk of each county in the district if for a district office;

by noon August 1 before the election. [P.L.5-1986, § 4; P.L.3-1987, § 132; P.L.3-1993, § 76.]

**3-8-7-22. Candidates nominated by multiple parties — Election of party by secretary of state or circuit court clerk.**

— If a person nominated by two (2) or more political parties, or as an independent candidate and as the nominee of at least one (1) political party, does not make and file an election as required by section 21 [IC 3-8-7-21] of this chapter, the secretary of state or circuit court clerk shall make the election for the person. Preference shall be given to the nomination made by convention. [P.L.5-1986, § 4; P.L.3-1987, § 133; P.L.3-1993, § 77.]

**3-8-7-23. Candidates nominated by multiple parties — Placement on list of nominees.** — After the election required by section 21 or 22 [IC 3-8-7-21 or IC 3-8-7-22] of this chapter is made, the appropriate election board shall place the name of the person on the list of nominees under only the designation as an independent candidate or the political party name and device indicated by the person or by the secretary of state or circuit court clerk.

[P.L.5-1986, § 4; P.L.3-1987, § 134; P.L.3-1993, § 78.]

**3-8-7-24. Certificates and petitions of nomination — Preservation following election.** — The secretary of state and each circuit court clerk shall have preserved in their offices all certificates and petitions of nomination filed under this article for the period required under IC 3-10-1-31. [P.L.5-1986, § 4; P.L.3-1987, § 135; P.L.3-1993, § 79.]

**3-8-7-25. Listing of candidates on general and municipal election ballots.**

— The state election board and each county election board shall have printed on the respective general or municipal election ballots the names of the following candidates:

(1) Nominees chosen at a primary election under IC 3-10 and certified as required by this chapter.

(2) Nominees chosen by a convention of a political party in the state whose candidate received at least two percent (2%) of the total vote cast for secretary of state at the last election and certified under section 8 [IC 3-8-7-8] of this chapter.

(3) Nominees nominated by petition under IC 3-8-6.

[P.L.5-1986, § 4.]



**3-8-7-26. Political party divisions and factions — Selection of names and emblems.** — If there is a division in a political party and two (2) or more factions claim the same party name, title, figure, or device, the state election board, or the county election board, if appropriate, shall give preference of name to the convention held at the time and place designated in the call of the regularly constituted party authorities. If another faction presents no other party name, title, or device, the state or county election board shall:

- (1) Select a name or title;
- (2) Place the selected name or title before the list of candidates of the faction that are on the ballot; and
- (3) Select some suitable device to designate the faction's candidates. [P.L.5-1986, § 4.]

**3-8-7-27. Call of conventions by political party divisions or factions — Certain petition nominees treated as convention nominees.** — If two (2) or more conventions are called by authorities claimed to be the rightful authorities of a political party, the state election board or county election board shall select suitable devices to distinguish one (1) faction from the other and have the ballots prepared accordingly. However, if a political party entitled to nominate by convention fails to do so, the names of all nominees by petition for any office who are designated in their petitions as members of and candidates of the party shall be placed on the ballot under the name and device of the party on the ballots, as if nominated by convention. [P.L.5-1986, § 4; P.L.3-1987, § 136.]

**3-8-7-28. Withdrawal of nomination.** — (a) Except as provided in subsections (b) and (c), if a nominee certified under this chapter desires to withdraw from the ticket, the nominee must file a notice of withdrawal in writing with the public official with whom the certificate of nomination was filed by noon:

- (1) July 15 before a general or municipal election; or
- (2) Forty-five (45) days before a special election.

(b) A candidate who is disqualified from being a candidate under IC 3-8-1-5 must file a notice of withdrawal immediately upon becoming disqualified. The filing requirements of subsection (a) do not apply to a notice of withdrawal filed under this subsection.

(c) A candidate who has moved from the election district the candidate sought to represent must file a notice of withdrawal

immediately after changing the candidate's residence. The filing requirements of subsection (a) do not apply to a notice of withdrawal filed under this subsection. [P.L.5-1986, § 4; P.L.3-1987, § 137; P.L.4-1991, § 42.]

**3-8-7-29. Removal of ineligible candidate from ballot — Filling vacancy.**

— (a) This section applies:

(1) If a person:

- (A) Has been certified as a candidate in a certificate of nomination filed under this chapter;
- (B) Moves from the election district that the person sought to represent following the filing of the certificate of nomination;
- (C) Does not file a notice of withdrawal of candidacy under section 28 [IC 3-8-7-28] of this chapter; and
- (D) Is no longer an active candidate; or

(2) If a person is disqualified from being a candidate under IC 3-8-1-5.

(b) The county chairman of any political party on the ballot in the election district or a candidate for the office sought by the person described in subsection (a) may, upon determining that this section applies, file an action in the circuit court in the county where the person described in subsection (a) resided. The complaint in this action must:

(1) State that this section applies to the person; and

(2) Name the person described in subsection (a) and the public official responsible for placing that person's name on the ballot as defendants.

(c) When a complaint is filed under subsection (b), the circuit court shall conduct a hearing and rule on the petition within ten (10) days after it is filed.

(d) If the court finds in favor of the plaintiff, a candidate vacancy occurs on the:

- (1) General election ballot; and
- (2) Primary election ballot if no other person is:

(A) A member of the same political party as the person described in subsection (a); and

(B) A candidate on the ballot for the office sought by the person described in subsection (a).

(e) The candidate vacancy shall be filled under IC 3-13-1 or IC 3-13-2. [P.L.3-1987, § 138; P.L.4-1991, § 43.]

**3-8-7-30. Certification of write-in candidates to circuit court clerk.** — (a) As soon as practicable, the secretary of

state shall certify to each circuit court clerk:

(1) The name of each individual who filed a declaration of intent to be a write-in candidate with the secretary of state; and

(2) Any political party that the individual is affiliated with, or whether the individual is an independent candidate.

(b) This subsection applies to the circuit court clerk of a county that does not use a central location to tally ballot card votes. The circuit court clerk shall provide a copy of the certification under this section to the inspector of each precinct, with instructions concerning the counting of write-in votes for declared write-in candidates. [P.L.10-1992, § 14; P.L.3-1993, § 80.]

## ARTICLE 9

### POLITICAL CAMPAIGNS

#### CHAPTER.

1. CAMPAIGN ORGANIZATIONS, 3-9-1-1 — 3-9-1-26.
2. CAMPAIGN CONTRIBUTIONS, 3-9-2-1 — 3-9-2-10.
3. CAMPAIGN EXPENSES, 3-9-3-1 — 3-9-3-4.
4. ADMINISTRATION BY ELECTION BOARDS, 3-9-4-1 — 3-9-4-18.
5. REPORTS REQUIRED OF CANDIDATES AND COMMITTEES, 3-9-5-1 — 3-9-5-19.
6. SCHOOL DISTRICT ELECTION CAMPAIGNS, 3-9-6-1 — 3-9-6-5.
7. MISCELLANEOUS PROVISIONS, 3-9-7-1 — 3-9-7-3.

#### CHAPTER 1

##### CAMPAIGN ORGANIZATIONS

#### SECTION.

- 3-9-1-1. Applicability.
- 3-9-1-2. Committee chairman and treasurer — Committee expenditures.
- 3-9-1-3. Statement of committee organization — Filing.
- 3-9-1-4. Statement of committee organization — Contents.
- 3-9-1-5. Principal committee name and officers — Designation by candidate.
- 3-9-1-6. Principal committee name and officers — Candidates failing to designate.
- 3-9-1-7. Candidate as candidate's committee officer.
- 3-9-1-8. Candidate ex officio member of candidate's committee.
- 3-9-1-9. [Repealed.]
- 3-9-1-10. Statement of committee organization — Changes.
- 3-9-1-11. [Repealed.]
- 3-9-1-12. Disbanding committees.
- 3-9-1-13. Committee treasurers — Qualifications.
- 3-9-1-14. Committee treasurers — Appointment or designation.
- 3-9-1-15. Committee treasurers — Filing of notice of appointment or designation.
- 3-9-1-16, 3-9-1-17. [Repealed.]
- 3-9-1-18. Committee treasurers — Service on multiple committees.

#### SECTION.

- 3-9-1-19. Removal and replacement of committee chairman or treasurer.
- 3-9-1-20. Collection and disbursement of committee funds — Handling by treasurer required.
- 3-9-1-21. Committee treasurers — Expenses and disbursements subject to committee's authority.
- 3-9-1-22. Disbursement vouchers.
- 3-9-1-23. Committee treasurer's account.
- 3-9-1-24. Committee treasurer — Records and files required.
- 3-9-1-25. Solicitation and receipt of contributions by committeemen other than treasurer — Authority — Turning over funds — Treasurer's report.
- 3-9-1-26. Receipt or disbursement of funds by committeeman other than treasurer — Applicability of treasurer's requirements, obligations and penalties.

**3-9-1-1. Applicability.** — (a) Except as provided in subsection (b), this chapter applies to candidates in all elections and caucuses and to the following types of committees:

- (1) Candidate's committees.
- (2) Regular party committees.
- (3) Political action committees.

(b) This chapter does not apply to the following:

- (1) Elections to local offices for which the compensation is less than five thousand dollars (\$5,000) per year.
- (2) Candidates for school board office.
- (3) Elections for precinct committeeman or delegate to a state convention. [P.L.5-1986, § 5; P.L.3-1987, § 139; P.L.4-1991, § 44; P.L.3-1993, § 81.]

**3-9-1-2. Committee chairman and treasurer — Committee expenditures.** — Each committee must have a chairman and a treasurer who are ex officio members of the committee. A person may not make an expenditure or accept a contribution for or on behalf of a committee without the authorization of its chairman or treasurer. [P.L.5-1986, § 5.]

**3-9-1-3. Statement of committee organization — Filing.** — Each committee must file a statement of organization no later than noon ten (10) days after its organization or after it becomes a committee. Each committee in existence on July 1, 1977, must have filed a statement of organization with the proper office at the time the state election board prescribed. [P.L.5-1986, § 5; P.L.10-1988, § 62.]

**3-9-1-4. Statement of committee organization — Contents.** — A committee

must include in its statement of organization the following:

- (1) The name and address of the committee.
- (2) The purpose for which the committee is formed.
- (3) The name and address of the chairman and treasurer.
- (4) If applicable, the name, address, office sought, and political party affiliation or independent status of each candidate whom the committee is supporting.
- (5) If the committee is supporting the entire ticket of a political party, the name of the party.
- (6) If the committee is supporting or opposing a public question, a brief statement of the question supported or opposed.
- (7) A listing of all banks, safety deposit boxes, and other depositories used. [P.L.5-1986, § 5; P.L.3-1993, § 82.]

**3-9-1-5. Principal committee name and officers — Designation by candidate.** — Each candidate shall have a principal committee. No later than noon ten (10) days after becoming a candidate, the candidate shall file a written instrument designating the name of the principal committee and the name of the chairman and treasurer of the committee. This designation may be made on the same instrument as the statement of organization required from the principal committee. [P.L.5-1986, § 5; P.L.3-1987, § 140; P.L.10-1988, § 63; P.L.8-1992, § 6.]

**3-9-1-6. Principal committee name and officers — Candidates failing to designate.** — If a candidate fails to file the instrument required by section 5 [IC 3-9-1-5] of this chapter, the candidate's principal committee is designated as "the (insert the name of the candidate) for ..... (insert the title of the office sought by the candidate) committee." The candidate is then both chairman and treasurer of the committee. [P.L.5-1986, § 5.]

**3-9-1-7. Candidate as candidate's committee officer.** — A candidate may be chairman, treasurer, or both chairman and treasurer of the candidate's committee. [P.L.5-1986, § 5.]

**3-9-1-8. Candidate ex officio member of candidate's committee.** — A candidate is an ex officio member of the candidate's committee. [P.L.5-1986, § 5.]

### **3-9-1-9. [Repealed.]**

**3-9-1-10. Statement of committee organization — Changes.** — A committee shall report any change in information previously submitted in a statement of organization within ten (10) days following the change. [P.L.5-1986, § 5.]

### **3-9-1-11. [Repealed.]**

**3-9-1-12. Disbanding committees.** — A committee may disband at any time. The committee must do either of the following:

- (1) Give written notification of the dissolution and transfer a surplus of contributions less expenditures to any one (1) or a combination of the following:

(A) One (1) or more regular party committees.

(B) One (1) or more candidate's committees.

(C) The state election board.

(D) An organization exempt from federal income taxation under Section 501 of the Internal Revenue Code.

(E) Contributors to the committee, on a pro rata basis.

- (2) Use the surplus in any other manner permitted under IC 3-9-3-4.

A dissolution and transfer of funds does not relieve the committee or its members from civil or criminal liability. [P.L.5-1986, § 5; P.L.13-1987, § 1; P.L.8-1992, § 7; P.L.3-1993, § 83.]

**3-9-1-13. Committee treasurers — Qualifications.** — A treasurer of a committee:

- (1) Must be a United States citizen;
- (2) May not be the chairman of a committee except in the case of a candidate under section 7 [IC 3-9-1-7] of this chapter;
- (3) Must be appointed treasurer in writing as required by section 14 [IC 3-9-1-14] of this chapter; and
- (4) Must file the written instrument of appointment as required by section 15 [IC 3-9-1-15] of this chapter. [P.L.5-1986, § 5; P.L.8-1992, § 8.]

**3-9-1-14. Committee treasurers — Appointment or designation.** — The chairman of a committee shall appoint or designate the treasurer of the committee in a written instrument designating the particular period during which the appointment or designation continues. [P.L.5-1986, § 5.]

**3-9-1-15. Committee treasurers — Filing of notice of appointment or designation.** — The treasurer of a committee shall file a notice of the treasurer's written appointment or designation with the state election board or the county election board, as required by IC 3-9-5-2, IC 3-9-5-3, or IC 3-9-5-4. [P.L.5-1986, § 5; P.L.3-1987, § 141; P.L.10-1988, § 64.]

**3-9-1-16, 3-9-1-17. [Repealed.]**

**3-9-1-18. Committee treasurers — Service on multiple committees.** — A treasurer of one committee may be the treasurer of another committee unless the treasurer is a candidate. [P.L.5-1986, § 5.]

**3-9-1-19. Removal and replacement of committee chairman or treasurer.** —

(a) A committee may remove a person appointed or designated chairman or treasurer by the committee without assigning a cause. The committee may also appoint or designate the successor of the removed chairman or treasurer.

(b) Upon removal, the treasurer shall immediately account for and turn over to the treasurer's successor in office the value then in the treasurer's possession. [P.L.5-1986, § 5; P.L.10-1988, § 65; P.L.4-1991, § 46; P.L.3-1993, § 84.]

**3-9-1-20. Collection and disbursement of committee funds — Handling by treasurer required.** — All money or other property collected or received by a committee or by a member of it for a political purpose shall be paid over to and made to pass through the hands of the treasurer of the committee. Similarly, all money or other property must be disbursed by the treasurer. [P.L.5-1986, § 5.]

**3-9-1-21. Committee treasurers — Expenses and disbursements subject to committee's authority.** — The treasurer of a committee may not expend or disburse money or other property or incur any liability except by the authority and subject to the direction of the committee for which the treasurer is acting. [P.L.5-1986, § 5.]

**3-9-1-22. Disbursement vouchers.** — Disbursements may be made by a voucher drawn by the chairman of a committee on the treasurer and presented to the treasurer for payment. The voucher must show the specific purpose for which the money is being expended. [P.L.5-1986, § 5.]

**3-9-1-23. Committee treasurer's account.** — The treasurer of a committee

shall keep a detailed and exact account of the following:

- (1) All contributions accepted by the committee.
- (2) The full name and mailing address of each person making an aggregate contribution of more than twenty-five dollars (\$25), including the date and amount of the contribution.
- (3) All expenditures made by or on behalf of the committee.
- (4) The full name, mailing address, occupation, and the principal place of business, if any, of each person to whom an expenditure is made within the year in an aggregate amount of more than one hundred dollars (\$100), including the date and amount of the expenditure.
- (5) The name, address, and office sought by each candidate for whom any expenditure was made or a statement identifying the public question for which any expenditure was made, including the date and amount of the expenditure. [P.L.5-1986, § 5.]

**3-9-1-24. Committee treasurer — Records and files required.** — (a) The treasurer of a committee shall obtain and keep receipted bills, cancelled checks, or other proof of payment, stating the particulars for each expenditure made by or on behalf of a committee:

- (1) Of more than twenty-five dollars (\$25); and
- (2) For a smaller amount, if the aggregate amount of the expenditures to the same person during a year exceeds twenty-five dollars (\$25).

(b) The treasurer shall preserve all receipted bills and accounts required to be kept by this section for:

- (1) Three (3) years; or
- (2) One (1) year after the date of dissolution of the committee;

whichever occurs first. [P.L.5-1986, § 5; P.L.3-1987, § 142.]

**3-9-1-25. Solicitation and receipt of contributions by committeemen other than treasurer — Authority — Turning over funds — Treasurer's report.** — A member of a committee that has appointed a treasurer in accordance with this chapter may solicit or receive contributions as long as the member immediately turns over the contributions without diminution to the treasurer of the committee, to be disbursed and accounted for by the treasurer as provided by this article. The treasurer shall show, in the treasurer's account and statement and in addition to the requirements of IC 3-9-5, through what member

of the committee any contributions were received. [P.L.5-1986, § 5.]

**3-9-1-26. Receipt or disbursement of funds by committeeman other than treasurer — Applicability of treasurer's requirements, obligations and penalties.** — A person, except a person authorized by the treasurer of a committee and a member of a committee, who receives or disburses money for a political purpose is subject to all the requirements, obligations, and penalties to which the treasurer of a committee is subject. [P.L.5-1986, § 5.]

## CHAPTER 2

### CAMPAIGN CONTRIBUTIONS

#### SECTION.

- 3-9-2-1. Applicability.
- 3-9-2-2. Contributions by candidates.
- 3-9-2-3. Contributions by corporations and labor organizations permitted.
- 3-9-2-4. Contributions by corporations and labor organizations — Maximum amounts.
- 3-9-2-5. Contributions by corporations and labor organizations to committees.
- 3-9-2-6. Contributions by corporations and labor organizations — Exemptions to statutory provisions.
- 3-9-2-7. Legal expenses of election contests.
- 3-9-2-8. Central committees — Receipt of contributions from national committees.
- 3-9-2-9. Contributions to be transferred to treasurers — Commingling of funds.
- 3-9-2-10. Paid political solicitation notice.

**3-9-2-1. Applicability.** — (a) Except as provided in subsections (b) and (c), this chapter applies to candidates in all elections and caucuses and to the following types of committees:

- (1) Candidate's committees.
- (2) Regular party committees.
- (3) Political action committees.

(b) This chapter does not apply to elections:

- (1) To local offices for which the compensation is less than five thousand dollars (\$5,000) per year; or
- (2) For precinct committeeman or delegate to a state convention.

(c) Sections 8 and 9 [IC 3-9-2-8 and IC 3-9-2-9] of this chapter do not apply to candidates for school board offices. [P.L.5-1986, § 5; P.L.3-1987, § 143; P.L.3-1993, § 85.]

**3-9-2-2. Contributions by candidates.** — Except as otherwise provided in this article, a candidate may make a voluntary payment of money to a treasurer

of a committee for a purpose permitted by this article. [P.L.5-1986, § 5.]

**3-9-2-3. Contributions by corporations and labor organizations permitted.** — (a) Notwithstanding IC 23-15-5 or any other statute, a corporation or labor organization may make a contribution to aid in the:

- (1) Election or defeat of a candidate; or
- (2) The success or defeat of:
  - (A) A political party; or
  - (B) A public question submitted to a vote in an election.

(b) Contributions by a corporation or labor organization are limited to those authorized by sections 4, 5, and 6 [IC 3-9-2-4, 3-9-2-5, and 3-9-2-6] of this chapter. [P.L.5-1986, § 5; P.L.11-1987, § 3; P.L.7-1990, § 29; P.L.14-1992, § 1.]

**3-9-2-4. Contributions by corporations and labor organizations — Maximum amounts.** — During the year a corporation or labor organization may not make total contributions in excess of:

- (1) An aggregate of five thousand dollars (\$5,000) apportioned in any manner among all candidates for state offices (including a judge of the court of appeals whose retention in office is voted on by a district that does not include all of Indiana);
- (2) An aggregate of five thousand dollars (\$5,000) apportioned in any manner among all state committees of political parties;
- (3) An aggregate of two thousand dollars (\$2,000) apportioned in any manner among all candidates for the senate of the general assembly;
- (4) An aggregate of two thousand dollars (\$2,000) apportioned in any manner among all candidates for the house of representatives of the general assembly;
- (5) An aggregate of two thousand dollars (\$2,000) apportioned in any manner among regular party committees organized by a legislative caucus of the senate of the general assembly;
- (6) An aggregate of two thousand dollars (\$2,000) apportioned in any manner among regular party committees organized by a legislative caucus of the house of representatives of the general assembly;
- (7) An aggregate of two thousand dollars (\$2,000) apportioned in any manner among all candidates for school board offices and local offices; and
- (8) An aggregate of two thousand dollars (\$2,000) apportioned in any man-

ner among all central committees other than state committees. [P.L.5-1986, § 5; P.L.3-1987, § 144; P.L.10-1988, § 66.]

**3-9-2-5. Contributions by corporations and labor organizations to committees.** — A contribution:

(1) Authorized under section 4 [IC 3-9-2-4] of this chapter;  
 (2) To a committee by a corporation or labor organization; and  
 (3) Designated by that corporation or labor organization for disbursement to a specific candidate, central committee, or other regular party committee; is subject to the limitations in section 4 of this chapter. [P.L.5-1986, § 5; P.L.10-1988, § 67.]

**3-9-2-6. Contributions by corporations and labor organizations — Exemptions to statutory provisions.** — Sections 4 and 5 [IC 3-9-2-4 and IC 3-9-2-5] of this chapter do not apply to the following:

- (1) Nonpartisan registration and get-out-the-vote campaigns:
  - (A) By a corporation aimed at its stockholders and employees; or
  - (B) By a trade association or labor organization aimed at its members.
- (2) A contribution or transfer by an incorporated nonpartisan political action committee to any other committee.
- (3) A contribution supporting or opposing the approval of a public question submitted to the electorate of the entire state or a local public question. [P.L.5-1986, § 5; P.L.7-1990, § 30.]

**3-9-2-7. Legal expenses of election contests.** — This article does not limit or affect the right of a person to expend money for proper legal expenses in maintaining or contesting the result of an election. [P.L.5-1986, § 5.]

**3-9-2-8. Central committees — Receipt of contributions from national committees.** — A central committee may accept contributions from the national committee or the national congressional committee of a political party to be expended for purposes authorized by this article. [P.L.5-1986, § 5.]

**3-9-2-9. Contributions to be transferred to treasurers — Commingling of funds.** — (a) Each person who accepts a contribution for a committee shall, on demand of the treasurer of the committee, and in any case within thirty (30) days

after receipt of the contribution, transfer to the treasurer the actual contribution if it is money or a detailed account if it is other than money.

(b) The transfer must include the actual monetary value, the name and the address of the person making the contribution, and the date on which received.

(c) This subsection applies to a committee that accepts contributions or makes expenditures in an aggregate amount of more than two hundred dollars (\$200) in a year. All funds of a committee must be segregated from, and may not be commingled with, the personal funds of officers, members, or associates of the committee. [P.L.5-1986, § 5; P.L.7-1990, § 31.]

**3-9-2-10. Paid political solicitation notice.** — An individual, an organization, or a committee shall include in all literature and advertisements soliciting contributions:

- (1) The notice required under IC 3-9-3-2; and
- (2) Any notice required under Section 6113 of the Internal Revenue Code. [P.L.5-1986, § 5; P.L.10-1988, § 68; P.L.5-1989, § 29.]

## CHAPTER 3

### CAMPAIGN EXPENSES

#### SECTION.

- 3-9-3-1. Applicability.
- 3-9-3-2. Paid political advertisement notice.
- 3-9-3-3. Contributions of political literature.
- 3-9-3-4. Use of money received as contribution.

**3-9-3-1. Applicability.** — (a) Except as provided in subsection (b), this chapter applies to candidates in all elections and caucuses and to the following types of committees:

- (1) Candidate's committees.
- (2) Regular party committees.
- (3) Political action committees.

(b) Section 4 [IC 3-9-3-4] of this chapter does not apply to candidates for federal office. [P.L.5-1986, § 5; P.L.3-1987, § 145; P.L.4-1991, § 47; P.L.3-1993, § 86.]

**3-9-3-2. Paid political advertisement notice.** — (a) Except as provided in subsection (c), this section applies to an individual, an organization, or a committee that purchases advertisement time or space or circulates or publishes material in support of or in opposition to:

- (1) A candidate;
- (2) More than one (1) candidate; or
- (3) A public question.

(b) The individual, organization, or committee shall include in the advertisement

or material the following statement or the equivalent:

"Paid for by \_\_\_\_\_ (insert the name of the individual who paid for the advertisement and, if the advertisement is paid for by an organization or a committee, include the name of the chairman or treasurer of the organization or committee) and (if presented in support of a candidate or more than one (1) candidate) presented \_\_\_\_\_ (insert either "with" or "without") the approval of \_\_\_\_\_ (insert the name of each candidate), candidate for \_\_\_\_\_ (the office or offices for which each candidate is running)."

(c) This section does not apply to business cards, tickets, bumper stickers, campaign buttons, pens, pencils, or other campaign items where identification is impractical because of the size or shape of the item.

[P.L.5-1986, § 5; P.L.10-1988, § 69; P.L.5-1989, § 30; P.L.4-1991, § 48.]

**3-9-3-3. Contributions of political literature.** — (a) A person who may contribute money or property to a committee for political purposes may contribute literature containing political matter to a committee. The committee may distribute the literature to voters without placing a statement on them that the literature is circulated by the committee. However, a committee must place a statement on printed material that it prints or publishes that the material is circulated by its authority.

(b) The treasurer of a committee who receives such literature shall include in the report and statement required to be filed a list of the material with the name and residence of the person donating the material. [P.L.5-1986, § 5; P.L.5-1989, § 31.]

**3-9-3-4. Use of money received as contribution.** — (a) Money received by a candidate or candidate's committee as a contribution may be used only:

(1) To defray any expense reasonably related to the person's:

- (A) Campaign for federal, state, legislative, or local office;
- (B) Continuing political activity; or
- (C) Activity related to service in an elected office;

(2) To make an expenditure to any national, state, or local committee of any political party or another candidate's committee; or

(3) Upon dissolution of a committee, in a manner permitted under IC 3-9-1-12.

(b) Money received by a candidate or candidate's committee as a contribution may not be used for primarily personal purposes by the candidate or by any other person except as described in subsection (a). [P.L.13-1987, § 2; P.L.3-1993, § 87.]

## CHAPTER 4

### ADMINISTRATION BY ELECTION BOARDS

#### SECTION.

- 3-9-4-1. Applicability.
- 3-9-4-2. Report and statement forms.
- 3-9-4-3. Manual of recommended bookkeeping and reporting methods.
- 3-9-4-4. Filing, coding and cross-indexing system.
- 3-9-4-5. Reports and statements — Public inspection — Copying — Use of information.
- 3-9-4-6. Reports and statements — Retention.
- 3-9-4-7. List of statements.
- 3-9-4-8. Annual report of candidate contributions and expenditures.
- 3-9-4-9. Annual compilations of state, legislative and local expenditures and contributions.
- 3-9-4-10. Reports comparing contributions and expenditures with prior elections.
- 3-9-4-11. Other reports.
- 3-9-4-12. Reports, statistics and summaries — Availability for dissemination.
- 3-9-4-13. Audits and field investigations.
- 3-9-4-14. Failure to file reports and defective reports.
- 3-9-4-15. Hearings and investigations.
- 3-9-4-16. Failure to file annual reports — Penalty — Collection of civil penalties — Reversion of funds.
- 3-9-4-17. Failure to file annual report — Collection of civil penalties — Reversion of funds.
- 3-9-4-18. Filing of delinquent report.

**3-9-4-1. Applicability.** — (a) Except as provided in subsection (b), this chapter applies to candidates in all elections and caucuses and to the following types of committees:

- (1) Candidate's committees.
- (2) Regular party committees.
- (3) Political action committees.

(b) This chapter does not apply to elections:

- (1) To local offices for which the compensation is less than five thousand dollars (\$5,000) per year; or
- (2) For precinct committeeman or delegate to a state convention. [P.L.5-1986, § 5; P.L.3-1987, § 146; P.L.3-1993, § 88.]

**3-9-4-2. Report and statement forms.** — The state election board shall develop and furnish prescribed forms for

making the reports and statements required to be filed under this article. [P.L.5-1986, § 5.]

**3-9-4-3. Manual of recommended bookkeeping and reporting methods.** — The state election board shall prepare, publish, and furnish to candidates and all interested persons on request a manual setting forth recommended uniform methods of bookkeeping and reporting and shall summarize all the requirements of this article. [P.L.5-1986, § 5.]

**3-9-4-4. Filing, coding and cross-indexing system.** — The state election board shall develop a filing, coding, and cross-indexing system consistent with the purposes of this article. The state election board and each county election board shall use the filing, coding, and cross-indexing system. [P.L.5-1986, § 5.]

**3-9-4-5. Reports and statements — Public inspection — Copying — Use of information.** — (a) The state election board and each county election board shall make the reports and statements filed with them available for public inspection and copying, commencing as soon as practicable but not later than the end of the second business day following the day during which they were received. The boards shall also permit copying of a report or statement by hand or by duplicating machine, as requested, at the expense of the person and subject to IC 5-14-3-8.

(b) A person may not sell information copied from reports and statements under subsection (a) or use it for a commercial purpose. However, this restriction does not apply to a newspaper, magazine, book, or other communication with a principal purpose other than communicating contributor information:

(1) To solicit contributions; or

(2) For other commercial purposes.

[P.L.5-1986, § 5; P.L.10-1988, § 70; P.L.8-1992, § 9.]

**3-9-4-6. Reports and statements — Retention.** — The state election board and each county election board shall preserve reports and statements for a period of three (3) years from December 1 following the election to which they pertain, unless the records are in litigation. [P.L.5-1986, § 5.]

**3-9-4-7. List of statements.** — The state election board and each county election board shall compile and maintain a current list of all statements or parts of

statements pertaining to each candidate, committee, and public question. [P.L.5-1986, § 5.]

**3-9-4-8. Annual report of candidate contributions and expenditures.** — (a) The state election board shall prepare and make available to the public an annual report including compilations of total reported contributions and expenditures for all candidates, committees, and other persons during the year.

(b) Each county election board may prepare an annual report that includes compilations of total reported contributions and expenditures for all candidates, committees, and other persons within the county during the year. [P.L.5-1986, § 5; P.L.3-1987, § 147.]

**3-9-4-9. Annual compilations of state, legislative and local expenditures and contributions.** — The state election board and each county election board may prepare and publish annual compilations of:

(1) Total amounts expended according to categories it determines and broken down into candidate, party, and political action expenditures on the state, legislative, and local levels;

(2) Total amounts expended for influencing nominations and elections stated separately; and

(3) Total amounts contributed according to categories of amounts it determines and broken down into contributions on the state, legislative, and local levels for candidates and committees. [P.L.5-1986, § 5.]

**3-9-4-10. Reports comparing contributions and expenditures with prior elections.** — The state election board and each county election board may prepare and publish special reports from time to time comparing the various totals and categories of contributions and expenditures made with respect to previous elections. [P.L.5-1986, § 5.]

**3-9-4-11. Other reports.** — The state election board and each county election board may prepare and publish other reports they consider appropriate. [P.L.5-1986, § 5.]

**3-9-4-12. Reports, statistics and summaries — Availability for dissemination.** — The state election board and each county election board shall make available for dissemination the statistics, summaries, and reports prepared under this article. [P.L.5-1986, § 5.]



**3-9-4-13. Audits and field investigations.** — The state election board and each county election board shall make audits and field investigations from time to time with respect to reports and statements filed under this article and with respect to an alleged failure to file a report or statement required under this article. The state election board may request the state board of accounts to assist in the performance of audits it considers necessary, and the state board of accounts may perform the audits that are requested. [P.L.5-1986, § 5.]

**3-9-4-14. Failure to file reports and defective reports.** — The state election board and each county election board shall:

- (1) Ascertain whether candidates, committees, or other persons have failed to file reports or have filed defective reports;
- (2) Give notice to delinquents to file a report or to make a supplemental report correcting all defects within five (5) calendar days of receipt of notice; and
- (3) Make available for public inspection a list of delinquents.

[P.L.5-1986, § 5.]

**3-9-4-15. Hearings and investigations.** — A member of the state election board, the executive director of the state election board, or a member of a county election board may conduct a hearing or investigation, take evidence, and report back to the respective board for its consideration and action. [P.L.5-1986, § 5.]

**3-9-4-16. Failure to file annual reports — Penalty — Collection of civil penalties — Reversion of funds.** — (a) In addition to any other penalty imposed, a person who fails to file an annual report required under IC 3-9-5-10 with the state election board is subject to a civil penalty under this section.

(b) If the state election board determines that a person failed to file the report required under IC 3-9-5-10 not more than ten (10) days after being given notice under section 14 [IC 3-9-4-14] of this chapter, the state election board may assess a civil penalty. The penalty is ten dollars (\$10) for each day the report is late, not to exceed one hundred dollars (\$100).

(c) All civil penalties collected under this section shall be deposited with the treasurer of state to be deposited by the treasurer of state in a separate account to be known as the campaign finance enforcement account. The funds in the account

are available, with the approval of the budget agency, to augment and supplement the funds appropriated for the administration of this article.

(d) Money in the campaign finance enforcement account does not revert to the state general fund at the end of a state fiscal year.

(e) Proceedings of the state election board under this section are subject to IC 4-21.5. [P.L.3-1993, § 89.]

**3-9-4-17. Failure to file annual report — Collection of civil penalties — Reversion of funds.** — (a) In addition to any other penalty imposed, a person who fails to file an annual report required under IC 3-9-5-10 with a county election board is subject to a civil penalty under this section.

(b) If the county election board determines that a person failed to file the report required under IC 3-9-5-10 not more than ten (10) days after being given notice under section 14 [IC 3-9-4-14] of this chapter, the county election board may assess a civil penalty. The penalty is ten dollars (\$10) for each day the report is late, not to exceed one hundred dollars (\$100).

(c) All civil penalties collected under this section shall be deposited with the county treasurer to be deposited by the county treasurer in a separate account to be known as the campaign finance enforcement account. The funds in the account are available, with the approval of the county fiscal body, to augment and supplement the funds appropriated for the administration of this article.

(d) Money in the campaign finance enforcement account does not revert to the county general fund at the end of a county fiscal year.

(e) Proceedings of the county election board under this section are subject to IC 4-21.5. [P.L.3-1993, § 90.]

**3-9-4-18. Filing of delinquent report.** — (a) As used in this section, "delinquent report" refers to a campaign finance report:

- (1) That was required to be filed under IC 3-9-5-10 but was not filed; and
- (2) For which a person was assessed a civil penalty under section 16 or 17 [IC 3-9-4-16 or IC 3-9-4-17] of this chapter.

(b) As used in this section, "election board" refers to the following:

- (1) The state election board if a civil penalty was assessed under section 16 of this chapter.

(2) The county election board if a civil penalty was assessed under section 17 of this chapter.

(c) As used in this section, "person" refers to a person who:

(1) Has been assessed a civil penalty under section 16 or 17 of this chapter; and

(2) Has filed a declaration of candidacy, a petition of nomination, or a declaration of intent to be a write-in candidate in a subsequent election.

(d) A person who files a delinquent report from a previous candidacy:

(1) Before filing a report required under IC 3-9-5-6; or

(2) At the same time the person files the report required under IC 3-9-5-6; for a subsequent candidacy is relieved from further civil liability under this chapter for the delinquent report.

(e) In addition to any civil penalties assessed under section 16 or 17 of this chapter, the election board may assess a civil penalty of one thousand dollars (\$1,000) against a person who the election board determines has failed to file a delinquent report by the twenty-fifth day before the election in which the person next becomes a candidate.

(f) This subsection applies to a person who:

(1) Is assessed a civil penalty under subsection (e); and

(2) Is elected to office in the subsequent election.

The election board may order the auditor of state or the fiscal officer of the political subdivision responsible for issuing the person's payment for serving in office to withhold from the person's paycheck the amount of the civil penalty assessed under subsection (e). If the amount of the paycheck is less than the amount of the civil penalty, the auditor shall continue withholding money from the person's paycheck until an amount equal to the amount of the civil penalty has been withheld.

(g) The auditor of state or fiscal officer shall deposit an amount withheld under this section in the election board's campaign finance enforcement account.

(h) Proceedings of the election board under this section are subject to IC 4-21.5. [P.L.3-1993, § 91.]

## CHAPTER 5

### REPORTS REQUIRED OF CANDIDATES AND COMMITTEES

#### SECTION.

3-9-5-1. Applicability.

#### SECTION.

- 3-9-5-2. Candidates and committees required to file documents with state election board.
- 3-9-5-3. Filing of documents by legislative office candidate and his committee.
- 3-9-5-4. Candidates and committees required to file documents with county election boards.
- 3-9-5-5. Reports of receipts and expenditures.
- 3-9-5-6. When reports must be completed.
- 3-9-5-7. Time for mailing or delivering reports.
- 3-9-5-8. Time for mailing or delivering reports — Candidates nominated after deadline in IC 3-9-5-7.
- 3-9-5-9. Candidates not appearing on ballots or seeking nomination during year — Report required.
- 3-9-5-10. Annual committee reports.
- 3-9-5-11. Disbanding committee reports.
- 3-9-5-12. Change of treasurer reports.
- 3-9-5-13. Use of federal election reports.
- 3-9-5-14. Committee's treasurer reports.
- 3-9-5-15. Contributions and expenditures for candidate by other than candidate's committee.
- 3-9-5-16. Reports cumulative — Reports of no contributions or expenditures.
- 3-9-5-17. [Repealed.]
- 3-9-5-18. Candidate's statement.
- 3-9-5-19. Certificates of filing.

**3-9-5-1. Applicability.** — (a) Except as provided in subsection (b), this chapter applies to candidates in all elections and caucuses and to the following types of committees:

- (1) Candidate's committees.
- (2) Regular party committees.
- (3) Political action committees.

(b) This chapter does not apply to the following:

- (1) Elections to local offices for which the compensation is less than five thousand dollars (\$5,000) per year.
- (2) Candidates for school board office.
- (3) Elections for precinct committeeman or delegate to a state convention. [P.L.5-1986, § 5; P.L.3-1987, § 148; P.L.4-1991, § 49.]

**3-9-5-2. Candidates and committees required to file documents with state election board.** — The following persons, whenever required to file a report, notice, or other instrument by this article, shall file it with the state election board:

- (1) Candidates for state office and their candidate's committees.
- (2) The following central committees: state committees and congressional district committees.
- (3) Other regular party committees that propose to influence the election of a candidate for state or legislative office or the outcome of a public ques-

tion for or against which the electorate of the whole state may vote.

(4) Political action committees that propose to influence the election of a candidate for state or legislative office or the outcome of a public question for or against which the electorate of the whole state may vote. [P.L.5-1986, § 5; P.L.8-1992, § 10.]

**3-9-5-3. Filing of documents by legislative office candidate and his committee.** — A candidate for legislative office and the candidate's committee shall file each report, notice, or other instrument required by this article with the state election board. The candidate and committee shall also file a duplicate copy with the county election board of the county in which the candidate resides. [P.L.5-1986, § 5.]

**3-9-5-4. Candidates and committees required to file documents with county election boards.** — The following persons, whenever required to file a report, notice, or other instrument by this article, shall file it with the county election board of each county comprising part of the affected election district:

- (1) Candidates for local office and their candidate's committees.
- (2) Regular party committees that are not required to file with the state election board.
- (3) Political action committees that are not required to file with the state election board. [P.L.5-1986, § 5.]

**3-9-5-5. Reports of receipts and expenditures.** — The treasurer of each committee shall file reports of receipts and expenditures on forms prescribed or approved by the state election board. [P.L.5-1986, § 5.]

**3-9-5-6. When reports must be completed.** — Except as otherwise provided in this chapter, each committee, its treasurer, and each candidate shall complete a report required by this chapter twenty-five (25) days before an election. However, in lieu of this requirement for primary elections, candidates for an office for which the nominees are selected in a state convention shall complete a report required by this chapter twenty-five (25) days before the state convention. [P.L.5-1986, § 5; P.L.10-1988, § 71.]

**3-9-5-7. Time for mailing or delivering reports.** — Persons may hand deliver or mail reports to the appropriate office. Hand delivered reports must be received

by the appropriate office during regular office hours not later than noon eleven (11) days before an election or convention. Reports that are mailed must be post-marked not later than noon fourteen (14) days before an election or convention. [P.L.5-1986, § 5; P.L.3-1987, § 149.]

**3-9-5-8. Time for mailing or delivering reports — Candidates nominated after deadline in IC 3-9-5-7.** — A candidate in a state convention who:

- (1) Becomes a candidate after the filing deadline specified in section 7 [IC 3-9-5-7] of this chapter; and
- (2) Does not file the required report in accordance with section 7 of this chapter;

shall file the report no later than noon twenty (20) days after the state convention. [P.L.5-1986, § 5; P.L.10-1988, § 72.]

**3-9-5-9. Candidates not appearing on ballots or seeking nomination during year — Report required.** — (a) Except as provided in subsection (b), in a year in which a candidate does not appear on an election ballot for an office to which this article applies or does not seek nomination at a caucus or state convention for election to an office to which this article applies, the treasurer of the candidate's committee shall file only the report required by section 10 [IC 3-9-5-10] of this chapter.

(b) This subsection applies to a candidate who holds one (1) office and is a candidate for a different office. The treasurer of the candidate's committee for the office the candidate holds shall file the following reports:

- (1) If the committee spends, transfers in, or transfers out at least ten thousand dollars (\$10,000) from January 1 until twenty-five (25) days before the primary election, the treasurer shall file a pre-primary report under section 6 [IC 3-9-5-6] of this chapter.
- (2) If the committee spends, transfers in, or transfers out at least ten thousand dollars (\$10,000) from twenty-five (25) days before the primary election until twenty-five (25) days before the general election, the treasurer shall file a pre-general election report under section 6 of this chapter.
- (3) The report required under section 10 of this chapter.

[P.L.5-1986, § 5; P.L.10-1992, § 15.]

**3-9-5-10. Annual committee reports.** — The treasurer of each committee shall file a report each year that is complete as of December 31 of the previous year and

covers the period since the last report. This annual report is due by noon:

(1) January 15, in the case of a candidate's committee or political action committee; or

(2) March 1, in the case of a regular party committee.

[P.L.5-1986, § 5; P.L.10-1988, § 73.]

**3-9-5-11. Disbanding committee reports.** — No later than noon thirty (30) days after the date a committee disbands, the last person to be treasurer of the committee shall file a final report that is complete as of the last day the committee existed and covers the period since the last report. [P.L.5-1986, § 5; P.L.10-1988, § 74.]

**3-9-5-12. Change of treasurer reports.** — No later than noon thirty (30) days after the date a treasurer of a continuing committee leaves office, the outgoing treasurer shall file a final report that is complete as of the last day the person was treasurer and covers the period since the last report. [P.L.5-1986, § 5; P.L.10-1988, § 75.]

**3-9-5-13. Use of federal election reports.** — A person may file duplicates of the reports required to be filed under the Federal Election Campaign Act (2 U.S.C. 431 et seq.) to comply with this chapter. Such a duplicate must cover all activity of the committee, and the committee shall file a supplementary report as directed by the state election board to provide information required by this article but not included in the federal report. Each candidate for United States Senator or Representative and the treasurer of the candidate's committee may file with the state election board duplicates of the reports required by federal law. [P.L.5-1986, § 5.]

**3-9-5-14. Committee's treasurer reports.** — The report of each committee's treasurer must disclose the following:

(1) The amount of cash on hand at the beginning of the reporting period.

(2) The total sum of individual contributions, including transfers-in, accepted by the committee during its reporting period.

(3) The full name and mailing address of each person who has made one (1) or more contributions within the year in an aggregate amount that:

(A) Exceeds one hundred dollars (\$100), in the case of a candidate's committee or political action committee; or

(B) Exceeds two hundred dollars (\$200), in the case of a regular party committee;

in actual value to or for the committee, including the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events, together with the date and amount of the contributions.

(4) The name and address of each committee from which the reporting committee received, or to which that committee made, a transfer of funds, together with the amounts and dates of all transfers.

(5) Each loan to or from a person within the reporting period together with:

(A) The full names and mailing addresses of the lender and endorsers, if any; and

(B) The date and amount of the loans.

(6) The total sum of all receipts of the committee during the reporting period.

(7) The full name, mailing address, occupation, and principal place of business, if any, of each person other than a committee to whom an expenditure was made by the committee or on behalf of the committee within the year in an aggregate amount that:

(A) Exceeds one hundred dollars (\$100), in the case of a candidate's committee or political action committee; or

(B) Exceeds two hundred dollars (\$200), in the case of a regular party committee.

(8) The name, address, and office sought by each candidate for whom any expenditure was made or a statement identifying the public question for which any expenditure was made, including the amount, date, and purpose of each expenditure.

(9) The full name, mailing address, occupation, and principal place of business, if any, of each person to whom an expenditure for personal services, salaries, or reimbursed expenses was made within the year in an aggregate amount that:

(A) Exceeds one hundred dollars (\$100), in the case of a candidate's committee or political action committee; or

(B) Exceeds two hundred dollars (\$200), in the case of a regular party committee;

and that is not otherwise reported, including the amount, date, and purpose of the expenditure.

(10) The total sum of expenditures made by the committee during the reporting period.

(11) The amount and nature of debts and obligations owed by or to the committee, in the form that the state election board prescribes, and a continuous reporting of the debts and obligations after the election at the times that the board requires until the debts and obligations are extinguished. [P.L.5-1986, § 5; P.L.5-1989, § 32; P.L.7-1990, § 32; P.L.8-1992, § 11.]

**3-9-5-15. Contributions and expenditures for candidate by other than candidate's committee.** — Notice of contributions received and expenditures made on behalf of a candidate by a committee other than the candidate's committee must be given to the candidate's committee as prescribed by the state election board. The amount of contributions and expenditures must be entered in the candidate's committee record books and reported in summary form as prescribed by the board. [P.L.5-1986, § 5.]

**3-9-5-16. Reports cumulative — Reports of no contributions or expenditures.** — The reports required to be filed by this chapter are cumulative during the year. If no contributions or expenditures have been accepted or made during a year, the treasurer of a committee or a candidate shall file a statement to that effect. [P.L.5-1986, § 5.]

**3-9-5-17. [Repealed.]**

**3-9-5-18. Candidate's statement.** — Each candidate shall file a statement that the candidate has turned over all contributions received by the candidate to the treasurer of the candidate's principal committee and that to the best of the candidate's knowledge and belief the reports of the candidate's committee are complete and accurate. [P.L.5-1986, § 5.]

**3-9-5-19. Certificates of filing.** — Upon the filing of a candidate's statement and the report of the treasurer of the candidate's committee, the election board with whom it is filed shall issue to the candidate a certificate showing the filing of the statement and report and the dates of the filing. The candidate shall present the certificate to the public official authorized to issue the candidate's commission. The certificate is the only evidence of filing the statement that may be required

by the public official authorized to issue the commission. [P.L.5-1986, § 5.]

## CHAPTER 6

### SCHOOL DISTRICT ELECTION CAMPAIGNS

#### SECTION.

- 3-9-6-1. Applicability.
- 3-9-6-2. Petition of nomination.
- 3-9-6-3. Campaign financial statements — Filing — Form.
- 3-9-6-4. Campaign financial statements — Contents.
- 3-9-6-5. Campaign treasurers.

**3-9-6-1. Applicability.** — This chapter applies to candidates for school board offices. [P.L.5-1986, § 5.]

**3-9-6-2. Petition of nomination.** — A candidate must file a petition of nomination as required under IC 20-3 or IC 20-4 concerning school district elections. The petition of nomination, once filed, serves as the candidate's formal declaration of candidacy for a school board office. [P.L.5-1986, § 5.]

**3-9-6-3. Campaign financial statements — Filing — Form.** — Not later than noon twenty-five (25) days before and noon forty-five (45) days after a school district election in which a candidate participates, the candidate shall file a full, detailed campaign financial statement with the circuit court clerk in the county in which the candidate resides. The reports must be filed on forms prescribed by the state election board. [P.L.5-1986, § 5; P.L.10-1988, § 76.]

**3-9-6-4. Campaign financial statements — Contents.** — Each financial statement must include the following:

- (1) The nature, amount, and date of all contributions made to the candidate or to a person in the candidate's behalf and the names of the contributors.
- (2) The nature, amount, and date of all expenditures made by the candidate or by a person in the candidate's behalf and the names of all of the payees.
- (3) The nature, amount, and date of all unpaid debts and obligations of the candidate and the names of the persons to whom the debts are owed.
- (4) If no debts remain, a statement that the candidate has no remaining campaign debts.
- (5) An affirmative statement of the candidate, signed by the candidate, acknowledging that the candidate has

reviewed the contents of the campaign financial statement and that, to the best of the candidate's knowledge, it is accurate. [P.L.5-1986, § 5.]

**3-9-6-5. Campaign treasurers.** — Each candidate or person to whom the candidate delegates the responsibility of campaign treasurer may serve without bond and shall keep detailed, accurate accounts of all campaign contributions, expenditures, debts, and obligations of the candidate for one (1) year after the date of the election. [P.L.5-1986, § 5.]

## CHAPTER 7

### MISCELLANEOUS PROVISIONS

#### SECTION.

- 3-9-7-1. Auxiliary party organizations exempt from article.  
3-9-7-2. Statements of individuals expending funds to influence elections.  
3-9-7-3. Contributors not making expenditures exempt from IC 3-9-7-2.

**3-9-7-1. Auxiliary party organizations exempt from article.** — A partisan organization that fails to meet the requirements of IC 3-5-2-42 for a regular party committee is considered an auxiliary party organization and is exempt from the other provisions of this article. [P.L.5-1986, § 5.]

**3-9-7-2. Statements of individuals expending funds to influence elections.** — An individual who makes an expenditure to influence an election within a year shall file with the state election board a statement containing the information required by IC 3-9-5. Statements required by this section are due on the same dates on which reports by political action committees are due. [P.L.5-1986, § 5.]

**3-9-7-3. Contributors not making expenditures exempt from IC 3-9-7-2.** — An individual who makes a contribution to a candidate or committee but does not make an expenditure is not subject to section 2 [IC 3-9-7-2] of this chapter. [P.L.5-1986, § 5.]

## ARTICLE 10

### PROVISIONS GOVERNING CERTAIN TYPES OF ELECTIONS

#### CHAPTER.

1. PRIMARY ELECTIONS IN GENERAL ELECTION YEARS, 3-10-1-1 — 3-10-1-35.  
2. GENERAL ELECTIONS, 3-10-2-1 — 3-10-2-14.  
3. STATE CONSTITUTIONAL AMENDMENTS AND PUBLIC QUESTIONS, 3-10-3-1 — 3-10-3-10.

#### CHAPTER.

4. PRESIDENTIAL ELECTIONS, 3-10-4-1 — 3-10-4-10.  
5. STATE CONVENTIONS CONCERNING UNITED STATES CONSTITUTIONAL AMENDMENTS, 3-10-5-1 — 3-10-5-30.  
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8. SPECIAL ELECTIONS, 3-10-8-1 — 3-10-8-9.  
9. LOCAL PUBLIC QUESTIONS, 3-10-9-1 — 3-10-9-6.

## CHAPTER 1

### PRIMARY ELECTIONS IN GENERAL ELECTION YEARS

#### SECTION.

- 3-10-1-1. Applicability.  
3-10-1-2. Parties required to hold primaries.  
3-10-1-3. Date of primaries.  
3-10-1-4. Candidates and delegates to be selected.  
3-10-1-4.5. Date of precinct committeemen elections.  
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3-10-1-6. Eligible voters.  
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3-10-1-14. Ballots — Grouping of candidates — Nicknames — Titles prohibited.  
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3-10-1-16. Number of votes per office — Voting for Marion superior court judges.  
3-10-1-17. Ballot labels — Party device or designation.  
3-10-1-18. Ballots — Alphabetical and numerical listing of candidates.  
3-10-1-19. Ballots — Form — Order of offices and public questions.  
3-10-1-19.5. Alteration of prescribed ballot order.  
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3-10-1-21. Sample ballots.  
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- 3-10-1-27. Voting by voting machine or electronic voting system.
- 3-10-1-28. Party identification cards — Depositing — Counting — Construction.
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- 3-10-1-30. Mutilated, voted and unvoted paper ballots and ballot cards — Sealing and bagging.
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- 3-10-1-32. Election returns to contain complete counts.
- 3-10-1-33. Report of votes for candidate not wholly within county.
- 3-10-1-34. Canvass of votes for federal, state and legislative offices and local offices in multiple counties.
- 3-10-1-35. Publication of notices.

**3-10-1-1. Applicability.** — This chapter applies only to primary elections that are held in general election years. It does not apply to municipal primary elections, which are covered by IC 3-10-6. [P.L.5-1986, § 6.]

**3-10-1-2. Parties required to hold primaries.** — Each political party whose nominee received at least ten percent (10%) of the votes cast in the state for secretary of state at the last election shall hold a primary election under this chapter to select nominees to be voted for at the general election. [P.L.5-1986, § 6.]

**3-10-1-3. Date of primaries.** — A primary election shall be held on the first Tuesday after the first Monday in May of each year in which a general election is held. [P.L.5-1986, § 6.]

**3-10-1-4. Candidates and delegates to be selected.** — (a) At a primary election each political party subject to section 2 [IC 3-10-1-2] of this chapter shall nominate its candidates for the following offices to be voted for at the general election:

- (1) United States Senator.
- (2) Governor.
- (3) United States Representative.
- (4) Legislative offices.
- (5) Local offices.

(b) In addition, each political party subject to section 2 of this chapter shall:

- (1) Vote on candidates for nomination as President of the United States;
- (2) Elect delegates from each county to the party's state convention; and
- (3) Elect a precinct committeeman for each precinct in the county if precinct committeemen are to be elected under section 4.5 [IC 3-10-1-4.5] of this chapter. [P.L.5-1986, § 6; P.L.3-1987,

§ 150; P.L.5-1989, § 33; P.L.9-1989, § 3.]

**3-10-1-4.5. Date of precinct committeemen elections.** — Precinct committeemen shall be elected in May 1990 and every four (4) years thereafter. [P.L.5-1989, § 34; P.L.9-1989, § 4.]

**3-10-1-5. No contest for party nomination — Listing of unopposed candidate with contested election.** — (a) Whenever there is no contest in a political party for the nomination of a candidate or candidates for an office, the party may hold a primary election for that nomination. The appropriate election board shall certify the names of the candidates for each nomination for which there is no contest as though a primary election had been held. However, except as provided in subsections (b) through (c), if there is a contest in any party for any nomination, the name of each candidate of each party shall be placed on the primary election ballot, whether or not the candidate is opposed.

(b) If the only contest in a political party is for the election of a precinct committeeman or a delegate to the party's state convention, the names of unopposed candidates for nomination are not required to be placed on the primary election ballot.

(c) The names of unopposed candidates for election as a precinct committeeman or a delegate to a political party's state convention are not required to be placed on the primary election ballot. [P.L.5-1986, § 6; P.L.10-1988, § 77.]

**3-10-1-6. Eligible voters.** — A voter may vote at a primary election:

- (1) If the voter, at the last general election, voted for a majority of the regular nominees of the political party holding the primary election; or
- (2) If the voter did not vote at the last general election, but intends to vote at the next general election for a majority of the regular nominees of the political party holding the primary election;

as long as the voter was registered as a voter at the last general election or has registered since then. [P.L.5-1986, § 6.]

**3-10-1-7. Registration record and computerized voting list — Furnishing — Comparison of signatures — Evidence of voter eligibility.** — (a) Each county election board shall furnish the inspector of each precinct, for use on primary election day:

(1) A copy of the last regularly prepared registration record; or  
 (2) In a county with a computerized registration system, a certified copy under IC 3-7-7-9 of the list of all voters registered to vote in the precinct.

(b) The circuit court clerk or board of registration in a county with a computerized voting system may also provide the inspector of each precinct in the county with a certified photocopy of the signature on the affidavit or form of registration of each voter of the precinct for the comparison of signatures under section 24.5 [IC 3-10-1-24.5] of this chapter.

(c) If the name of a person offering to vote at the primary is in the registration record or listed in the certified copy prepared for the precinct, it is sufficient evidence of the person's right to vote unless the person is challenged. [P.L.5-1986, § 6; P.L.5-1989, § 35; P.L.7-1990, § 33.]

**3-10-1-8. Registration record and certified computer voting lists — Voters not appearing therein.** — A person who will be a voter at the general election for which the primary is being held and whose name does not appear on the registration record, or in a county with a computerized registration system the certified copy, may vote if the circuit court clerk or board of registration provides a signed certificate of error under IC 3-7-3-6 showing that the person is a registered voter of the precinct. [P.L.5-1986, § 6; P.L.5-1989, § 36; P.L.7-1990, § 34.]

**3-10-1-9. Voter challenges.** — A voter in a precinct may challenge a voter or person who offers to vote at a primary election. The challenged person may not vote unless the challenged person:

- (1) Is registered;
- (2) Makes an affidavit:
  - (A) That the challenged person is a voter of the precinct; or
  - (B) Required under IC 3-7-4.5 if the voter declares that the voter is entitled to vote under IC 3-7-4.5; and
- (3) Either:
  - (A) At the last general election voted for a majority of the regular nominees of the political party for whose candidates the challenged person proposes to vote in the primary election and intends to vote for the regular nominees of the political party at the next general election; or
  - (B) If the challenged person did not vote at the last general election, intends to vote at the next general

election for a majority of the regular nominees of the political party holding the primary election. [P.L.5-1986, § 6; P.L.17-1993, § 9.]

**3-10-1-10. Persons authorized to make voter challenges.** — Only a voter who is a member of the political party for whose candidates a person is offering to vote at a primary election may challenge the person on the ground of party affiliation. [P.L.5-1986, § 6.]

**3-10-1-11. Voting methods, supplies and equipment.** — The voting methods, supplies, and equipment to be used at a primary election are the same as those prescribed by IC 3-11 as far as applicable and when consistent with this chapter. [P.L.5-1986, § 6.]

**3-10-1-12. Paper ballots — Number.** — Each county election board shall prepare and distribute separate primary paper ballots for each political party participating in a primary election equal in number to one hundred percent (100%) of the number of votes cast by the party in each precinct at the last general election. If voting machines, ballot card voting systems, or electronic voting systems are used, the board shall determine the number of emergency paper ballots to be printed and furnished to the precincts. [P.L.5-1986, § 6; P.L.3-1987, § 151.]

**3-10-1-13. Paper ballots and ballot cards for each party.** — The primary election paper ballots and ballot cards of each political party must be of uniform size and of the same quality paper as the paper ballots and ballot cards used at the general election. The paper ballots and ballot cards must be of different color for each party holding a primary election. All the candidates representing one (1) party shall be placed on one (1) ticket with the name of the party placed at the top in the form prescribed by section 19 [IC 3-10-1-19] of this chapter. [P.L.5-1986, § 6; P.L.3-1987, § 152.]

**3-10-1-14. Ballots — Grouping of candidates — Nicknames — Titles prohibited.** — (a) All the candidates for each office who have qualified in the manner prescribed by IC 3-8 for placement on the primary election ballot shall be grouped together under the name of the office and printed in type with uniform capital letters, with uniform space between each name. At the head of each group where only one (1) candidate for each group is to be voted for, the words "vote for one (1)



only" shall be printed. If more than one (1) candidate in a group is to be voted for, the number to be voted for shall be specified at the head of the group.

(b) A candidate's given name and surname shall be printed in full.

(c) In addition to the candidate's given name and surname, the candidate may use:

(1) Initials; or

(2) A nickname by which the candidate is commonly known;

if the candidate's choice of initials or nickname does not exceed twenty (20) characters. Any nickname used must appear in parentheses between the candidate's given name and the candidate's surname.

(d) A candidate may not use a designation such as a title or degree or a nickname that implies a title or degree.

(e) A candidate's name must be printed on the ballot exactly as the name appears on the candidate's certificate of nomination, petition of nomination, or declaration of candidacy. [P.L.5-1986, § 6; P.L.4-1991, § 50; P.L.3-1993, § 92.]

**3-10-1-15. Separate ticket for each party — Grouping of candidates on ballot — Candidates limited to one party.** — Each political party holding a primary election shall have a separate ticket, either in printed ballot form as prescribed by sections 13 and 14 [IC 3-10-1-13 or 3-10-1-14] of this chapter, or on separate ballot labels. The name of each candidate who has qualified under IC 3-8 shall be placed on the ballot under a designation of the office for which the person is a candidate. However, the name of a candidate may not appear on the ballot of more than one (1) party for the same office. [P.L.5-1986, § 6; P.L.3-1987, § 153.]

**3-10-1-16. Number of votes per office — Voting for Marion superior court judges.** — At a primary election a voter may vote for as many candidates for each office as there are persons to be elected to that office at the general election, except as provided in IC 33-5-35.1-24 for candidates for judge of the Marion superior court. [P.L.5-1986, § 6.]

**3-10-1-17. Ballot labels — Party device or designation.** — Political parties may be distinguished in a primary election by the use of different color ballot labels. The party device for a political party that has been adopted in accordance with IC 3-8 and the party name or other party designation shall be placed before the list

of candidates of the party. [P.L.5-1986, § 6; P.L.3-1987, § 154.]

**3-10-1-18. Ballots — Alphabetical and numerical listing of candidates.** —

(a) Except as provided by subsection (b), the names of all candidates for each office who have qualified under IC 3-8 shall be arranged in alphabetical order by surnames under the designation of the office.

(b) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). The names of all candidates for each office who have qualified under IC 3-8 shall be arranged in random order by surnames under the designation of the office. The random order shall be determined using a lottery. The lottery held in accordance with this subsection shall be conducted in public by the county election board. The lottery shall be held not later than ten (10) days following the last day for a declaration of candidacy under IC 3-8-2-4. All candidates whose names are to be arranged by way of the lottery shall be notified at least five (5) days prior to the lottery of the time and place at which the lottery is to be held. Each candidate may have one (1) designated watcher and each county political party may have one designated watcher who shall be allowed to observe the lottery procedure.

(c) For paper ballots, the left margin of the ballot for each political party must show the name of the uppermost candidate printed to the right of the number 1, the next candidate number 2, the next candidate number 3, and so on, consecutively to the end of the ballot as prescribed in section 19 [IC 3-10-1-19] of this chapter. The same order shall be followed for the printing of ballot labels and their placement on the voting machine or electronic voting system and for the printing of ballot cards.

(d) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). If there is insufficient room on a row to list each candidate of a political party, a second or subsequent row may be utilized. However, a second or subsequent row may not be utilized unless the first row, and all preceding rows, have been filled. [P.L.5-1986, § 6; P.L.3-1987, § 155; P.L.7-1991, § 2; P.L.12-1992, § 6; P.L.1-1993, § 6.]

**3-10-1-19. Ballots — Form — Order of offices and public questions.** —

(a) The ballot for a primary election shall be printed in substantially the following

form for all the offices for which candidates have qualified under IC 3-8:

### OFFICIAL PRIMARY BALLOT

\_\_\_\_\_ Party

To vote for a person make a voting mark (X or /) on or in the box before the person's name in the proper column.

Vote for one only

Representative in Congress

- (1) AB \_\_\_\_\_  
 (2) CD \_\_\_\_\_  
 (3) EF \_\_\_\_\_  
 (4) GH \_\_\_\_\_

(b) The offices with candidates for nomination shall be placed on the primary election ballot in the following order:

- (1) Federal and state offices:  
 (A) President of the United States.  
 (B) United States Senator.  
 (C) Governor.  
 (D) United States Representative.

(2) Legislative offices:

- (A) State senator.  
 (B) State representative.

(3) Circuit offices and county judicial offices:

- (A) Judge of the circuit court.  
 (B) Judge of the superior court.  
 (C) Judge of the probate court.  
 (D) Judge of the county court, with each division separate, as required by IC 33-10.5-4-2.  
 (E) Prosecuting attorney.  
 (F) Clerk of the circuit court.

(4) County offices:

- (A) County auditor.  
 (B) County recorder.  
 (C) County treasurer.  
 (D) County sheriff.  
 (E) County coroner.  
 (F) County surveyor.  
 (G) County assessor.  
 (H) County commissioner.  
 (I) County council member.

(5) Township offices:

- (A) Township assessor.  
 (B) Township trustee.  
 (C) Township board member.  
 (D) Judge of the small claims court.  
 (E) Constable of the small claims court.

(6) City offices:

- (A) Mayor.  
 (B) Clerk or clerk-treasurer.  
 (C) Judge of the city court.  
 (D) City-county council member or common council member.

(7) Town offices:

- (A) Clerk-treasurer.  
 (B) Judge of the town court.  
 (C) Town council member.

(c) The political party offices with candidates for election shall be placed on the primary election ballot in the following order after the offices described in subsection (b):

(1) Precinct committeeman.

(2) State convention delegate.

(d) The following offices and public questions shall be placed on the primary election ballot in the following order after the offices described in subsection (c):

(1) School board offices to be elected at the primary election.

(2) Other local offices to be elected at the primary election.

(3) Local public questions.

(e) The offices and public questions described in subsection (d) shall be placed in a separate column on the ballot if voting is by paper ballot, ballot card voting system, or electronic voting system or in a separate column of ballot labels if voting is by voting machine.

(f) A public question shall be placed on the primary election ballot in the following form:

(The explanatory text for the public question, if required by law.)

"Shall (insert public question)?"

- YES  
 NO

[P.L.5-1986, § 6; P.L.3-1987, § 156; P.L.8-1989, § 5; P.L.4-1991, § 51.]

**3-10-1-19.5. Alteration of prescribed ballot order.** — Notwithstanding section 19 [IC 3-10-1-19] of this chapter, the county election board may alter the prescribed ballot order to place the names of the candidates for the following offices before the names of the candidates for county judicial offices:

(1) Prosecuting attorney.

(2) Clerk of the circuit court.

(3) The county offices listed in section 19(4) of this chapter. [P.L.4-1991, § 52.]

**3-10-1-20. Ballots — Rotation of candidate's names — Sets of ballots required.** — If two (2) or more persons are candidates for nomination to the same office at a primary election, except a precinct office, the number of ballot forms required shall be divided into sets equal to the greatest number of candidates for any one (1) office on the ballot. The names of the candidates with their respective numbers for each office shall be rotated by removing one (1) name with its number from the top of the list for each office and by placing that name with its number at

the bottom of the list for each successive set of ballot forms. As nearly as possible an equal number of ballots of each set shall be delivered to each precinct. [P.L.5-1986, § 6.]

**3-10-1-21. Sample ballots.** — The official sample ballots for a primary election shall be printed from the first or official form of ballot only. [P.L.5-1986, § 6.]

**3-10-1-22. [Repealed.]**

**3-10-1-23. Voting machines, ballot card and electronic voting systems in counties with cities — Use where adaptable — Supplemental paper ballots — Purchase not required.** — In a primary election in a county having a city, voting machines, ballot card voting systems, and electronic voting systems shall be employed as available and adaptable and shall be supplemented by paper ballots as necessary. However, this section does not require the purchase of voting machines, ballot card voting systems, or electronic voting systems for a primary election. [P.L.5-1986, § 6; P.L.3-1987, § 157.]

**3-10-1-24. Voter sign-in at polls.** — (a) A voter who desires to vote must give the voter's name and political party to the poll clerks of the precinct on primary election day. The poll clerks shall require the voter to write the following on the poll list:

- (1) The voter's name.
- (2) The voter's current residence address.
- (3) The name of the voter's party.

(b) If the voter is unable to sign the voter's name, the voter must sign the poll list by mark, which must be witnessed by one (1) of the poll clerks or assistant poll clerks acting under IC 3-6-6, who shall place the poll clerk's or assistant poll clerk's initials after or under the mark. [P.L.5-1986, § 6; P.L.3-1987, § 158; P.L.5-1989, § 37.]

**3-10-1-24.5. Challenge of voter identity.** — (a) This section does not apply to a precinct in a county with a computerized registration system whose inspector was:

- (1) Furnished with a list certified under IC 3-7-7-9; and
- (2) Not furnished with a certified photocopy of the signature on the affidavit of registration of each voter of the precinct for the comparison of signatures under this section.

(b) In case of doubt concerning a voter's identity, the precinct election board shall

compare the voter's signature with the signature on the affidavit of registration or any certified copy of the signature provided under section 7 [IC 3-10-1-7] of this chapter. If the board determines that the voter's signature is authentic, the voter may then vote.

(c) If either poll clerk doubts the voter's identity following the comparison of the signatures, the poll clerk shall challenge the voter in the manner prescribed by IC 3-11-8. If the poll clerk does not execute a challenger's affidavit under IC 3-11-8-21 or if the voter executes a challenged voter's affidavit under IC 3-11-8-22, the voter may then vote. [P.L.3-1987, § 159; P.L.5-1989, § 38; P.L.7-1990, § 35.]

**3-10-1-25. Voting with paper ballots or ballot cards — Distribution — Marking.** — (a) If paper ballots are used in a precinct, one (1) of the poll clerks or assistant poll clerks shall deliver to a voter one (1) of the voter's political party ballots and a pencil after the voter signs the poll list. The voter shall take the ballot and pencil into an election booth and mark the ballot within the time provided under IC 3-11-11-10.5.

(b) If a ballot card voting system is used in a precinct, one (1) of the poll clerks or assistant poll clerks shall deliver to a voter one (1) of the voter's political party ballot cards and instructions on how to operate the ballot card system as described in IC 3-11-13-29 and IC 3-11-13-30. The voter shall take the ballot card into the voting booth and mark the ballot within the time provided under IC 3-11-13-32.5. [P.L.5-1986, § 6; P.L.3-1987, § 160; P.L.5-1989, § 39.]

**3-10-1-26. Voting with paper ballots — Folding — Delivery to inspector — Deposit in ballot box.** — (a) After marking a paper ballot a voter shall fold each ballot separately in a manner that its face will be concealed and the initials of the poll clerks or assistant poll clerks seen.

(b) After leaving the booth, a voter shall return the pencil to a poll clerk or assistant poll clerk and display the initials on each ballot to the inspector.

(c) If a voter offers to vote a ballot folded so that it does not disclose the initials of the poll clerks or assistant poll clerks while also not disclosing the face of the ballot, the precinct election board shall direct the voter to return to the booth and fold the ballot properly.

(d) After properly displaying the initials on the ballot, the voter then shall:

- (1) Deposit the ballot in the ballot box; or

(2) At the voter's option return the ballot to the inspector, who shall deposit it in the ballot box.

(e) The poll clerk or assistant poll clerk shall then place a voting mark opposite the voter's name on the poll list. The voter then shall leave the polls. [P.L.5-1986, § 6; P.L.3-1987, § 161.]

**3-10-1-27. Voting by voting machine or electronic voting system.** — If voting machines or electronic voting systems are used in a precinct, one (1) of the poll clerks shall give a printed political party identification card to a voter after the voter signs the poll list. Before entering the voting machine or voting booth, the voter must give the party identification card to a judge, and the judge shall set or have the voting machine or electronic voting system set to allow the voter to vote only for the candidates of the voter's party. After the machine or system is set, the voter may register a vote upon it within the time provided under:

(1) IC 3-11-12-29.5, for a voting machine; or

(2) IC 3-11-14-26, for an electronic voting system.

[P.L.5-1986, § 6; P.L.3-1987, § 162.]

**3-10-1-28. Party identification cards — Depositing — Counting — Construction.** — After setting the voting machine or electronic voting system, the judge shall immediately deposit the political party identification card in a sealed container provided for that purpose. After the polls have closed, all party identification cards shall be counted and compared with the total number of votes cast in the election. All party identification cards must be of durable quality and the same color irrespective of the party that is designated. [P.L.5-1986, § 6; P.L.3-1987, § 163.]

**3-10-1-28.5. Voting by ballot card voting system.** — (a) If a ballot card voting system is used in a precinct, after a voter has marked a ballot card the voter shall place it inside the envelope provided for this purpose and return it to the judge, who shall remove the stub.

(b) The judge shall then offer to return the envelope with the ballot card inside to the voter. The voter shall:

(1) Accept the envelope and deposit it with the ballot card inside into the ballot box; or

(2) Decline the envelope and require the judge to deposit it in the ballot box.

(c) The voter then shall leave the polls. [P.L.3-1987, § 164.]

**3-10-1-29. Canvass of votes — Tally sheets — Election returns.** — The canvass of votes cast in a primary election shall, as far as applicable, be made in the same manner and by the same officers as the canvass at a general election. The tally sheet upon which the count has been entered shall be included in the returns of the election. Each precinct election board shall, on blanks provided for that purpose, make full and accurate returns of the votes cast for each candidate and on each public question unless votes were cast on a ballot card voting system that is not designed to allow the counting and tabulation of votes by the precinct election board. The board shall set forth in the return, opposite the name of each candidate and public question, the number of votes cast for the candidate and for or against each public question. The tabular statement must be substantially in the following form, with the names of candidates and public questions arranged in the order in which they appear upon the official ballot:

\_\_\_\_\_ precinct, \_\_\_\_\_ township (or ward), \_\_\_\_\_ county, state of Indiana, \_\_\_\_\_ party for Representative in Congress. [P.L.5-1986, § 6; P.L.3-1987, § 165; P.L.10-1988, § 78; P.L.1-1993, § 7.]

**3-10-1-30. Mutilated, voted and unvoted paper ballots and ballot cards — Sealing and bagging.** — (a) At the close of the polls and before counting the votes, each precinct election board shall count all mutilated and unvoted paper ballots and ballot cards of each political party, place them in separate bags, and seal them. The number of unvoted ballots shall be marked on the outside of the bags.

(b) If a ballot card voting system was used in a precinct, the precinct election board shall comply with IC 3-12-3-2.

(c) At the close of the count the board shall place all voted paper ballots of each party in separate bags, sealed and properly labeled, showing the number of paper ballots they contain and the number voted but not counted. [P.L.5-1986, § 6; P.L.3-1987, § 166.]

**3-10-1-31. Retention of all voted, mutilated and unused paper ballots.** —

(a) The inspector of each precinct shall deliver the bags required by section 30(a) and 30(c) [IC 3-10-1-30(a) and IC 3-10-1-30(c)] of this chapter in good condition, together with poll lists, tally sheets, and other forms, to the circuit court clerk when making returns.

(b) Except for unused ballots disposed of under IC 3-11-3-31, the circuit court clerk shall carefully preserve the ballots and

other material and keep all seals intact for twenty-two (22) months, as required by 42 U.S.C. 1974, after which they may be destroyed unless:

- (1) An order issued under IC 3-12-6-19 or IC 3-12-11-16; or
- (2) 42 U.S.C. 1973;

requires the continued preservation of the ballots or other material.

(c) Upon delivery of the poll lists, the circuit court clerk or board of registration may unseal the envelopes containing the poll lists. For the purposes of a cancellation of registration conducted under IC 3-7-9-5 or a transfer of registration conducted under IC 3-7-8-15, the clerk or board may inspect the poll lists and update the registration record of the county. Upon completion of the inspection, the poll list shall be resealed and preserved with the ballots and other materials for the time period prescribed by subsection (b).

(d) After the expiration of the period described in subsection (b), the ballots may be destroyed in the manner provided by IC 3-11-3-31 or transferred to a state educational institution as provided by IC 3-12-2-12. [P.L.5-1986, § 6; P.L.3-1987, § 167; P.L.10-1988, § 79; P.L.3-1993, § 93.]

**3-10-1-32. Election returns to contain complete counts.** — Primary election returns must contain the whole number of votes cast for:

- (1) Each candidate of each political party;
- (2) Each public question voted on at the primary election; and
- (3) Each candidate for election to a school board office or political party office. [P.L.5-1986, § 6; P.L.10-1988, § 80.]

**3-10-1-33. Report of votes for candidate not wholly within county.** — The county election board shall also make an additional duplicate showing the votes cast for each candidate not voted for wholly within the county. The circuit court clerk shall, not later than the Monday following the primary election, send to the secretary of state by certified mail or hand deliver to the secretary of state one (1) complete copy of all returns for these candidates. [P.L.5-1986, § 6; P.L.3-1987, § 168; P.L.3-1993, § 94.]

**3-10-1-34. Canvass of votes for federal, state and legislative offices and local offices in multiple counties.** — The secretary of state, at 10 A.M. on the second Friday following a primary election conducted in a year in which a general

election will be held, shall make a canvass of the votes cast for:

- (1) Candidates for federal offices;
- (2) Candidates for state offices;
- (3) Candidates for legislative offices; and
- (4) Candidates for local offices (other than offices in a municipality);

representing election districts not wholly within one (1) county and tabulate the result as provided in IC 3-12. [P.L.5-1986, § 6; P.L.10-1988, § 81.]

**3-10-1-35. Publication of notices.** — Each notice required for a primary election shall be published in accordance with IC 5-3-1. [P.L.5-1986, § 6.]

## CHAPTER 2

### GENERAL ELECTIONS

#### SECTION.

- 3-10-2-1. Date — Offices to be filled.  
 3-10-2-2. Notice.  
 3-10-2-3. Election years — Presidential and Vice-Presidential electors.  
 3-10-2-4. Election years — United States Senators.  
 3-10-2-5. Election years — United States Representatives.  
 3-10-2-6. Election years — Governor — Lieutenant governor — Attorney general — Superintendent of public instruction.  
 3-10-2-7. Election years — Secretary of state — State auditor — State treasurer — Clerk of supreme court.  
 3-10-2-8. Election years — Supreme court justices — Court of appeals judges.  
 3-10-2-9. Election years — State senators.  
 3-10-2-10. Election years — State representatives.  
 3-10-2-11. Election years — Circuit, superior, probate and county court judges.  
 3-10-2-12. Election years — Prosecuting attorneys.  
 3-10-2-13. Election years — Circuit court clerk — Certain county and township offices — Small claims court constable.  
 3-10-2-14. Election years — Township assessor.

**3-10-2-1. Date — Offices to be filled.** — A general election shall be held on the first Tuesday after the first Monday in November in each even-numbered year. All offices whose terms will expire before the next general election shall be filled at the election, unless otherwise provided by law. [P.L.5-1986, § 6.]

**3-10-2-2. Notice.** — Each circuit court clerk shall give notice of a general election and publish a statement in accordance with IC 5-3-1 showing what offices are to be filled and setting forth the text of the judicial retention and other public questions to be submitted to the voters. However, an election is not invalidated by the

failure of the clerk to perform this duty. [P.L.5-1986, § 6; P.L.10-1988, § 82; P.L.3-1993, § 95.]

**3-10-2-3. Election years — Presidential and Vice-Presidential electors.** — Electors for United States President and Vice President shall be elected in 1988 and every four (4) years thereafter. [P.L.5-1986, § 6.]

**3-10-2-4. Election years — United States Senators.** — United States Senators shall be elected as follows:

(1) One (1) in 1986 and every six (6) years thereafter.

(2) One (1) in 1988 and every six (6) years thereafter.

[P.L.5-1986, § 6.]

**3-10-2-5. Election years — United States Representatives.** — United States Representatives shall be elected at each general election in accordance with IC 3-3-1.1-3. [P.L.5-1986, § 6.]

**3-10-2-6. Election years — Governor — Lieutenant governor — Attorney general — Superintendent of public instruction.** — The following public officials shall be elected in 1988 and every four (4) years thereafter:

(1) Governor.

(2) Lieutenant governor.

(3) Attorney general.

(4) Superintendent of public instruction.

[P.L.5-1986, § 6.]

**3-10-2-7. Election years — Secretary of state — State auditor — State treasurer — Clerk of supreme court.** — The following public officials shall be elected in 1986 and every four (4) years thereafter:

(1) Secretary of state.

(2) Auditor of state.

(3) Treasurer of state.

(4) Clerk of the supreme court.

[P.L.5-1986, § 6.]

**3-10-2-8. Election years — Supreme court justices — Court of appeals judges.** — Justices of the supreme court and judges of the court of appeals shall stand for approval or rejection by their respective electorates:

(1) At the first general election that occurs at least two (2) years after their appointments; and

(2) At the general election every ten (10) years thereafter;

in accordance with Article 7, Section 11 of the Constitution of the State of Indiana. [P.L.5-1986, § 6.]

**3-10-2-9. Election years — State senators.** — One-half (1/2) of the senators in the general assembly, as nearly as possible, shall be elected at each general election and every four (4) years thereafter in accordance with Article 4, Section 3 of the Constitution of the State of Indiana. [P.L.5-1986, § 6.]

**3-10-2-10. Election years — State representatives.** — Representatives in the general assembly shall be elected in each district at each general election in accordance with Article 4, Section 3 of the Constitution of the State of Indiana. [P.L.5-1986, § 6.]

**3-10-2-11. Election years — Circuit, superior, probate and county court judges.** — (a) A judge of the circuit court shall be elected at:

(1) The first general election following an appointment by the governor to fill a vacancy in the office of judge of the circuit court; or

(2) The general election before the term of the judge expires under Article 7, Section 7 of the Constitution of the State of Indiana;

whichever occurs first, and every (6) years thereafter.

(b) Except as otherwise provided by law, judges of the superior, probate, and county courts shall be elected at the general election before their terms of office expire and every six (6) years thereafter. [P.L.5-1986, § 6; P.L.5-1989, § 40; P.L.334-1989(ss), § 1.]

**3-10-2-12. Election years — Prosecuting attorneys.** — A prosecuting attorney shall be elected in each judicial circuit in 1986 and every four (4) years thereafter in accordance with Article 7, Section 16 of the Constitution of the State of Indiana. [P.L.5-1986, § 6.]

**3-10-2-13. Election years — Circuit court clerk — Certain county and township offices — Small claims court constable.** — The following public officials shall be elected at the general election before their terms of office expire and every four (4) years thereafter:

(1) Clerk of the circuit court.

(2) County auditor.

(3) County recorder.

(4) County treasurer.

(5) County sheriff.

(6) County coroner.

- (7) County surveyor.
  - (8) County assessor.
  - (9) County commissioner.
  - (10) County council member.
  - (11) Township trustee.
  - (12) Township board member.
  - (13) Township assessor.
  - (14) Judge of a small claims court.
  - (15) Constable of a small claims court.
- [P.L.5-1986, § 6; P.L.8-1987, § 2.]

**3-10-2-14. Election years — Township assessor.** — When IC 36-6-5-1 empowers a township to elect its first township assessor, the township assessor shall be elected at the first general election in which voters residing in the township may vote for any candidate. [P.L.5-1986, § 6.]

## CHAPTER 3

### STATE CONSTITUTIONAL AMENDMENTS AND PUBLIC QUESTIONS

#### SECTION.

- 3-10-3-1. Certification — Notice.
- 3-10-3-2. Public questions — Appearance on ballot — Voters not voting.
- 3-10-3-3 — 3-10-3-8. [Repealed.]
- 3-10-3-9. Constitutional amendments — Marking and counting votes.
- 3-10-3-10. [Repealed.]

**3-10-3-1. Certification — Notice.** — Whenever a proposed state constitutional amendment or other public question is submitted by the general assembly under Article 16 of the Constitution of the State of Indiana to the electorate of the state for a popular vote, the secretary of state shall certify the public question to the circuit court clerk of each county. If the vote is to occur at a general election, the secretary of state shall certify by noon August 20 before the election. If a special election is to be held, the secretary of state shall certify at least thirty (30) days before the election. Each clerk shall publish notice of the public question in accordance with IC 5-3-1. [P.L.5-1986, § 6; P.L.3-1987, § 169; P.L.10-1988, § 83; P.L.4-1991, § 53.]

**3-10-3-2. Public questions — Appearance on ballot — Voters not voting.** — (a) This subsection applies if the general assembly does not prescribe the form in which a state constitutional amendment must appear on the general election ballot. If the electorate of the state may vote on a state constitutional amendment or other public question, the state election board shall prepare a brief statement of the public question in words sufficient to clearly designate it and have

the statement printed on the state ballot in the form prescribed by IC 3-11-2-15.

(b) If a voter does not vote on the public question, the ballot is void with regard to the public question and may not be counted. [P.L.5-1986, § 6; P.L.3-1987, § 170; P.L.4-1991, § 54; P.L.1-1992, § 4.]

**3-10-3-3 — 3-10-3-8. [Repealed.]**

**3-10-3-9. Constitutional amendments — Marking and counting votes.** — Except as provided in this chapter, all of the provisions of this title concerning the marking and counting of ballots for candidates that are consistent with this chapter apply to the marking and counting of votes for a state constitutional amendment. [P.L.5-1986, § 6.]

**3-10-3-10. [Repealed.]**

## CHAPTER 4

### PRESIDENTIAL ELECTIONS

#### SECTION.

- 3-10-4-1. Nominees' names to appear on ballot, ballot card and ballot label.
- 3-10-4-2. Information to be placed on ballot, ballot card and ballot label — Order of nominees.
- 3-10-4-3. Devices, title and names of nominees — Order on ballot.
- 3-10-4-4. Votes cast and counted for electors as a group — Counting, canvassing and certifying votes.
- 3-10-4-5. Certification of nominees.
- 3-10-4-6. Certification of successor nominees.
- 3-10-4-7. Assembly of presidential electors.
- 3-10-4-8. Failure of presidential elector to appear at assembly — Filling vacancy.
- 3-10-4-9. Voting by presidential electors.
- 3-10-4-10. [Repealed.]

**3-10-4-1. Nominees' names to appear on ballot, ballot card and ballot label.** — (a) The names of the candidates of:

- (1) A political party;
- (2) A group of petitioners under IC 3-8-6; or
- (3) A write-in candidate for the office of President or Vice President of the United States under IC 3-8-2-1.5 [IC 3-8-2-2.5];

for electors of President and Vice President of the United States may not be placed on the ballot.

(b) The names of the nominees for President and Vice President of the United States of each political party or group of petitioners shall be placed:

- (1) In one (1) column on the ballot if paper ballots or a ballot card voting system is used;

- (2) On one (1) ballot label in one (1) column or row if voting machines are used; or
- (3) In a separate column on the ballot label if an electronic voting system is used.

(c) The name of each write-in candidate for the office of President or Vice President of the United States shall be placed as provided under IC 3-11-2-6. [P.L.5-1986, § 6; P.L.3-1987, § 171; P.L.10-1992, § 16.]

**3-10-4-2. Information to be placed on ballot, ballot card and ballot label — Order of nominees.** — (a) If paper ballots or a ballot card voting system is used, a single square shall be printed in front of a bracket enclosing the names of the nominees for President and Vice President of the United States on the left margin of each separate column of the ballot, immediately opposite the names of the nominees.

(b) The device named and list of nominees of the political party whose nominee received the highest number of votes in that county for secretary of state at the last election shall be placed in the first column on the left side of the ballot if paper ballots or a ballot card voting system is used or, if voting machines or an electronic voting system is used, in the first column or row. The political party whose nominee received the second highest number of votes in that county for secretary of state at the last election shall be placed in the second column or row. Other political parties shall be placed on the ballot in the same order.

(c) If a political party or an independent ticket did not have a candidate for secretary of state in the last election, the party or ticket shall be placed on the ballot after the parties described in subsection (b). If more than one (1) political party or independent ticket that has qualified to be on the ballot did not have a candidate for secretary of state in the last election, each party or independent ticket shall be listed on the ballot in the order in which the party or independent ticket filed a petition of nomination under IC 3-8-6-12. [P.L.5-1986, § 6; P.L.3-1987, § 172; P.L.3-1993, § 96.]

**3-10-4-3. Devices, title and names of nominees — Order on ballot.** — The device, title, and names of nominees appearing on a ballot or ballot label shall be arranged, as nearly as possible, in the following order:

(DEVICE)  
REPUBLICAN  
TICKET

(DEVICE)  
DEMOCRATIC  
TICKET

For Presidential Electors	For Presidential Electors
For President,	For President,
.....	.....
For Vice President,	For Vice President,
.....	.....

[P.L.5-1986, § 6.]

**3-10-4-4. Votes cast and counted for electors as a group — Counting, canvassing and certifying votes.** — Each vote cast or registered for the nominees for President and Vice President of the United States of a political party, group of petitioners, or a write-in candidate for President or Vice President of the United States is a vote cast or registered for all of the candidates for presidential electors of the party, group, or candidate and shall be so counted. These votes shall be counted, canvassed, and certified in the same manner as the votes for candidates for other offices. [P.L.5-1986, § 6; P.L.10-1992, § 17.]

**3-10-4-5. Certification of nominees.** — (a) The state chairman of each political party shall certify to the secretary of state the names of the nominees of the party for President and Vice President of the United States and the state of which each nominee is a resident.

(b) If candidates for presidential electors are nominated by petitioners instead of by a convention of a major political party, the petitioners shall certify with the list of names of electors:

- (1) The names of their nominees for President and Vice President of the United States;
- (2) The state of which each nominee is a resident; and
- (3) The name of the political party of the nominees, or that the nominees are an independent ticket.

(c) The names of:

- (1) All candidates for presidential electors; and
  - (2) All nominees for President and Vice President of the United States;
- shall be certified by noon September 1 before the general election.

(d) The names of all candidates for presidential electors for a write-in candidate shall be included on the declaration for candidacy filed by a write-in candidate for the office of President or Vice President of the United States filed under IC 3-8-2. [P.L.5-1986, § 6; P.L.3-1987, § 173; P.L.5-1989, § 41; P.L.10-1992, § 18; P.L.3-1993, § 97.]

**3-10-4-6. Certification of successor nominees.** — (a) If a nominee for Presi-



dent or Vice President of the United States ceases to be a candidate before the nominee's ticket is officially certified, then that fact and the name and the state of residence of the nominee's successor, if any, shall be certified in the same manner as the original nominee and the successor's name shall be printed upon all ballots.

(b) If a nominee for President or Vice President of the United States ceases to be a candidate after the nominee's ticket has been officially certified, then that fact and the name and state of residence of the nominee's successor, if any, shall be certified in the same manner as the original nominee. However, the ballots must reflect the original nominee's name, and any vote cast in the election for the original nominee shall be considered a vote for the successor. [P.L.5-1986, § 6; P.L.3-1987, § 174.]

**3-10-4-7. Assembly of presidential electors.** — The presidential electors who are elected at a general election shall assemble in the chamber of the Indiana house of representatives on the first Monday after the second Wednesday in December as provided by 3 U.S.C. 7, or on another day fixed by the Congress of the United States, at 10 A.M. to elect the President and Vice President of the United States. As provided by 3 U.S.C. 6, the governor shall deliver to the electors present six (6) duplicate originals of the certificate of ascertainment of appointment of the electors mailed to the Archivist of the United States. [P.L.5-1986, § 6; P.L.3-1987, § 175; P.L.10-1992, § 19.]

**3-10-4-8. Failure of presidential elector to appear at assembly — Filling vacancy.** — If a presidential elector fails to appear before 11 A.M. on the day prescribed by section 7 [IC 3-10-4-7] of this chapter, the electors present shall, by paper ballot and a majority vote of all those present, fill the vacancy. The election shall be immediately certified by a majority of the electors to the governor, who shall immediately notify the person of the person's election by presenting the elector with a commission issued under IC 4-3-1-5. [P.L.5-1986, § 6; P.L.3-1987, § 176; P.L.3-1993, § 98.]

**3-10-4-9. Voting by presidential electors.** — The presidential electors, when assembled and after vacancies are filled, shall then vote by paper ballot for President and Vice President of the United States and perform the duties imposed upon them by the Constitution and stat-

utes of the United States and of this state. [P.L.5-1986, § 6; P.L.3-1987, § 177.]

### 3-10-4-10. [Repealed.]

## CHAPTER 5

### STATE CONVENTIONS CONCERNING UNITED STATES CONSTITUTIONAL AMENDMENTS

#### SECTION.

- 3-10-5-1. Date of election.
- 3-10-5-2. Qualified voters.
- 3-10-5-3. Conduct, canvassing and certification of election.
- 3-10-5-4. Conduct of election by county election board — Inspector — Poll clerks.
- 3-10-5-5. Convention delegates — Number.
- 3-10-5-6. Convention delegates — Qualifications.
- 3-10-5-7. Convention delegates — Nomination — Candidate's declaration.
- 3-10-5-8. Convention delegates' nomination petitions — Number of candidates — Signatures required.
- 3-10-5-9. Convention delegates' nomination petitions — Candidate information — Candidate's declaration for or against ratification.
- 3-10-5-10. Convention delegates' nomination petitions — Political affiliation prohibited.
- 3-10-5-11. Convention delegates' nomination petitions — Inconsistent candidates prohibited.
- 3-10-5-12. Convention delegates' nominating petitions — Inconsistent voter signatures prohibited.
- 3-10-5-13. Convention delegates' nomination petitions and acceptances — Filing — Preservation — Public inspection.
- 3-10-5-14. Selection of convention delegate nominees — Plurality vote — Ties — Circuit court clerk's decision final.
- 3-10-5-15. Selection of convention delegate nominees — Objections to circuit court clerk's decisions.
- 3-10-5-16. Certification of convention delegate nominees.
- 3-10-5-17. Ballots for convention delegates — Substance of amendment — Voter instructions — Placement of nominees.
- 3-10-5-18. Ballot for convention delegates — Block voting.
- 3-10-5-19. [Repealed.]
- 3-10-5-20. Ballots for convention delegates — Alternating listing of candidates.
- 3-10-5-21. Ballots for convention delegates — Voter's mark.
- 3-10-5-22. Selection of convention delegates — Plurality vote.
- 3-10-5-23. Certification of convention delegates.
- 3-10-5-24. Filling of convention delegate vacancies.
- 3-10-5-25. Convention — Location — Time — Quorum.
- 3-10-5-26. Convention — Call — Oaths.
- 3-10-5-27. Convention — Judging delegates' qualifications — Election of officers — Rules.
- 3-10-5-28. Convention journal.

## SECTION.

3-10-5-29. Certification of ratification of proposed constitutional amendment.

3-10-5-30. Constitutional convention according to congressional mandate.

**3-10-5-1. Date of election.** — Whenever the Congress of the United States proposes an amendment to the Constitution of the United States and proposes that it be ratified by conventions in the several states, the governor shall fix, by proclamation, the date of an election to elect the delegates to the convention in this state. The election shall be held within sixty (60) days after the date of the proclamation and within four (4) months after the date of the receipt of the proposed amendment by the appropriate official from the Secretary of State of the United States. If a general election occurs within this period, the special election shall be held at the same time and by the same election officers who conduct the general election. [P.L.5-1986, § 6.]

**3-10-5-2. Qualified voters.** — The electorate of the whole state may vote at the election required by section 1 [IC 3-10-5-1] of this chapter. [P.L.5-1986, § 6.]

**3-10-5-3. Conduct, canvassing and certification of election.** — Except as otherwise provided in this chapter, the election required by section 1 [IC 3-10-5-1] of this chapter shall be conducted and the results ascertained, canvassed, and certified in the same manner as an election of governor. All of the other provisions of this title apply to the election when consistent with this chapter. [P.L.5-1986, § 6.]

**3-10-5-4. Conduct of election by county election board — Inspector — Poll clerks.** — Each county election board shall conduct the election required by section 1 [IC 3-10-5-1] of this chapter. The precinct election officers consist of one (1) inspector and two (2) poll clerks to be appointed by the county election board at least ten (10) days before the election. These officers have the same powers and duties as other precinct election officers and receive the same pay that precinct election officers receive in general elections. [P.L.5-1986, § 6.]

**3-10-5-5. Convention delegates — Number.** — Each county shall elect at least one (1) delegate to the convention prescribed by section 1 [IC 3-10-5-1] of this chapter. In addition, each county having a population greater than twenty thousand (20,000) shall elect one (1) additional dele-

gate for each additional twenty thousand (20,000) persons in the county, or major fraction thereof. The governor shall determine the number of delegates to which each county is entitled under this section and shall include the number in the governor's proclamation. [P.L.5-1986, § 6.]

**3-10-5-6. Convention delegates — Qualifications.** — A candidate for delegate to a convention held under this chapter must be:

- (1) A resident of the county; and
- (2) A registered voter.

[P.L.5-1986, § 6; P.L.3-1987, § 178.]

**3-10-5-7. Convention delegates — Nomination — Candidate's declaration.** — Nomination of a candidate for delegate to a convention held under this chapter must be by petition. Before the candidate's name is placed on a petition, the candidate must file in the office of the circuit court clerk of the county in which the candidate resides a declaration stating the candidate's name, the candidate's residence address with the street and number (if any), and whether if elected as a delegate the candidate will vote for or against the ratification of the amendment to be considered by the convention. The circuit court clerk may not accept a petition containing the name of a candidate who has failed to file such a declaration. [P.L.5-1986, § 6.]

**3-10-5-8. Convention delegates' nomination petitions — Number of candidates — Signatures required.** — A single petition required by section 7 [IC 3-10-5-7] of this chapter may nominate any number of candidates, but not more than the total number of delegates to be elected from the county. A petition must be signed by at least five hundred (500) voters for each delegate nominated. [P.L.5-1986, § 6.]

**3-10-5-9. Convention delegates' nomination petitions — Candidate information — Candidate's declaration for or against ratification.** — A petition required by section 7 [IC 3-10-5-7] of this chapter must contain the candidates' names, the candidates' residence address with the street and number (if any), and a declaration and pledge that each candidate will, if elected, vote for or against ratification at the convention. [P.L.5-1986, § 6.]

**3-10-5-10. Convention delegates' nomination petitions — Political affiliation prohibited.** — A petition required by section 7 [IC 3-10-5-7] of this chapter

may not include a candidate's political party or political designation. [P.L.5-1986, § 6.]

**3-10-5-11. Convention delegates' nomination petitions — Inconsistent candidates prohibited.** — A petition required by section 7 [IC 3-10-5-7] of this chapter may not contain the name of a candidate whose position as stated is inconsistent with that of another candidate on the same petition. [P.L.5-1986, § 6.]

**3-10-5-12. Convention delegates' nominating petitions — Inconsistent voter signatures prohibited.** — A person may not sign both a petition for a candidate in favor of ratification and a petition for a candidate opposed to ratification. [P.L.5-1986, § 6.]

**3-10-5-13. Convention delegates' nomination petitions and acceptances — Filing — Preservation — Public inspection.** — All petitions and acceptances must be filed with the circuit court clerk no later than noon thirty (30) days before the date of the election. The clerk shall preserve the petitions and make them available for public inspection. [P.L.5-1986, § 6; P.L.10-1988, § 84.]

**3-10-5-14. Selection of convention delegate nominees — Plurality vote — Ties — Circuit court clerk's decision final.** — The candidates whose nominating petitions have been signed by the highest number of voters are nominated. Ties shall be resolved by lot drawn by the state election board. If a written objection is not filed with the circuit court clerk no later than noon ten (10) days after the filing, the decision of the clerk is final. [P.L.5-1986, § 6; P.L.10-1988, § 85.]

**3-10-5-15. Selection of convention delegate nominees — Objections to circuit court clerk's decisions.** — If an objection to a decision of the circuit court clerk is made, the clerk shall immediately certify the objection and the petition to the secretary of state. The secretary of state shall consider the objection, and the secretary's decision is final. [P.L.5-1986, § 6; P.L.3-1987, § 179.]

**3-10-5-16. Certification of convention delegate nominees.** — Within fifteen (15) days after the petitions have been filed with the circuit court clerk, the clerk shall certify the names of the successful nominees to the secretary of state. [P.L.5-1986, § 6; P.L.3-1987, § 180.]

**3-10-5-17. Ballots for convention delegates — Substance of amendment — Voter instructions — Placement of nominees.** — The election required by section 1 [IC 3-10-5-1] of this chapter shall be conducted by ballot. The ballot must state first the substance of the proposed constitutional amendment, followed by appropriate instructions to the voters. The ballot then must be in the form prescribed by the state election board. The names of the nominees in favor of ratification shall be placed in the column headed "For Ratification". The names of the nominees against ratification shall be placed in the column headed "Against Ratification". [P.L.5-1986, § 6; P.L.3-1987, § 181; P.L.3-1993, § 99.]

**3-10-5-18. Ballot for convention delegates — Block voting.** — The ballot prescribed by section 17 [IC 3-10-5-17] of this chapter shall be arranged so that a voter may, by making a single voting mark, vote for an entire group of nominees whose names are in one column. [P.L.5-1986, § 6; P.L.6-1986, § 10; P.L.3-1987, § 182.]

**3-10-5-19. [Repealed.]**

**3-10-5-20. Ballots for convention delegates — Alternating listing of candidates.** — Each county election board shall prepare the ballots in series equal to the total number of delegates to be elected. The names of the candidates shall be arranged in alphabetical order in the first series of ballots printed. On the next series printed the first name shall be placed last, and the process shall be repeated in the same manner until each name has been first. The ballots shall then be combined in tablets with no two (2) of the same order of names together, except where there is but one (1) candidate in each column and when impracticable to do so. [P.L.5-1986, § 6.]

**3-10-5-21. Ballots for convention delegates — Voter's mark.** — A voter shall indicate a choice by making one (1) or more voting marks in the appropriate spaces provided on the ballot. [P.L.5-1986, § 6; P.L.6-1986, § 11.]

**3-10-5-22. Selection of convention delegates — Plurality vote.** — The nominees who receive the highest number of votes, up to the total number to be chosen, are the delegates to the convention prescribed by section 1 [IC 3-10-5-1] of this chapter. [P.L.5-1986, § 6.]

**3-10-5-23. Certification of convention delegates.** — Within ten (10) days after the election, each circuit court clerk shall certify the election of each delegate to the secretary of state. The clerk shall also deliver a certificate of election to each successful delegate. [P.L.5-1986, § 6.]

**3-10-5-24. Filling of convention delegate vacancies.** — If there is a vacancy in the convention prescribed by section 1 [IC 3-10-5-1] of this chapter, the vacancy shall be filled by majority vote of the delegates from the county in which the vacancy exists. If the convention does not have another delegate from that county, the governor shall fill the vacancy. [P.L.5-1986, § 6.]

**3-10-5-25. Convention — Location — Time — Quorum.** — The delegates certified under section 23 [IC 3-10-5-23] of this chapter shall meet in convention in the chamber of the Indiana house of representatives on the third Monday following the election at 2 P.M. to pass upon the question of whether or not to ratify the proposed constitutional amendment. A majority of the delegates elected to the convention constitutes a quorum. [P.L.5-1986, § 6.]

**3-10-5-26. Convention — Call — Oaths.** — The lieutenant governor shall call the convention to order. A justice of the supreme court shall administer the oath of office. [P.L.5-1986, § 6.]

**3-10-5-27. Convention — Judging delegates' qualifications — Election of officers — Rules.** — The convention:

- (1) Is the judge of the election and qualifications of its members;
- (2) May elect its president, secretary, and other officers; and
- (3) May adopt its own rules.

[P.L.5-1986, § 6.]

**3-10-5-28. Convention journal.** — The convention shall keep a journal of its proceedings and debates in which the vote of each delegate on the question of ratification of the proposed constitutional amendment shall be recorded. Upon final adjournment the journal shall be filed with the secretary of state. [P.L.5-1986, § 6.]

**3-10-5-29. Certification of ratification of proposed constitutional amendment.** — If the convention agrees to the ratification of the proposed constitutional amendment by majority vote of the delegates elected to the convention, the presi-

dent and secretary of the convention shall execute a certificate to that effect and transmit it to the secretary of state of Indiana. The secretary of state shall transmit the certificate under the official seal of the state to the Secretary of State of the United States. [P.L.5-1986, § 6.]

**3-10-5-30. Constitutional convention according to congressional mandate.** — If at or about the time of submitting a constitutional amendment, Congress, either in the resolution submitting the amendment or by statute, prescribes the manner in which the conventions are to be constituted and does not except from the resolution or statute states that have provided for conventions, this chapter is inoperative and the convention shall be constituted and operate as the resolution or statute directs. Each public official of this state who is authorized or directed by the resolution or statute to take action to constitute a convention for this state shall act in accordance with it as if acting under a statute of this state. [P.L.5-1986, § 6.]

## CHAPTER 6

### MUNICIPAL AND SCHOOL DISTRICT ELECTIONS IN CITIES AND LARGE TOWNS

#### SECTION.

- 3-10-6-1. Applicability.
- 3-10-6-2. Municipal primary elections — Dates — Parties required to hold.
- 3-10-6-2.5. Terms of office — Towns not adopting ordinance under IC 18-3-1-16(b) or P.L.13-1982, § 3.
- 3-10-6-2.6. Terms of office — Towns adopting ordinance under IC 18-3-1-16(b) or P.L.13-1982, § 3.
- 3-10-6-3. Town trustees primary elections — Dates.
- 3-10-6-4. Uncontested nominations.
- 3-10-6-5. Municipal elections — Dates — Officials to be elected.
- 3-10-6-6. Town council elections — Dates.
- 3-10-6-7. [Repealed.]
- 3-10-6-7.5. Nominee for office — Write-in candidate.
- 3-10-6-8. Duties of county election officials and parties — Municipal primary and general elections.
- 3-10-6-9. Duties of county election officials — Elections in municipalities partially in county.
- 3-10-6-10. Implementation of IC 3-10-6-9.
- 3-10-6-11. Precinct polls in adjoining precinct.

**3-10-6-1. Applicability.** — This chapter applies to municipal and school district elections in the following municipalities:

- (1) All cities.
- (2) Towns having a population of three thousand five hundred (3,500) or more.

(3) Towns located entirely or partially within a county having a consolidated city, regardless of their population. [P.L.5-1986, § 6; P.L.6-1986, § 12; P.L.11-1988, § 3; P.L.3-1993, § 100.]

**3-10-6-2. Municipal primary elections — Dates — Parties required to hold.** — Except as otherwise provided in this chapter, a municipal primary election shall be held on the first Tuesday after the first Monday in May 1987 and every four (4) years thereafter. Each political party whose nominee received at least ten percent (10%) of the votes cast in the state for secretary of state at the last election shall nominate all candidates to be voted for at the municipal election to be held in November. [P.L.5-1986, § 6.]

**3-10-6-2.5. Terms of office — Towns not adopting ordinance under IC 18-3-1-16(b) or P.L.13-1982, § 3.** — (a) This section does not apply to a town located wholly or partially within a county having a consolidated city.

(b) This section applies to a town that has not adopted an ordinance:

- (1) Under IC 18-3-1-16(b) (before its repeal on September 1, 1981); or
- (2) In 1982 under P.L.13-1982, SECTION 3 (before its expiration on January 1, 1988).

(c) A town may adopt an ordinance during the year preceding a municipal election conducted under section 2 [IC 3-10-6-2] of this chapter prescribing the length of the term of office for town legislative body members elected in the municipal election.

(d) The ordinance must provide that:

- (1) No more than fifty percent (50%) of the members will be elected for terms of three (3) years beginning at noon January 1 following the municipal election under section 2 of this chapter; and
- (2) The remainder of the members will be elected for terms of four (4) years beginning at noon January 1 following the election. [P.L.11-1988, § 4; P.L.3-1990, § 7.]

**3-10-6-2.6. Terms of office — Towns adopting ordinance under IC 18-3-1-16(b) or P.L.13-1982, § 3.** — (a) This section does not apply to a town located wholly or partially within a county having a consolidated city.

(b) This section applies to a town that has adopted an ordinance:

- (1) Under IC 18-3-1-16(b) (before its repeal on September 1, 1981); or

(2) In 1982 under P.L.13-1982, SECTION 3 (before its expiration on January 1, 1988).

(c) A town may adopt an ordinance during a year in which an election of town legislative body members, a town clerk-treasurer, or a town judge will not occur under section 3 [IC 3-10-6-3] of this chapter.

(d) The ordinance described in subsection (c) must provide that:

- (1) The town legislative body members, clerk-treasurer, or judge elected at the next municipal election not conducted in a general election year serve terms of one (1) year; and
- (2) The successors of the town legislative body members, clerk-treasurer, or judge described in subdivision (1) shall be chosen at the first general election following the municipal election and serve terms of four (4) years. [P.L.11-1988, § 5; P.L.3-1990, § 8.]

**3-10-6-3. Town trustees primary elections — Dates.** — (a) Notwithstanding section 2 [IC 3-10-6-2] of this chapter, in a town that adopted an ordinance under IC 18-3-1-16(b) (before its repeal on September 1, 1981), P.L.13-1982, SECTION 3 (before its expiration on January 1, 1988), or section 2.5 [IC 3-10-6-2.5] of this chapter each political party shall, at the primary election in:

- (1) May 1990 and every four (4) years thereafter; and
- (2) May 1991 and every four (4) years thereafter;

nominate candidates for the election to be held under section 6(a) [IC 3-10-6-6(a)] of this chapter, unless a primary election is not required under section 4 [IC 3-10-6-4] of this chapter. The primary election shall be conducted under this chapter.

(b) Notwithstanding section 2 of this chapter, in a town that adopted an ordinance under section 2.6 [IC 3-10-6-2.6] of this chapter each political party shall, at the primary election in:

- (1) May 1990 and every four (4) years thereafter; and
- (2) May 1992 and every four (4) years thereafter;

nominate candidates for the election to be held under section 6(b) [IC 3-10-6-6(b)] of this chapter, unless a primary election is not required under section 4 of this chapter. The primary election shall be conducted under this chapter.

(c) Notwithstanding section 2 of this chapter, in a town that adopted an ordinance under section 2.6 of this chapter each political party shall, at the primary election in May 1992 and every four (4)

years thereafter, nominate candidates for the election to be held under section 6(c) [IC 3-10-6-6(c)] of this chapter, unless a primary election is not required under section 4 of this chapter. The primary election shall be held under this chapter. [P.L.5-1986, § 6; P.L.11-1988, § 6; P.L.3-1990, § 9.]

#### **3-10-6-4. Uncontested nominations.**

— (a) Whenever there is no contest in a political party for the nomination of a candidate or candidates for an office, the party may hold a primary election for that nomination.

(b) The county election board of the county in which the greatest percentage of the population of the municipality is located shall certify the names of the candidates for each nomination for which there is no contest as though a primary election had been held.

(c) If:

(1) There is a contest in a precinct in any party for a nomination for an office; or

(2) A party has decided to hold a primary election for an office under subsection (a);

the name of each candidate of each party for that office shall be placed on the primary election ballot for that precinct, whether or not the candidate is opposed.

(d) If:

(1) There is no contest in a precinct in any party for a nomination for an office; and

(2) No party has decided to hold a primary election for any office under subsection (a);

a primary election may not be held for any municipal office in the precinct. [P.L.5-1986, § 6; P.L.10-1988, § 86; P.L.4-1991, § 3; P.L.3-1993, § 101.]

#### **3-10-6-5. Municipal elections —**

**Dates — Officials to be elected.** — Except as otherwise provided in this chapter, a municipal election shall be held on the first Tuesday after the first Monday in November 1987 and every four (4) years thereafter. At the election public officials shall be elected to each municipal and school board office. [P.L.5-1986, § 6.]

#### **3-10-6-6. Town council elections —**

**Dates.** — (a) Notwithstanding section 5 [IC 3-10-6-5] of this chapter, a town that adopted an ordinance under IC 18-3-1-16(b) (before its repeal on September 1, 1981), P.L.13-1982, SECTION 3 (before its expiration on January 1, 1988), or section 2.5 [IC 3-10-6-2.5] of this chapter shall:

(1) At the general election in November 1990 and every four (4) years thereafter; and

(2) At the municipal election in November 1991 and every four (4) years thereafter;

elect town council members for terms of four (4) years to those offices whose terms expire at noon January 1 following the election, as provided in IC 36-5-2-3. The election shall be conducted under this chapter.

(b) Notwithstanding section 5 of this chapter, a town that adopted an ordinance under section 2.6 [IC 3-10-6-2.6] of this chapter shall:

(1) At the general election in November 1990 and every four (4) years thereafter; and

(2) At the general election in November 1992 and every four (4) years thereafter;

elect town council members for terms of four (4) years to those offices whose terms expire at noon January 1 of the following year. The election shall be conducted under this chapter.

(c) Notwithstanding section 5 of this chapter, a town that adopted an ordinance under section 2.6 of this chapter shall, at the general election in November 1992 and every four (4) years thereafter, elect a town clerk-treasurer and town court judge (if a town court has been established under IC 33-10.1-1-3) to those offices whose terms expire at noon January 1 of the following year. The election shall be conducted under this chapter. [P.L.5-1986, § 6; P.L.5-1988, § 3; P.L.11-1988, § 7; P.L.8-1989, § 6; P.L.3-1990, § 10; P.L.4-1991, § 55.]

#### **3-10-6-7. [Repealed.]**

**3-10-6-7.5. Nominee for office — Write-in candidate.** — (a) Subject to subsection (b), an election may not be held for a municipal office if:

(1) There is only one (1) nominee for the office; and

(2) No person has filed a declaration of intent to be a write-in candidate for the office under IC 3-8-2-2.5.

(b) If there is an election for any office in the municipality, all nominees for each office must be on the ballot. [P.L.8-1992, § 12.]

**3-10-6-8. Duties of county election officials and parties — Municipal primary and general elections.** — The county election board, county executive, circuit court clerk, and members of political parties in each county in which a municipal primary election or municipal

election will be held have the rights and shall perform the duties and furnish the assistance that they are required to do for a primary and general election under IC 3-10-1 and IC 3-11-8. [P.L.5-1986, § 6; P.L.10-1992, § 20.]

**3-10-6-9. Duties of county election officials — Elections in municipalities partially in county.** — In accordance with IC 3-11-1.5 and to the extent applicable and feasible, the circuit court clerk, the county fiscal body, the county executive, and the county election board of each county in which there are voters who may vote in a municipal election, but who live in a county adjacent to the county in which the greatest percentage of the population of the municipality resides, shall:

(1) Upon written request of their counterpart election officers in the county with the greatest percentage of the population of the municipality, establish precincts for municipal election purposes; and

(2) Supply the precincts established with poll lists and perform all other duties under this title as if the voters were inhabitants of a municipality with the greatest percentage of its population within that county. [P.L.5-1986, § 6; P.L.10-1988, § 87; P.L.13-1988, § 7.]

**3-10-6-10. Implementation of IC**

**3-10-6-9.** — The state election board shall, if necessary, implement section 9 [IC 3-10-6-9] of this chapter by orders and rules. Local governments may use IC 36-1-7 for contractual agreements concerning the costs of services, supplies, and equipment required. [P.L.5-1986, § 6.]

**3-10-6-11. Precinct polls in adjoining precinct.** — If a precinct is wholly or partly in a municipality, the executive of the county that contains the greatest percentage of the population of the municipality may designate the polls for the precinct to be at the polls for an adjoining precinct, using the precinct election board of the adjoining precinct. [P.L.3-1987, § 184; P.L.10-1988, § 88.]

## CHAPTER 7

### MUNICIPAL ELECTIONS IN SMALL TOWNS

SECTION.

- 3-10-7-1. Applicability.  
 3-10-7-2. Conduct of elections — Town elections not coinciding with general elections.  
 3-10-7-2.5. Adoption of ordinance under IC 3-10-6-2.5 or IC 3-10-6-2.6.

SECTION.

- 3-10-7-3. Conduct of elections — Town council elections coinciding with general election.  
 3-10-7-4. Conduct of elections — Town and county election board agreements.  
 3-10-7-5. Conduct of elections — Towns in county.  
 3-10-7-5.5. Population less than 500 — Municipal election.  
 3-10-7-6. Dates of elections.  
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 3-10-7-9. Town election boards — Term, removal and replacement of members.  
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 3-10-7-16. Town election boards — Clerks, custodians and other employees.  
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 3-10-7-32. Voting methods.  
 3-10-7-33. Canvassing of vote.  
 3-10-7-34. Certificates of election.  
 3-10-7-35. Appeal of election decisions.

**3-10-7-1. Applicability.** — This chapter applies to municipal elections in towns having a population of less than three thousand five hundred (3,500) that are not located entirely or partially within a county having a consolidated city. [P.L.5-1986, § 6; P.L.6-1986, § 13; P.L.11-1988, § 8.]

**3-10-7-2. Conduct of elections — Town elections not coinciding with general elections.** — Except as provided in sections 4, 5, and 5.5 [IC 3-10-7-4, IC 3-10-7-5, and IC 3-10-7-5.5] of this chapter, the town election board established under

this chapter shall conduct elections for town offices that do not coincide with a general election. [P.L.5-1986, § 6; P.L.3-1993, § 102.]

**3-10-7-2.5. Adoption of ordinance under IC 3-10-6-2.5 or IC 3-10-6-2.6. —**

(a) This section does not apply to a town located wholly or partially within a county having a consolidated city.

(b) A town may adopt an ordinance:

(1) Under IC 3-10-6-2.5, if the town has not adopted an ordinance under IC 18-3-1-16(b) (before its repeal on September 1, 1981) or P.L.13-1982, SECTION 3 (before its expiration on January 1, 1988); or

(2) Under IC 3-10-6-2.6, if the town has adopted an ordinance under IC 18-3-1-16(b) (before its repeal on September 1, 1981) or P.L.13-1982, SECTION 3 (before its expiration on January 1, 1988). [P.L.11-1988, § 9; P.L.3-1990, § 11.]

**3-10-7-3. Conduct of elections — Town council elections coinciding with general election. —**

If a town has established staggered terms for its town council, the county election board shall conduct a municipal election in that town that coincides with a general election. [P.L.5-1986, § 6; P.L.8-1989, § 7.]

**3-10-7-4. Conduct of elections — Town and county election board agreements. —**

A county election board and a town may enter into a written agreement providing that the county election board will conduct a municipal election in the town. However, a town that enters into such an agreement shall continue to nominate candidates by convention conducted under IC 3-8-5 or by petition filed under IC 3-8-6. An agreement may not be entered into after July 1 of a year in which a municipal election is to be held in the town. A county election board that enters into an agreement under this section shall conduct the municipal election in the same manner as it conducts a general election in a town that has a population of three thousand five hundred (3,500) or more. [P.L.5-1986, § 6; P.L.6-1986, § 14.]

**3-10-7-5. Conduct of elections — Towns in county. —**

The county election board shall conduct a municipal election in a town that is located in a county having a consolidated city. The county election board shall conduct the municipal election in the same manner as it conducts a consolidated city election. However, a

town that is subject to this section is not required to reimburse the county for any of the expenses of conducting a municipal election. [P.L.5-1986, § 6.]

**3-10-7-5.5. Population less than 500 — Municipal election. —**

(a) The county election board shall conduct a municipal election in a town that has a population of less than five hundred (500) unless the town legislative body adopts a resolution during the period:

(1) Beginning January 1; and

(2) Ending April 1;

before the municipal election to establish a town election board under this chapter to conduct the municipal election.

(b) The town clerk-treasurer must file a copy of the resolution with the circuit court clerk of the county having the greatest percentage of the population of the town before May 1 after the resolution is adopted.

(c) A resolution adopted under this section expires December 31 after its adoption. [P.L.3-1993, § 103.]

**3-10-7-6. Dates of elections. —** (a) A municipal election conducted under this chapter shall be held at the time prescribed by IC 3-10-6.

(b) Subject to subsection (c), an election may not be held for a municipal office if:

(1) There is only one (1) nominee for the office; and

(2) No person has filed a declaration of intent to be a write-in candidate for the office under IC 3-8-2-2.5.

(c) If there is an election for any office in the municipality, all nominees for each office must be on the ballot. [P.L.5-1986, § 6; P.L.11-1987, § 4; P.L.4-1991, § 56; P.L.8-1992, § 13.]

**3-10-7-7. Town election boards — Membership. —** (a) A town election board consisting of three (3) members is established in each town except a town that:

(1) Has entered into an agreement with the county election board under section 4 [IC 3-10-7-4] of this chapter;

(2) Is located in a county having a consolidated city; or

(3) Has a population of less than five hundred (500) and has not adopted and filed a resolution under section 5.5 [IC 3-10-7-5.5] of this chapter.

(b) The town clerk-treasurer shall serve as an ex officio member of the board and shall appoint one (1) member from each of the major political parties of the county. However, except for the town clerk-treasurer, a member may not be a public



official or a candidate for elected office. [P.L.5-1986, § 6; P.L.3-1993, § 104.]

**3-10-7-8. Town election boards — Appointment of members.** — Appointments under section 7 [IC 3-10-7-7] of this chapter shall be made by noon August 1 of each year in which a municipal election is to be held. If the county chairman of either major political party of the county that contains the greatest percentage of the population of the town nominates in writing a member of the chairman's party for appointment before that time, the town clerk-treasurer shall appoint the nominee. If a county chairman fails to make a nomination by noon August 1 of a year, the town clerk-treasurer shall, by noon August 6, appoint a member of the party entitled to the appointment. [P.L.5-1987, § 6; P.L.3-1986, § 185; P.L.10-1988, § 89.]

**3-10-7-9. Town election boards — Term, removal and replacement of members.** — Town election board members serve until their successors are appointed and qualified. However, the town clerk-treasurer shall remove and replace a member upon the request of the county chairman of the member's political party entitled to nominate that member under section 8 [IC 3-10-7-8] of this chapter. The town clerk-treasurer shall appoint in the person's place a new member nominated by the chairman. [P.L.5-1986, § 6; P.L.10-1988, § 90.]

**3-10-7-10. Town election boards — Filling vacancies.** — In case of death or disability of either appointed town election board member, the town clerk-treasurer shall notify the county chairman of the member's political party entitled to nominate that member under section 8 [IC 3-10-7-8] of this chapter. The chairman may, within five (5) days after notice of the vacancy, nominate in writing a successor who shall be appointed. [P.L.5-1986, § 6; P.L.10-1988, § 91.]

**3-10-7-11. Town election boards — Officers.** — The members of a town election board shall select one (1) of the appointed members to serve as chairman. The town clerk-treasurer shall serve as secretary of the board. [P.L.5-1986, § 6.]

**3-10-7-12. Town election boards — Call of meetings.** — A town election board shall hold meetings on call of the chairman whenever necessary to perform its duties. If the chairman refuses, fails, or is unable to call a meeting, the two (2)

remaining members may meet to perform the duties of the board. [P.L.5-1986, § 6.]

**3-10-7-13. Town election boards — Minutes — Voting records.** — Minutes of all town election board meetings and a record of the aye and nay vote of each member on all questions coming before the board shall be kept. [P.L.5-1986, § 6.]

**3-10-7-14. Town election boards — Supervision of elections.** — A town election board shall conduct all elections for town offices that do not coincide with general elections and administer the election laws at those elections. [P.L.5-1986, § 6.]

**3-10-7-15. Deputy election commissioners.** — (a) A town election board may appoint and at its pleasure remove deputy election commissioners. A deputy election commissioner appointed under this section must reside in the town of the election board that appointed the deputy commissioner. If a deputy election commissioner ceases to be a resident of the town of the election board that appointed the deputy election commissioner, the person may not continue to serve as a deputy election commissioner of the town.

(b) The county chairman of each major political party entitled to nominate a member of the town election board under section 8 [IC 3-10-7-8] of this chapter shall designate one-half ( $1/2$ ) of the deputy commissioners. Deputy election commissioners may assist the town election board in carrying out its duties in accordance with the rules adopted by the board. [P.L.5-1986, § 6; P.L.10-1988, § 92; P.L.5-1989, § 42.]

**3-10-7-16. Town election boards — Clerks, custodians and other employees.** — A town election board may appoint and at its pleasure remove clerks, custodians, and other employees that are necessary to execute its powers. The board may prescribe the duties, fix the rank, and fix the salaries of its appointees. [P.L.5-1986, § 6.]

**3-10-7-17. Election materials, supplies and equipment.** — All materials, supplies, and equipment that are to be paid for out of the town treasury shall be purchased as provided by statute and paid upon claims filed with the town clerk-treasurer. The town election board must verify and approve the claims. [P.L.5-1986, § 6.]

**3-10-7-18. Town election boards — Audits of books.** — The books of a town election board shall be audited as are those of other town officials. [P.L.5-1986, § 6.]

**3-10-7-19. Town marshal to assist town election board.** — The town marshal, whenever called upon by a town election board, shall assist the board in the enforcement of the election laws and the discharge of its duties. [P.L.5-1986, § 6.]

**3-10-7-20. Town election boards — Compensation of members.** — The town legislative body shall determine the compensation of each appointed member of a town election board. The town legislative body shall fix the compensation in the same manner as it fixes salaries. [P.L.5-1986, § 6.]

**3-10-7-21. Town election boards — Powers, duties, etc.** — Except as otherwise provided in this chapter, a town election board conducting a municipal election under this chapter has the same powers and duties, and is subject to the same qualifications and penalties, as a county election board that is conducting a general election. [P.L.5-1986, § 6.]

**3-10-7-22. Precinct election boards — Members.** — (a) A town election board shall appoint a precinct election board for each precinct in the town.

(b) If a precinct is wholly or partly in the town, the town election board may designate the polls for the precinct to be at the polls for an adjoining precinct, using the precinct election board of the adjoining precinct.

(c) Each precinct election board consists of:

- (1) One (1) inspector; and
- (2) Two (2) judges of opposite political parties.

The members of a precinct election board must be voters who reside in the town. [P.L.5-1986, § 6; P.L.6-1986, § 15; P.L.3-1987, § 186.]

**3-10-7-23. Precinct election boards — Powers, duties, etc.** — Except as otherwise provided in this chapter, a precinct election board for a municipal election has the same powers and duties, and is subject to the same qualifications and penalties, as a precinct election board appointed for a general election under IC 3-6-6-1. [P.L.5-1986, § 6.]

**3-10-7-24. Poll clerks — Assistant poll clerks.** — A town election board shall

appoint two (2) poll clerks, and may appoint two (2) assistant poll clerks, of opposite political parties for each precinct in the town. Except as otherwise provided in this chapter, the poll clerks and assistant poll clerks have the same powers and duties, and are subject to the same qualifications and penalties, as poll clerks and assistant poll clerks appointed for a general election under IC 3-6-6-2 and IC 3-6-6-3. [P.L.5-1986, § 6.]

**3-10-7-25. Election sheriffs.** — (a) A town election board shall appoint two (2) election sheriffs of opposite political parties for each precinct in the town. Except as otherwise provided in this chapter, the election sheriffs have the same powers and duties, and are subject to the same qualifications and penalties, as election sheriffs appointed for a general election under IC 3-6-6-5.

(b) A town election board may adopt a resolution providing that the judges of each precinct that:

- (1) Is located wholly or partially in the town; and
- (2) Will contain no more than two hundred fifty (250) registered voters on municipal election day;

shall perform the duties and have the rights of the election sheriffs of the precinct. This resolution remains in effect until repealed by the town election board. [P.L.5-1986, § 6; P.L.3-1993, § 105.]

**3-10-7-26. Precinct inspectors.** — The appointed member of a town election board who represents the major political party whose nominee received the highest number of votes in the county for secretary of state at the last election may nominate one (1) person to serve as inspector for each precinct in the town. [P.L.5-1986, § 6.]

**3-10-7-27. Judges, election sheriffs, poll clerks, and assistant poll clerks — Nominations.** — Each of the appointed members of a town election board may nominate:

- (1) One (1) person to serve as a judge;
- (2) One (1) person to serve as an election sheriff, except in a precinct subject to a resolution adopted under section 25 [IC 3-10-7-25] of this chapter;
- (3) One (1) person to serve as a poll clerk; and
- (4) One (1) person to serve as an assistant poll clerk, if assistant poll clerks are to be appointed;

for each precinct in the town. [P.L.5-1986, § 6; P.L.3-1993, § 106.]

**3-10-7-28. Judges, election sheriffs, poll clerks, and assistant poll clerks — Nominees to be appointed — Vacancies.** — A town election board shall appoint the persons who are nominated under sections 26 and 27 [IC 3-10-7-26 and 3-10-7-27] of this chapter. A vacancy in an office shall be filled by an appointment made upon the recommendation of the board member who nominated the original officer. [P.L.5-1986, § 6.]

**3-10-7-29. Challengers — Pollbook holders.** — Each political party that has a candidate on the ballot in a municipal election under this chapter may appoint one (1) challenger and one (1) pollbook holder for each precinct in the town. These persons have the same powers and duties, and are subject to the same qualifications and penalties, as challengers and pollbook holders appointed under IC 3-6-7-1. [P.L.5-1986, § 6.]

**3-10-7-30. Registered voter lists.** — The circuit court clerk or board of registration shall prepare copies of the list of registered voters for each precinct in the town at least ten (10) days before a municipal election under this chapter. The lists must include the full name, address, and assigned identification number of each voter. Two (2) copies of the list shall be presented to the town election board for use at the polls on election day. [P.L.5-1986, § 6.]

**3-10-7-31. Furnishing of election equipment by county election boards.** — Upon request of a town election board, the county election board of each county in which the town is located shall furnish any available equipment that is necessary for a municipal election, including voting machines, ballot card voting systems, and electronic voting systems. The town shall pay the expense of moving the equipment to and from the polls and for any loss of or damage to the equipment. [P.L.5-1986, § 6; P.L.3-1987, § 187; P.L.10-1988, § 93.]

**3-10-7-32. Voting methods.** — A town election board shall determine what voting method will be used in a municipal election. The town election board and its precinct election officers shall perform the duties of the county election board and its precinct election officers under IC 3-11 for each voting method used. The town election board shall prepare the ballots in the form prescribed by IC 3-11-2 and distribute them to the precincts in the town. [P.L.5-1986, § 6; P.L.3-1987, § 188.]

**3-10-7-33. Canvassing of vote.** — A town election board shall canvass the votes from a municipal election in the manner prescribed by IC 3-12-4. [P.L.5-1986, § 6.]

**3-10-7-34. Certificates of election.** — (a) After completing the canvass of votes under section 33 [IC 3-10-7-33] of this chapter, a town election board shall make out a certificate:

(1) Designating each office and public question;

(2) Stating the number of votes:

(A) Each candidate has received; and

(B) Cast for or against each public question; and

(3) Declaring:

(A) The candidate receiving the highest number of votes for each office to be elected; and

(B) The local public question approved or rejected if the question was placed on the ballot by the town election board.

(b) The town election board shall present the certificate to the town clerk-treasurer, who may, upon the request of the candidate or a person entitled to request a recount of the votes cast on a public question, issue a:

(1) Certificate of election to each person elected; or

(2) Certificate declaring the local public question approved or rejected.

[P.L.5-1986, § 6; P.L.10-1988, § 94; P.L.4-1991, § 57.]

**3-10-7-35. Appeal of election decisions.** — Any voter of a town who disagrees with a decision of the town clerk-treasurer or the town election board under this chapter may appeal the decision to the county election board by noon August 7 before a municipal election under this chapter. The appeal must be in the form of a brief written statement setting forth the grounds of the appeal, together with any documents relevant to the matter. The county election board shall render a decision on the appeal within ten (10) days after it receives the statement. [P.L.5-1986, § 6; P.L.3-1987, § 189.]

## CHAPTER 8

### SPECIAL ELECTIONS

#### SECTION.

3-10-8-1. Situations requiring special elections.

3-10-8-2. Vacancies in local offices.

3-10-8-3. Writ ordering election.

3-10-8-4. Notice of election.

3-10-8-5. General election laws applicable — Nomination of candidates.

## SECTION.

- 3-10-8-6. Special elections in political subdivisions.  
 3-10-8-7. Vacancy for office of United States Senator.  
 3-10-8-8. Elections ordered under IC 3-12-8-17 or 3-12-11-18.  
 3-10-8-9. Court-ordered special election.

**3-10-8-1. Situations requiring special elections.** — A special election shall be held in the following cases:

- (1) Whenever two (2) or more candidates for a federal, state, legislative, circuit, or school board office receive the highest and an equal number of votes for the office, except as provided in Article 5, Section 5 of the Constitution of the State of Indiana or in IC 20.
- (2) Whenever a vacancy occurs in the office of United States Senator, as provided in IC 3-13-3-1.
- (3) Whenever a vacancy occurs in the office of United States Representative unless the vacancy occurs less than thirty (30) days before a general election.
- (4) Whenever a vacancy occurs in any local office the filing of which is not otherwise provided by law.
- (5) Whenever required by law for a public question.
- (6) Whenever ordered by a court under IC 3-12-8-17 or the state recount commission under IC 3-12-11-18. [P.L.5-1986, § 6; P.L.3-1987, § 190; P.L. 10-1989, § 1.]

**3-10-8-2. Vacancies in local offices.** — A vacancy in a local office to be filled under this chapter shall be filled for the unexpired term unless prohibited by the Constitution of the State of Indiana. However, if it will not be necessary to exercise the functions of the office before the expiration of the term in which the vacancy exists or will occur, it is not necessary to fill the vacancy. [P.L.5-1986, § 6.]

**3-10-8-3. Writ ordering election.** — (a) The governor, court, or state recount commission shall order a special election under this chapter by issuing a writ of election directed to the circuit court clerk of each county wholly or partially within the election district.

(b) The writ must specify:

- (1) The election district in which the election is to be held;
- (2) The cause and object of the election;
- (3) The name of the person whose office is vacant; and
- (4) The day on which the election will be held.

(c) A special election to be held in an election district situated in two (2) or more counties shall be held on the same day in each county. [P.L.5-1986, § 6; P.L.10-1989, § 2.]

**3-10-8-4. Notice of election.** — (a) Each circuit court clerk who receives a writ ordering a special election shall immediately publish under the proper political party or independent candidate designation:

- (1) The title of office;
- (2) The names and addresses of all persons for whom nomination papers have been filed;
- (3) The date of the election; and
- (4) the hours during which the polls will be open.

(b) The clerk shall publish this notice in accordance with IC 5-3-1. [P.L.5-1986, § 6; P.L.10-1988, § 95; P.L.3-1993, § 107.]

**3-10-8-5. General election laws applicable — Nomination of candidates.** — (a) Special elections are governed by other provisions of this title as far as applicable.

(b) Except as provided in section 7 [IC 3-10-8-7] of this chapter, IC 3-12-8-17, or IC 3-12-11-18, candidates in special elections shall be nominated in the same manner as candidates are nominated:

- (1) To fill vacancies on the ballot under IC 3-13-1; or
- (2) Under IC 3-8-6, if a candidate does not intend to affiliate with a regular political party or represents a political party not qualified to nominate candidates at a primary election or by convention. [P.L.5-1986, § 6; P.L.10-1989, § 3.]

**3-10-8-6. Special elections in political subdivisions.** — (a) Except as provided in subsection (b) or (c), if a special election is held at a time other than the time of a general election, the election shall be held in accordance with this title. Each county election board and other local public official who is required to perform any duties in connection with a general election shall perform the same duties for the special election, subject to the same provisions and penalties as for a general election.

(b) If a special election is held under a court order under IC 3-12-8 or for a local public question, the county election board may provide that several precincts may vote in the special election at the same polling place, if the county election board finds by unanimous vote of the entire membership of the board that the consoli-

dation of polling places will not result in undue inconvenience to voters.

(c) If a special election is held under a court order under IC 3-12-8 for a school board office or for a local public question, the county election board may by unanimous vote of the entire membership of the board provide that each precinct election board will include only one (1) judge, one (1) sheriff, and one (1) poll clerk. [P.L.5-1986, § 6; P.L.3-1989, § 7; P.L.3-1993, § 108.]

**3-10-8-7. Vacancy for office of United States Senator.** — A candidate for the office of United States Senator in a special election held to fill a vacancy in accordance with IC 3-13-3-1 shall be nominated:

- (1) At a primary election held under IC 3-10-1, if the vacancy occurs no later than noon seventy (70) days before the primary election;
- (2) As provided in IC 3-13-1-3, if the vacancy occurs after noon on the seventieth day before a primary election held under IC 3-10-1; or
- (3) Under IC 3-8-6, if a candidate is an independent candidate or represents a political party not qualified to nominate candidates at a primary election. [P.L.10-1989, § 4; P.L.3-1993, § 109.]

**3-10-8-8. Elections ordered under IC 3-12-8-17 or 3-12-11-18.** — (a) A special election ordered by:

- (1) A court under IC 3-12-8-17; or
- (2) The state recount commission under IC 3-12-11-18;

shall be held on the ninth Tuesday after the court or commission enters an order requiring an election.

(b) The names of all candidates for a contested office must appear on the ballot in the special election held under this section unless a candidate vacancy has occurred.

(c) A special election held under this section may be held in all or part of an election district, as specified in an order by:

- (1) A court under IC 3-12-8-17; or
- (2) The state recount commission under IC 3-12-11-18.

[P.L.10-1989, § 5.]

**3-10-8-9. Court-ordered special election.** — (a) This section applies when a special election is ordered by a court under IC 3-12-8-17 or the state recount commission under IC 3-12-11-18.

(b) If the special election occurs during the period when registration is open under

IC 3-7-3-5, the election board conducting the election shall provide poll lists for use at the precincts that include the names of voters in the precinct who have registered through the twenty-ninth day before the special election is to be conducted.

(c) A candidate may not be placed on the special election ballot unless the candidate was on the ballot or was a declared write-in candidate for the office at the general election preceding the special election.

(d) The restrictions on the sale of alcoholic beverages set forth in IC 7.1-5-10-1 apply in each precinct in which the special election is conducted. [P.L.3-1993, § 110.]

## CHAPTER 9

### LOCAL PUBLIC QUESTIONS

#### SECTION.

- 3-10-9-1. Applicability.
- 3-10-9-2. Placing question on ballot.
- 3-10-9-3. Certification.
- 3-10-9-4. Form.
- 3-10-9-5. Statutory authorization required.
- 3-10-9-6. Petition to state day of election — Limitation.

**3-10-9-1. Applicability.** — This chapter applies to voting on all local public questions. [P.L.3-1987, § 191.]

**3-10-9-2. Placing question on ballot.** — The:

- (1) County election board of each county included in the election district voting on the public question; or
- (2) Town election board if a public question is to be voted on at an election conducted by a town election board;

shall place the public question on the ballot in accordance with this chapter. [P.L.3-1987, § 191; P.L.4-1991, § 58.]

**3-10-9-3. Certification.** — If a local public question must be certified to an election board by law, that certification must occur no later than noon:

- (1) Sixty (60) days before a primary election if the public question is to be placed on the primary or municipal primary election ballot; or
- (2) August 1 if the public question is to be placed on the general or municipal election ballot. [P.L.3-1987, § 191; P.L.10-1988, § 96; P.L.4-1991, § 59.]

**3-10-9-4. Form.** — The public question shall be placed on the ballot in substantially the following form:

(The explanatory text for the public question, if required by law):

"Shall (insert public question)?"

- YES  
 NO

[P.L.3-1987, § 191.]

**3-10-9-5. Statutory authorization required.** — A local public question may not be placed on the ballot at an election unless the placement of the local public question on the ballot at the election is expressly authorized by statute. [P.L.3-1987, § 191; P.L.10-1988, § 97.]

**3-10-9-6. Petition to state day of election — Limitation.** — If a statute requires the submission of a petition for the placement of a local public question on the ballot, the petition must state the day of the election for which the petitioners seek the placement of the question on the ballot. A petition is not valid for the placement of the public question on the ballot on any other election day. [P.L.10-1988, § 98.]

## ARTICLE 11

### VOTING METHODS, SUPPLIES, AND EQUIPMENT

#### CHAPTER.

1. [REPEALED.]
- 1.5. PRECINCTS, 3-11-1.5-1 — 3-11-1.5-36.
2. FORM OF PAPER BALLOTS, 3-11-2-1 — 3-11-2-16.
3. DISTRIBUTION OF BALLOTS AND OTHER SUPPLIES, 3-11-3-1 — 3-11-3-35.
4. ELIGIBILITY AND APPLICATION FOR ABSENTEE BALLOT, 3-11-4-1 — 3-11-4-22.
- 4.5. VOTING SYSTEMS ADVISORY COMMITTEE, 3-11-4.5-1 — 3-11-4.5-10.
5. APPROVAL OF VOTING MACHINES, 3-11-5-1 — 3-11-5-26.
6. FUND FOR PURCHASE OF VOTING MACHINES AND SYSTEMS, 3-11-6-1 — 3-11-6-14.
7. APPROVAL OF BALLOT CARD VOTING SYSTEMS, 3-11-7-1 — 3-11-7-19.
- 7.5. APPROVAL OF ELECTRONIC VOTING SYSTEMS, 3-11-7.5-1 — 3-11-7.5-28.
8. VOTING PROCEDURES GENERALLY, 3-11-8-1 — 3-11-8-33.
9. ASSISTANCE TO CERTAIN VOTERS, 3-11-9-1 — 3-11-9-4.
10. VOTING BY ABSENTEE BALLOT, 3-11-10-1 — 3-11-10-39.
11. VOTING BY PAPER BALLOT, 3-11-11-1 — 3-11-11-19.
12. VOTING BY VOTING MACHINE, 3-11-12-1 — 3-11-12-39.
13. VOTING BY BALLOT CARD VOTING SYSTEM, 3-11-13-1 — 3-11-13-44.
14. VOTING BY ELECTRONIC VOTING SYSTEM, 3-11-14-1 — 3-11-14-34.

## CHAPTER 1

### ELECTION PRECINCTS

**3-11-1-1 — 3-11-1-21. [Repealed.]**

## CHAPTER 1.5

### PRECINCTS

#### SECTION.

- 3-11-1.5-1. "Establishing a precinct" defined.
- 3-11-1.5-2. Establishment.
- 3-11-1.5-3. Maximum voters in precinct.
- 3-11-1.5-3.2. Waiver of requirements imposed by IC 3-11-1.5-3.
- 3-11-1.5-3.5. Precincts on university campuses.
- 3-11-1.5-4. Boundaries not to be crossed.
- 3-11-1.5-5. Boundaries to be followed.
- 3-11-1.5-6. Inclusion of territory not included in precinct.
- 3-11-1.5-7. Territory included in more than one precinct.
- 3-11-1.5-8. Precincts including territory of more than one entity listed in IC 3-11-1.5-4.
- 3-11-1.5-9. Boundaries following a visible feature — Exemption.
- 3-11-1.5-10. Exception to IC 3-11-1.5-4.
- 3-11-1.5-11. Uniformity of precincts established for general or municipal election and for primary election.
- 3-11-1.5-12. Combination of precincts after primary election.
- 3-11-1.5-13. [Repealed.]
- 3-11-1.5-14. Submission of proposed precinct establishment order.
- 3-11-1.5-15. Contents of proposed order.
- 3-11-1.5-16. Legal descriptions in proposed order.
- 3-11-1.5-17. Examination of proposed order.
- 3-11-1.5-18. Approval by executive director.
- 3-11-1.5-19. Determination of noncompliance with chapter.
- 3-11-1.5-20. Amendment of proposed order — Exemption.
- 3-11-1.5-20.5. Precincts in noncompliance with boundary standards — Exemption from standards — Hearing on exemption request — Amendment of proposed precinct establishment order.
- 3-11-1.5-21. Resubmission of proposed order — Hearing.
- 3-11-1.5-22. Issuance of order.
- 3-11-1.5-23. Filing copy of order with executive director.
- 3-11-1.5-24. Approval by state election board — Effective date.
- 3-11-1.5-25. Periods during which order may not become effective.
- 3-11-1.5-26. Notice to county executive.
- 3-11-1.5-27. Notice of approval by publication.
- 3-11-1.5-28. Contents of notice.
- 3-11-1.5-29. Filing copy of order with circuit court clerk or board of registration — Filing copy of notice with executive director.
- 3-11-1.5-30. Precinct crossing city boundary — Submission of proposed precinct establishment order.
- 3-11-1.5-31. Action on proposed precinct establishment order.
- 3-11-1.5-32. Change of boundaries.
- 3-11-1.5-33. Extension of municipal boundaries.
- 3-11-1.5-34. Renaming or renumbering precincts.
- 3-11-1.5-35. Precinct boundary violation — Precinct establishment order issued by

## SECTION.

state election board — Order requirements.

3-11-1.5-36. Delegation of county executive's responsibilities.

**3-11-1.5-1. "Establishing a precinct" defined.** — As used in this chapter, "establishing a precinct" includes the following:

- (1) Dividing one (1) precinct into two (2) or more precincts.
- (2) Combining two (2) or more precincts into one (1) precinct.
- (3) Altering a boundary line dividing two (2) or more precincts. [P.L.13-1988, § 1.]

**3-11-1.5-2. Establishment.** — Each county executive shall establish precincts in the incorporated and unincorporated areas of the county in the manner described in this chapter. [P.L.13-1988, § 1.]

**3-11-1.5-3. Maximum voters in precinct.** — (a) Except as provided in:

- (1) Subsection (b);
- (2) Subsection (c);
- (3) Section 3.2 [IC 3-11-1.5-3.2] of this chapter; or
- (4) Section 3.5 [IC 3-11-1.5-3.5] of this chapter;

a county executive shall establish precincts so that a precinct contains no more than eight hundred (800) voters.

(b) This subsection applies to a precinct that includes:

- (1) An entire township, but does not cross a township boundary in violation of section 4 [IC 3-11-1.5-4] of this chapter;
- (2) An entire city legislative body district, but does not cross the boundary of a city legislative body district;
- (3) An entire town legislative body district, but does not cross the boundary of a town legislative body district; or
- (4) One (1) residential structure containing more than eight hundred (800) voters and no other residential structure containing voters.

In changing precincts or establishing new precincts, a county executive shall arrange a precinct so that it will contain no more than one thousand two hundred (1,200) voters.

(c) A county executive is not required to establish precincts so that a precinct contains not more than eight hundred (800) voters if the precinct:

- (1) Was established by the county executive in compliance with subsec-

tion (a) within the preceding forty-eight (48) months; and

(2) Contains not more than one thousand (1,000) voters. [P.L.13-1988, § 1; P.L.3-1989, § 8; P.L.7-1990, § 36; P.L.8-1990, § 1; P.L.19-1993, § 1.]

**3-11-1.5-3.2. Waiver of requirements imposed by IC 3-11-1.5-3.** — (a) A county executive may file a petition with the state election board requesting the board to waive the requirements imposed by section 3 [IC 3-11-1.5-3] of this chapter. The petition must:

- (1) Identify each precinct to be subject to the waiver;
- (2) State the number of voters that would be included in each precinct described in subdivision (1) if the waiver is granted; and
- (3) State the reasons why the waiver should be granted.

(b) If the state election board determines that compliance with the requirements of section 3 of this chapter would result in unnecessary expense and inconvenience for the county, as determined under rules adopted under IC 4-22-2, the board may grant a waiver exempting some or all of the precincts identified in the petition from section 3 of this chapter.

(c) A waiver granted for a precinct under this section expires when the county executive submits a subsequent proposed precinct establishment order for that precinct. [P.L.8-1990, § 2.]

**3-11-1.5-3.5. Precincts on university campuses.** — (a) This section does not apply to a precinct located in a county having a consolidated city.

(b) This section applies to a precinct: (1) That is located wholly or partially within the campus of:

- (A) Ball State University;
- (B) Indiana State University;
- (C) Indiana University;
- (D) Purdue University;
- (E) The University of Evansville;
- (F) The University of Southern Indiana; or
- (G) Vincennes University;

with more full-time students enrolled at that campus than are enrolled at any other campus of that university; or

(2) Contains a structure owned by a university described in subdivision (1) that houses more than one hundred (100) students of the university.

(c) A county executive may establish a precinct subject to this section without regard to the number of registered voters permitted under section 3 [IC 3-11-1.5-3] of

this chapter if less than forty percent (40%) of the voters entitled to vote in the precinct voted in the last general election. [P.L.5-1989, § 43.]

**3-11-1.5-4. Boundaries not to be crossed.** — A county executive shall establish precincts so that each boundary of each precinct does not cross the boundary of:

- (1) The state;
- (2) A county;
- (3) A township;
- (4) A city;
- (5) A district of the House of Representatives of the Congress of the United States;
- (6) A district of the senate of the general assembly; or
- (7) A district of the house of representatives of the general assembly. [P.L.13-1988, § 1.]

**3-11-1.5-5. Boundaries to be followed.** — A county executive shall establish precincts so that each boundary of each precinct follows:

- (1) A boundary described in section 4 [IC 3-11-1.5-4] of this chapter;
- (2) A boundary of a town;
- (3) A boundary of a town legislative body district;
- (4) A boundary of a census block established by the Bureau of the Census and depicted on census block boundary maps filed with the state election board; or
- (5) A boundary of a school corporation that does not follow a census block line. [P.L.13-1988, § 1; P.L.3-1993, § 111.]

**3-11-1.5-6. Inclusion of territory not included in precinct.** — If any territory in any county is not included in one (1) of the precincts established by the county executive under this chapter, that territory is included within the precinct that:

- (1) Is contiguous to that territory; and
- (2) Contains the least number of registered voters according to the precinct registration record maintained by the circuit court clerk or the board of registration on the date of the most recent general election. [P.L.13-1988, § 1; P.L.7-1990, § 37.]

**3-11-1.5-7. Territory included in more than one precinct.** — If any territory in any county is included in more than one (1) of the precincts established by the county executive under this chapter, that territory is included within the precinct that:

- (1) Is one (1) of the precincts in which that territory is described in the orders issued by the county executive under this chapter;
- (2) Is contiguous to that territory; and
- (3) Contains the least number of registered voters according to the precinct registration record maintained by the circuit court clerk or the board of registration as of the date of the most recent general election. [P.L.13-1988, § 1; P.L.1-1990, § 38.]

**3-11-1.5-8. Precincts including territory of more than one entity listed in IC 3-11-1.5-4.** — If assigning territory to a precinct under sections 6 through 7 [IC 3-11-1.5-6 — 3-11-1.5-7] of this chapter would create a precinct that includes territory of more than one (1) of the entities listed in section 4 [IC 3-11-1.5-4] of this chapter, the territory shall be divided along the boundary of the entities and each part of the territory assigned to a separate precinct in accordance with sections 6 through 7 of this chapter. [P.L.13-1988, § 1.]

**3-11-1.5-9. Boundaries following a visible feature — Exemption.** — If a county executive cannot establish a precinct that complies with section 3 [IC 3-11-1.5-3] of this chapter by using the boundaries permitted under section 5 [IC 3-11-1.5-5] of this chapter, a county executive may:

- (1) Establish the precinct by using a boundary following a visible feature, including a highway, railroad, or stream, and an extension of that visible feature if the extension does not cross a visible feature or another extension; or
- (2) Request an exemption under section 20.5 [IC 3-11-1.5-20.5] of this chapter. [P.L.13-1988, § 1; P.L.5-1989, § 44.]

**3-11-1.5-10. Exception to IC 3-11-1.5-4.** — A county executive may establish a precinct that does not comply with section 4 [IC 3-11-1.5-4] of this chapter if the part of the precinct that crosses the boundary of the entity contains no population. However, if the part of the precinct that crosses the boundary of the entity obtains population, the county executive shall establish a precinct that complies with section 4 of this chapter. [P.L.13-1988, § 1; P.L.5-1989, § 45.]

**3-11-1.5-11. Uniformity of precincts established for general or municipal election and for primary election.** —



The precincts established for a general or municipal election must be the same as the precincts established for the preceding primary election, except as provided in section 12 [IC 3-11-1.5-12] of this chapter. [P.L.13-1988, § 1.]

**3-11-1.5-12. Combination of precincts after primary election.** — If a county executive adopts the use of voting machines, ballot card voting systems, or electronic voting systems in a county in which voting machines, ballot card voting systems, or electronic voting systems have not been previously used, the county executive may establish precincts after primary election day and before August 1 by combining two (2) or more precincts into one (1) precinct. [P.L.13-1988, § 1.]

**3-11-1.5-13. [Repealed.]**

**3-11-1.5-14. Submission of proposed precinct establishment order.** — A county executive must submit a proposed precinct establishment order to the executive director of the state election board before the county executive establishes a precinct under this chapter. [P.L.13-1988, § 1.]

**3-11-1.5-15. Contents of proposed order.** — The order described in section 14 [IC 3-11-1.5-14] of this chapter must include the following:

- (1) A map of each precinct to be established by the proposed order.
- (2) A description of the boundaries of each precinct to be established by the proposed order that identifies any census blocks located entirely within the precinct.
- (3) An estimated number of voters in each precinct to be established by the proposed order, based on the registration records maintained by the circuit court clerk or board of registration.
- (4) A statement concerning the available polling places within the precinct, if any, that comply with the polling place accessibility requirements adopted by the state election board.
- (5) Any additional information required by rules adopted by the state election board under IC 4-22-2. [P.L.13-1988, § 1; P.L.3-1993, § 112.]

**3-11-1.5-16. Legal descriptions in proposed order.** — (a) If a proposed precinct establishment order includes a legal description of a precinct with a boundary that follows the boundary of a municipality, state legislative district, or

municipal legislative district, the order must include the following:

- (1) A description in metes and bounds that identifies the boundary as that of a municipality, state legislative district, or municipal legislative district.
- (2) A notation on the map of the precinct indicating that the boundary is that of a municipality, state legislative district, or municipal legislative district.
- (b) If a proposed precinct establishment order described by section 9 [IC 3-11-1.5-9] of this chapter includes a legal description of a boundary that follows a visible feature, the order must include a description in metes and bounds that identifies the visible feature that forms the boundary. [P.L.13-1988, § 1; P.L.11-1989, § 1.]

**3-11-1.5-17. Examination of proposed order.** — The executive director of the state election board, or an employee of the board designated by the director, shall examine the proposed precinct establishment order to determine if the order would establish precincts in compliance with this chapter. [P.L.13-1988, § 1.]

**3-11-1.5-18. Approval by executive director.** — If the executive director or designated employee of the state election board determines that the proposed precinct establishment order would comply with this chapter, the executive director shall return the proposed precinct establishment order to the county executive no later than forty-five (45) days after its receipt by the executive director. The order must be accompanied by a letter from the executive director indicating that the order has been approved by the executive director under this chapter and may be issued by the county executive. [P.L.13-1988, § 1.]

**3-11-1.5-19. Determination of non-compliance with chapter.** — If the executive director or designated employee of the state election board determines that the proposed precinct establishment order would not comply with this chapter, the executive director shall return the proposed precinct establishment order to the county executive no later than forty-five (45) days after its receipt by the executive director. The order must be accompanied by a letter from the executive director indicating specifically how the order would not comply with this chapter. If the executive director determines that the noncompliance would result from a technical error in a map or legal description included in the proposed order, the executive director

may suggest specific amendments to the map or legal description in the letter accompanying the proposed order. [P.L.13-1988, § 1.]

**3-11-1.5-20. Amendment of proposed order — Exemption.** — If a proposed precinct establishment order is returned to a county executive under section 19 [IC 3-11-1.5-19] of this chapter, the county executive may:

- (1) Amend the proposed order so that the precincts may be established in compliance with this chapter; or
- (2) Request an exemption under section 20.5 [IC 3-11-1.5-20.5] of this chapter;

and resubmit the proposed order to the executive director. [P.L.13-1988, § 1; P.L.5-1989, § 46; P.L.3-1993, § 113.]

**3-11-1.5-20.5. Precincts in noncompliance with boundary standards — Exemption from standards — Hearing on exemption request — Amendment of proposed precinct establishment order.** — (a) This section applies when:

- (1) A proposed precinct establishment order has been returned to a county executive under section 19 [IC 3-11-1.5-19] of this chapter for noncompliance with precinct boundary standards; and
- (2) The county executive determines that the noncompliance described in the letter from the executive director of the state election board cannot be corrected by the establishment of a precinct that complies with both:

(A) The maximum voter requirement of section 3 [IC 3-11-1.5-3] of this chapter; and

(B) The precinct boundary requirements of section 5 [IC 3-11-1.5-5] of this chapter.

(b) The county executive may request the state election board to grant an exemption from the precinct boundary requirements of section 5 of this chapter to establish a precinct described by this section.

(c) The state election board shall conduct a hearing on the exemption request. If the board determines that the noncompliance described in the letter from the executive director of the state election board cannot be corrected by the establishment of a precinct that complies with both:

(1) The maximum voter requirement of section 3 of this chapter; and

(2) The precinct boundary requirements of section 5 of this chapter; the board shall grant the exemption.

(d) If the board grants the exemption, the county executive shall amend the proposed precinct establishment order described by section 19 of this chapter to establish precinct boundaries:

(1) In accordance with the exemption granted by the board; and

(2) That comply with all other requirements established by this chapter.

(e) The proposed precinct establishment order described in subsection (d) must include a description in metes and bounds of the boundaries authorized by the exemption granted under this section. [P.L.5-1989, § 47.]

**3-11-1.5-21. Resubmission of proposed order — Hearing.** — (a) If the county executive believes that the proposed order returned under section 19 [IC 3-11-1.5-19] of this chapter complies with this chapter, the county executive may resubmit the order to the executive director and request a hearing before the state election board. The hearing shall be conducted in accordance with IC 4-21.5.

(b) If the state election board determines that the proposed precinct establishment order complies with this chapter, the board shall return the order to the county executive with a written finding of fact indicating that the order complies with this chapter and may be issued by the county executive. [P.L.13-1988, § 1.]

**3-11-1.5-22. Issuance of order.** — When a county executive receives a proposed order approved under section 18 or 21 [IC 3-11-1.5-18 or 3-11-1.5-21] of this chapter, the county executive may issue the order. [P.L.13-1988, § 1.]

**3-11-1.5-23. Filing copy of order with executive director.** — The county executive shall file a copy of the order issued under section 22 [IC 3-11-1.5-22] of this chapter with the executive director of the state election board no later than seven (7) days after its issuance. [P.L.13-1988, § 1.]

**3-11-1.5-24. Approval by state election board — Effective date.** — The state election board shall approve or disapprove the order within forty-five (45) days after it is filed under section 23 [IC 3-11-1.5-23] of this chapter. The order becomes effective on the date specified by the state election board in its order approving the order. If no date is specified in that order, the order becomes effective on the first date permitted under section 25

[IC 3-11-1.5-25] of this chapter. [P.L.13-1988, § 1.]

**3-11-1.5-25. Periods during which order may not become effective.** — A precinct establishment order may not become effective during the following periods:

- (1) After January 31 and before the day following general election day, in a year in which a general election is held.
- (2) For precincts located wholly or partially within a municipality, after January 31 and before the day following municipal election day, in a year in which a municipal election is held.
- (3) Beginning January 1 of the year in which a federal decennial census is taken and ending May 1 of the second year following the year in which the decennial census is taken, unless:

- (A) The general assembly elected during the year in which the decennial census is taken enacted laws providing for the apportionment of Indiana into districts for the election of United States Representatives, senators in the general assembly, and representatives in the general assembly; and
- (B) All of the laws described in clause (A) take effect before May 1 of the second year following the year in which the decennial census is taken.

If the conditions described in clauses (A) and (B) are met, then the period ends on the latest effective date of any of the laws described in clause (A). [P.L.13-1988, § 1.]

**3-11-1.5-26. Notice to county executive.** — The executive director of the state election board shall promptly notify the county executive of:

- (1) The approval of a precinct establishment order by the state election board; and
- (2) The date the order becomes effective.

The executive director shall provide one (1) copy of the approved order to the county executive. [P.L.13-1988, § 1.]

**3-11-1.5-27. Notice of approval by publication.** — Within fourteen (14) days following notice of final approval of a precinct establishment order under section 26 [IC 3-11-1.5-26] of this chapter, the county executive shall give notice of the approval by one (1) publication under IC 5-3-1-4. [P.L.13-1988, § 1.]

**3-11-1.5-28. Contents of notice.** — The notice published under section 27 [IC 3-11-1.5-27] of this chapter must include the following:

- (1) A list of the precincts established by the order.
- (2) The date the order was issued by the county executive.
- (3) The date the order was approved by the state election board.
- (4) The effective date of the order.
- (5) A statement that the maps, legal descriptions, and estimated voter population of the established precincts are on file for public inspection in:
  - (A) The office of the county auditor; or
  - (B) In a county with a consolidated city, in the office of the board of registration. [P.L.13-1988, § 1; P.L.10-1992, § 21.]

**3-11-1.5-29. Filing copy of order with circuit court clerk or board of registration — Filing copy of notice with executive director.** — The county executive shall file:

- (1) One (1) copy of the order approved under section 26 [IC 3-11-1.5-26] of this chapter with the circuit court clerk or board of registration; and
- (2) One (1) copy of the notice published under section 27 [IC 3-11-1.5-27] of this chapter with the executive director of the state election board;

no later than forty-five (45) days after the notice is published under section 27 of this chapter. [P.L.13-1988, § 1.]

**3-11-1.5-30. Precinct crossing city boundary — Submission of proposed precinct establishment order.** — (a) Each county executive of a county in which:

- (1) A city or part of a city is located; and
- (2) A precinct boundary crosses a city boundary;

shall, before November 15 of the year preceding the year in which a municipal election will be held, submit a proposed precinct establishment order to the executive director of the state election board.

(b) The proposed precinct establishment order must establish precincts so that the boundaries of precincts comply with section 4 [IC 3-11-1.5-4] of this chapter. [P.L.13-1988, § 1.]

**3-11-1.5-31. Action on proposed precinct establishment order.** — (a) The executive director of the state election board shall return the proposed precinct

establishment order submitted under section 30 [IC 3-11-1.5-30] of this chapter to the county executive for action under section 18 or 19 [IC 3-11-1.5-18 or 3-11-1.5-19] of this chapter no later than December 15 following the submission of the order.

(b) The county executive shall issue the proposed precinct establishment order or an amended order no later than the following January 15.

(c) The state election board shall approve a precinct establishment order under this section no later than the following January 31 and shall order that the order takes effect January 31 of the year in which the municipal election will be held.

(d) This subsection applies to a county that has a precinct that crosses a city boundary in violation of section 4(4) [IC 3-11-1.5-4(4)] of this chapter. Notwithstanding section 25 [IC 3-11-1.5-25] of this chapter, if the county does not issue a precinct establishment order that establishes precincts in compliance with section 4(4) of this chapter by the end of the period described in subsection (b), the state election board may issue an order establishing precincts that comply with section 4(4) of this chapter after January 15 and before the following February 16. [P.L.13-1988, § 1; P.L.1-1990, § 7; P.L.8-1992, § 14.]

### 3-11-1.5-32. Change of boundaries.

— The legislative body of a municipality may not change the boundary of a district established under:

- (1) IC 36-3-4-3;
- (2) IC 36-4-6-3;
- (3) IC 36-4-6-4;
- (4) IC 36-4-6-5;
- (5) IC 36-5-1-10.1;
- (6) IC 36-5-2-4.1; or
- (7) IC 36-5-2-4.2;

after November 8 of the year preceding the year in which a municipal election is to be held and before the day following the date on which the municipal election is held except to assign territory to a municipal legislative body district in an annexation ordinance. [P.L.13-1988, § 1; P.L.5-1989, § 48; P.L.7-1990, § 39.]

**3-11-1.5-33. Extension of municipal boundaries.** — If the boundaries of a municipality are extended before:

- (1) Thirty (30) days before a municipal primary election; or
- (2) Thirty (30) days before a municipal election;

and the territory within those boundaries has not been included in precincts wholly within the municipality, the voters within the extended boundaries may vote, if oth-

erwise qualified, in the municipal primary election or municipal election. The voters may vote in the precinct in which they have their residence as if the precinct had been established to include them in a precinct wholly within the municipality. These votes shall be counted and included in the canvass of the votes cast in the municipal primary election or municipal election. [P.L.13-1988, § 1; P.L.8-1992, § 15.]

**3-11-1.5-34. Renaming or renumbering precincts.** — A county executive may issue an order to rename or renumber precincts without establishing new precinct boundaries. An order issued under this section becomes effective when it is filed with the executive director of the state election board. [P.L.13-1988, § 1.]

**3-11-1.5-35. Precinct boundary violation — Precinct establishment order issued by state election board — Order requirements.** — (a) This section applies to a county that has a precinct that crosses a boundary in violation of section 4(5), 4(6), or 4(7) [IC 3-11-1.5-4(5), 3-11-1.5-4(6), or 3-11-1.5-4(7)] of this chapter.

(b) Notwithstanding section 25 [IC 3-11-1.5-25] of this chapter, if the county does not issue a precinct establishment order that establishes precincts in compliance with section 4(5), 4(6), and 4(7) of this chapter of this chapter by the January 31 following the last effective date described in section 25(3) [IC 3-11-1.5-25(3)] of this chapter, the state election board may issue an order establishing precincts as provided under subsection (c).

(c) An order issued by the state election board under this section must:

- (1) Comply with section 4(5), 4(6), and 4(7) of this chapter; and
- (2) Be issued after January 31 and before February 16 of the year following the last effective date described in section 25(3) of this chapter. [P.L.8-1992, § 16.]

**3-11-1.5-36. Delegation of county executive's responsibilities.** — The county executive may adopt an order to delegate some or all of the county executive's responsibilities under this chapter to the county election board. The order may not take effect until a copy of the order has been filed with the state election board. [P.L.3-1993, § 114.]

**CHAPTER 2**  
**FORM OF PAPER BALLOTS**

**SECTION.**

- 3-11-2-1. President, Vice President, U.S. Senator, state offices, state constitutional questions and judicial retention questions.
- 3-11-2-2. U.S. Representative, state legislators, local offices and local public questions.
- 3-11-2-3. Size — Paper quality.
- 3-11-2-4. Color.
- 3-11-2-5. Placement of candidates under party name and device.
- 3-11-2-6. Order of party candidates.
- 3-11-2-7. Statement concerning falsifying ballot or violating election laws.
- 3-11-2-8. Instructions.
- 3-11-2-9. Political party devices.
- 3-11-2-10. Instructions concerning straight party ticket — Placement of party name — Placement of party's candidates.
- 3-11-2-11. [Repealed.]
- 3-11-2-12. Order of placement of federal, state and certain local offices.
- 3-11-2-12.5. Alteration of prescribed ballot order.
- 3-11-2-13. Order of placement of state judicial retention questions and ratification of state constitutional amendments.
- 3-11-2-14. Order of placement of local judicial retention questions and nonpartisan offices, school board offices and local questions.
- 3-11-2-15. Public question — Form.
- 3-11-2-16. Incorrect ballot — Hearing.

**3-11-2-1. President, Vice President, U.S. Senator, state offices, state constitutional questions and judicial retention questions.** — The state election board shall have the paper ballots for President and Vice President of the United States printed on one (1) paper ballot, in the manner prescribed by IC 3-10-4. The board shall have the:

- (1) Names of the candidates for United States Senator;
- (2) Names of the candidates for state offices;
- (3) State constitutional amendment questions; and
- (4) Judicial retention questions submitted under IC 33-2.1-2-6;

printed on another paper ballot. [P.L.5-1986, § 7; P.L.3-1987, § 196; P.L.3-1989, § 9.]

**3-11-2-2. U.S. Representative, state legislators, local offices and local public questions.** — Each county election board shall have the:

- (1) Names of all candidates for United States Representative, legislative offices, and local offices; and
- (2) Local public questions;

in election districts within the county printed on ballots as provided in this chapter. [P.L.5-1986, § 7; P.L.3-1987, § 197; P.L.5-1988, § 4.]

**3-11-2-3. Size — Paper quality.** — Each type of ballot or paster must be:

- (1) Of uniform size;
- (2) Of the same quality and color of paper; and
- (3) Sufficiently thick that the printing cannot be distinguished from the back. [P.L.5-1986, § 7; P.L.3-1987, § 198.]

**3-11-2-4. Color.** — (a) The election boards shall use the following colors for paper ballots:

- (1) For President and Vice President of the United States, cherry red paper.
- (2) For United States Senator and state offices, pink paper.
- (3) For municipal offices, blue paper.
- (4) For township offices, yellow paper.
- (5) For county and all other offices, white paper.

(b) The chairman or committee responsible for supplying pasters under IC 3-11-3-29 shall supply pasters of the same color as the ballot on which the paster will be placed. [P.L.5-1986, § 7; P.L.3-1987, § 199.]

**3-11-2-5. Placement of candidates under party name and device.** — The nominees of a political party or group of petitioners shall be listed on the ballots under the name and device of the party or petitioners as designated by them in their certificate or petition, or if none is designated, then under some suitable name and device. If the same device for designating candidates is selected by two (2) parties or groups of petitioners, it shall be given to the one (1) that first selected it, and a suitable device shall be selected for the other party or group of petitioners. [P.L.5-1986, § 7; P.L.3-1987, § 200.]

**3-11-2-6. Order of party candidates.** — (a) The device named and list of nominees shall be placed on the ballots as follows:

- (1) The major political party whose candidate received the highest number of votes in the county for secretary of state at the last election in the first column or row on the left side of all ballots.
- (2) The major political party whose candidate received the second highest number of votes in the county for secretary of state at the last election in the second column or row.

(3) Any other political party in the same order.

(b) If a political party did not have a candidate for secretary of state in the last election or a nominee is an independent candidate or ticket, the party or independent candidate or ticket shall be placed on the ballot after the parties described in subsection (a). If more than one (1) political party or independent candidate or ticket that has qualified to be on the ballot did not have a candidate for secretary of state in the last election, those parties, candidates, or tickets shall be listed on the ballot in the order in which the party filed its petition of nomination under IC 3-8-6-12.

(c) A column or row for write-in voting shall be placed to the right of all party and independent columns on the ballot.

(d) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). If there is insufficient room on a row to list each candidate of a political party, a second or subsequent row may be utilized. However, a second or subsequent row may not be utilized unless the first row, and all preceding rows, have been filled. [P.L.5-1986, § 7; P.L.3-1987, § 201; P.L.4-1991, § 60; P.L.7-1991, § 4; P.L.12-1992, § 7; P.L.3-1993, § 115.]

**3-11-2-7. Statement concerning falsifying ballot or violating election laws.** — The following statement shall be printed in underlined print at the extreme top of a ballot to be used in an election covered by this title (or in the voting instructions for a voting machine): "It is a crime to falsify this ballot or to violate Indiana election laws." [P.L.5-1986, § 7; P.L.3-1987, § 202.]

**3-11-2-8. Instructions.** — All written or printed instructions must be at the top of the ballot (or above the ballot labels on a voting machine) immediately below the statement required by section 7 [IC 3-11-2-7] of this chapter. No other instructions or writing may appear at any other place on the ballot, including the ballot for federal and state offices, except as specified by this title. The instructions must be in English and any other language that the board considers necessary, clear, concise, and written so that a voter will not be confused about the effect of the voter's voting mark and vote. [P.L.5-1986, § 7; P.L.6-1986, § 16; P.L.3-1987, § 203.]

**3-11-2-9. Political party devices.** — The device of each political party or independent ticket shall be:

(1) Enclosed in a circle not less than three-fourths ( $\frac{3}{4}$ ) of an inch in diameter; and

(2) Placed under the name of the party or independent ticket, as required by section 10 [IC 3-11-2-10] of this chapter. [P.L.5-1986, § 7; P.L.3-1987, § 204; P.L.3-1993, § 116.]

**3-11-2-10. Instructions concerning straight party ticket — Placement of party name — Placement of party's candidates.** — (a) The name or title of the political party or independent ticket shall be placed at the top of the ballot. The device of the political party or independent candidate shall be placed immediately under the name of the political party or independent ticket, with instructions for voting a straight party ticket to the right of the device.

(b) The instructions for voting a straight party ticket must conform as nearly as possible to the following: "To vote a straight (insert political party name) ticket for all (political party name) candidates on this ballot, make a voting mark on or in this circle and do not make any other marks on this ballot."

(c) If the ballot contains an independent ticket, the ballot must also contain a statement that reads substantially as follows: "A vote cast for an independent ticket will only be counted for the candidates for President and Vice President or governor and lieutenant governor comprising that independent ticket. This vote will NOT be counted for any OTHER independent candidate appearing on the ballot."

(d) The ballot must also contain a statement that reads substantially as follows: "A write-in vote will NOT be counted unless the vote is for a DECLARED write-in candidate."

(e) Except for variations in ballot arrangement permitted for voting machines under IC 3-11-12-7, ballot card voting systems under IC 3-11-13-11, or electronic voting systems under IC 3-11-14-7, the list of candidates of the political party shall be placed immediately under the instructions for voting a straight party ticket. The names of the candidates shall be placed three-fourths ( $\frac{3}{4}$ ) of an inch apart from center to center of the name. The name of each candidate must have, immediately on its left, a square three-eighths ( $\frac{3}{8}$ ) of an inch on each side. [P.L.5-1986, § 7; P.L.3-1987, § 205; P.L.3-1993, § 117.]

**3-11-2-11. [Repealed.]****3-11-2-12. Order of placement of federal, state and certain local offices.**

— The following offices shall be placed on the general election ballot in the following order:

- (1) Federal and state offices:
  - (A) President and Vice President of the United States.
  - (B) United States Senator.
  - (C) Governor and lieutenant governor.
  - (D) Secretary of state.
  - (E) Auditor of state.
  - (F) Treasurer of state.
  - (G) Attorney general.
  - (H) Superintendent of public instruction.
  - (I) Clerk of the supreme court.
  - (J) United States Representative.
- (2) Legislative offices:
  - (A) State senator.
  - (B) State representative.
- (3) Circuit offices and county judicial offices:
  - (A) Judge of the circuit court.
  - (B) Judge of the superior court.
  - (C) Judge of the probate court.
  - (D) Judge of the county court, with each division separate, as required by IC 33-10.5-4-2.
  - (E) Prosecuting attorney.
  - (F) Clerk of the circuit court.
- (4) County offices:
  - (A) County auditor.
  - (B) County recorder.
  - (C) County treasurer.
  - (D) County sheriff.
  - (E) County coroner.
  - (F) County surveyor.
  - (G) County assessor.
  - (H) County commissioner.
  - (I) County council member.
- (5) Township offices:
  - (A) Township assessor.
  - (B) Township trustee.
  - (C) Township board member.
  - (D) Judge of the small claims court.
  - (E) Constable of the small claims court.
- (6) City offices:
  - (A) Mayor.
  - (B) Clerk or clerk-treasurer.
  - (C) Judge of the city court.
  - (D) City-county council member or common council member.
- (7) Town offices:
  - (A) Clerk-treasurer.
  - (B) Judge of the town court.
  - (C) Town council member.

[P.L.3-1987, § 207; P.L.8-1989, § 8.]

**3-11-2-12.5. Alteration of prescribed ballot order.** — Notwithstanding section

12 [IC 3-11-2-12] of this chapter, the county election board may alter the prescribed ballot order to place the names of the candidates for the following offices before the names of the candidates for county judicial offices:

- (1) Prosecuting attorney.
- (2) Clerk of the circuit court.
- (3) The county offices listed in section 12(4) [IC 3-11-2-12(4)] of this chapter. [P.L.4-1991, § 61.]

**3-11-2-13. Order of placement of state judicial retention questions and ratification of state constitutional amendments.** — (a) The following offices and public questions shall be placed on the general election ballot in the following order after the offices described in section 12 [IC 3-11-2-12] of this chapter:

(1) Retention of a justice of the supreme court.

(2) Retention of a judge of the court of appeals.

(3) Retention of the judge of the tax court.

(4) Ratification of a state constitutional amendment.

(b) Whenever more than one (1) justice of the supreme court is subject to retention, the name of each justice must appear on the ballot in alphabetical order. However, if the justice serving as chief justice is subject to retention, the chief justice's name must appear first.

(c) Whenever more than one (1) judge of the court of appeals is subject to retention, the name of each judge must appear on the ballot in alphabetical order. However, if the judge serving as chief judge is subject to retention, the chief judge's name must appear first.

(d) These offices and public questions shall be placed in a separate column on the ballot or ballot label if voting is by paper ballot, ballot card voting system, or electronic voting system or in a separate column of ballot labels if voting is by voting machine. [P.L.3-1987, § 208; P.L.4-1991, § 62.]

**3-11-2-14. Order of placement of local judicial retention questions and nonpartisan offices, school board offices and local questions.** — (a) The following offices and public questions shall be placed on the general election ballot in the following order after the offices and public questions described in section 13 [IC 3-11-2-13] of this chapter:

- (1) Retention of a local judge.
- (2) Local nonpartisan judicial offices.
- (3) School board offices to be elected at the general election.

## (4) Local public questions.

(b) These offices and public questions shall be placed in a separate column on the ballot or ballot label if voting is by paper ballot, ballot card voting system, or electronic voting system or in a separate column of ballot labels if voting is by voting machine. [P.L.3-1987, § 209.]

**3-11-2-15. Public question — Form.**

— A public question shall be placed on the general election ballot in the following form:

(The explanatory text for the public question, if required by law)

“Shall (insert public question)?”

YES

NO

[P.L.3-1987, § 210.]

**3-11-2-16. Incorrect ballot — Hearing.**

(a) If an election board determines that a ballot printed under the authority of the election board does not comply with a requirement imposed by this title or contains any other error or omission that might result in confusion or mistakes by voters, the board shall:

- (1) Reprint or correct the ballot; or
- (2) Conduct a public hearing concerning the defective ballots.

(b) The board may conduct the hearing after informing each political party, ticket, or candidate that the board determines may have an interest in the matter.

(c) At the hearing, the board shall hear any testimony offered by a person concerning the defective ballots and shall make findings of fact concerning the following:

- (1) The number of ballots, if any, containing the error or omission that have already been cast.
- (2) The cost of correcting the error through the use of pasters, reprinted ballots, or any other suitable method.
- (3) Whether the error or omission would be likely to cause confusion or mistakes by voters.
- (4) Whether any voter objects to the use of the ballots, notwithstanding the error or omission.

(d) If:

(1) A voter does not file a written objection to the use of the ballots with the board before the board concludes the hearing; and

(2) The board determines that the use of the ballots would not be likely to cause confusion or mistakes by voters; the board shall authorize the use of the defective ballots, notwithstanding the error or omission.

(e) If:

(1) A voter files a written objection to the use of the ballots with the board before the board concludes the hearing; or

(2) The board determines that the use of the ballots would be likely to cause confusion or mistakes by voters; the board shall order the ballots to be reprinted or altered to conform with the requirements of this title.

(f) If the board acts under subsection (e), a voter who has already voted a defective ballot by absentee ballot is entitled to recast the voter's ballot in accordance with IC 3-11-10-1.5. Notwithstanding the issuance of an order under subsection (e), a defective ballot shall be counted if the intent of the voter can be determined and the ballot would otherwise be counted under IC 3-12-1. [P.L.3-1993, § 118.]

**CHAPTER 3****DISTRIBUTION OF BALLOTS AND OTHER SUPPLIES****SECTION.**

- 3-11-3-1. Applicability.
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- 3-11-3-35. Responsibility of Lake County election board for ballots, supplies, and equipment.

**3-11-3-1. Applicability.** — This chapter applies to each precinct. [P.L.5-1986, § 7.]

**3-11-3-2. State paper ballots — Printing and distribution.** — (a) The state election board shall have printed and shall distribute to the circuit court clerk of each county at each general election:

- (1) If only paper ballots are used, the number of state paper ballots equal to one hundred percent (100%) of the number of voters in the county; and
- (2) If voting machines, ballot card voting systems, or electronic voting systems are used, only the number of state paper ballots that, in its judgment, are necessary to meet an emergency.

(b) The paper ballots shall be wrapped in packages, plainly marked, and securely sealed. The clerk shall give a receipt for the paper ballots. [P.L.5-1986, § 7; P.L.3-1987, § 211.]

**3-11-3-3. Determination of paper ballot needs in precincts using voting machines — Notice to state election board.** — If, in the judgment of a county election board, the number of voters in a precinct of the county where a voting machine is used for voting is so large that the machine in use will not be sufficient to register the vote of all the voters in the precinct, the board may use paper ballots in addition to the machine. The voting by ballot is subject to all the restrictions prescribed by this article. The board shall then notify the state election board of its determination and of the estimated number of state ballots that will be required in the precinct. [P.L.5-1986, § 7.]

**3-11-3-4. Ballot seals.** — The state election board shall provide a seal for the ballots. The seal may be of a design considered proper by the board, but the

same design may not be used for two (2) consecutive elections. [P.L.5-1986, § 7.]

**3-11-3-5. [Repealed.]**

**3-11-3-6. State paper ballots — Pick up by circuit court clerk.** — Each circuit court clerk shall pick up the state paper ballots at a site designated by the state election board. Each clerk is entitled to a mileage allowance for the distance necessarily traveled in going to and returning from the site designated by the state election board. The mileage rate equals the mileage rate paid to state officers and employees. [P.L.5-1986, § 7; P.L.3-1987, § 212.]

**3-11-3-7. State paper ballots — Special messenger delivery.** — If a circuit court clerk fails to pick up the paper ballots from the state election board by the close of the tenth day before an election, the state election board shall immediately dispatch a special messenger to the county with the ballots for the county. However, before receiving the ballots, the messenger must take and subscribe to an oath. The state election board shall administer the oath to the messenger and file the oath. [P.L.5-1986, § 7; P.L.3-1987, § 213.]

**3-11-3-8. State ballots — Oath of special messengers.** — The oath required by section 7 [IC 3-11-3-7] of this chapter must conform to the following:

STATE OF INDIANA )  
 ) ss:  
 COUNTY OF ..... )

I, ....., swear (or affirm) that I will take charge of the election ballots delivered to me by the state election board for the county of ....., and will safely deliver the ballots in the sealed packages in the same condition as received by me to the circuit court clerk of the county at the earliest time that I can reach the county seat of the county. So help me God.

Subscribed and sworn to before me this ..... day of ....., ..... [P.L.5-1986, § 7.]

**3-11-3-9. State ballots — Compensation of special messengers.** — A messenger dispatched under section 7 [IC 3-11-3-7] of this chapter is entitled to receive:

- (1) Three dollars (\$3) per day; and
- (2) A mileage allowance for the distance necessarily traveled equal in rate to the mileage rate paid to state officers and employees.

The amount paid to the messenger shall be certified to the treasurer of the county and

deducted from the first money thereafter accruing to the circuit court clerk payable by the treasurer. The county treasurer shall remit the amount deducted to the treasurer of state. [P.L.5-1986, § 7.]

**3-11-3-10. Precinct supplies — Officials to pick up.** — The inspector of each precinct, or another member of the precinct election board authorized in writing by the inspector, shall appear at the office of the county election board of the inspector's county on the second or third day before election day to receive ballots and other supplies. [P.L.5-1986, § 7.]

**3-11-3-11. Precinct supplies — Type.** — The county election board shall deliver the following to each inspector or the inspector's representative:

- (1) The sealed package of paper ballots, sample ballots, and any other supplies provided for the inspector's precinct by the state election board.
- (2) The local sample ballots and ballot labels, if any, and all poll lists, registration lists, and other supplies considered necessary to conduct the election in the inspector's precinct.
- (3) The local ballots printed under the direction of the county election board as follows:
  - (A) The number of ballots equal to one hundred percent (100%) of the number of voters in the inspector's precinct, according to the poll list.
  - (B) In those precincts where voting machines, ballot card systems, or electronic voting systems are to be used, the number of paper ballots that will be required for emergency purposes only.
- (4) Twenty (20) ink pens suitable for printing the names of write-in candidates on the ballot or ballot envelope. [P.L.5-1986, § 7; P.L.3-1987, § 214; P.L.4-1991, § 63.]

**3-11-3-12. Local ballots — Sealing prior to use — Receipt of recipient — Opening.** — The local ballots delivered to the inspector of each precinct under section 11 [IC 3-11-3-11] of this chapter shall be placed in a strong and stout paper envelope or bag, which shall then be tightly closed, fastened securely, and attested by the initials of the circuit court clerk or the clerk's designee in the presence of the inspector or the inspector's representative. The inspector shall sign a receipt for the ballots. The ballot packages may not be opened until:

- (1) They have been delivered to the precinct election board to which they are directed; and
- (2) The precinct election board is fully organized and ready for the reception of votes. [P.L.5-1986, § 7.]

**3-11-3-13. Local ballots — Special messengers.** — If an inspector (or the inspector's representative) fails to appear at the office of the circuit court clerk by the close of the second day before election day, the county election board shall immediately dispatch a special messenger to the inspector's precinct with the ballots for the precinct. After delivering the ballots, the messenger shall promptly report to the county election board and file with it:

- (1) The receipt of the person to whom the messenger delivered the ballots; and
- (2) The messenger's affidavit stating when and to whom the messenger delivered the ballots. [P.L.5-1986, § 7.]

**3-11-3-14. Local ballots — Compensation of special messengers.** — If a county election board dispatches a messenger under section 13 [IC 3-11-3-13] of this chapter, the messenger is entitled to receive:

- (1) Two dollars (\$2) for time; and
- (2) A mileage allowance for the distance necessarily traveled equal in rate to the mileage rate paid to state officers and employees. [P.L.5-1986, § 7.]

**3-11-3-15. Inspectors failing to pick up local ballots barred from compensation.** — If an inspector fails to appear at the office of the circuit court clerk under section 10 [IC 3-11-3-10] of this chapter, the inspector is not entitled to compensation for services at the election. [P.L.5-1986, § 7.]

**3-11-3-16. Poll list sheets, forms, papers, etc. — Preparation and delivery.** — Each county election board shall prepare and have delivered to the inspectors of the precincts, at the time they receive the ballots for their precincts, a suitable number of blank poll list sheets and any other forms, papers, certificates, and oaths that are required to be furnished to precinct election boards. The forms and papers must have proper captions. In a county having a board of registration, the board of registration may cooperate with the county election board in the preparation of the poll lists. [P.L.5-1986, § 7.]

**3-11-3-17. Poll lists — Paper size — Contents.** — (a) This section does not apply to a county with a computerized registration system that has furnished the inspector of a precinct with certified copies of the list of registered voters prepared under IC 3-7-7-9.

(b) The county election board shall prepare the poll lists in looseleaf sheet form or book form. The sheets must have adequate space and lines on each side for taking the signatures and addresses of the voters. The sheets may contain the names and addresses of the voters in the respective precincts in alphabetical order, with a space opposite each name for the signature and address of the voter when the voter votes and any other information required by law. [P.L.5-1986, § 7; P.L.3-1987, § 215; P.L.3-1993, § 119.]

**3-11-3-18. Poll lists — Form.** — At the extreme top of a poll list sheet the following should be printed:

VOTERS' POLL LIST

Signatures and addresses of voters at ..... Election, on ....., ....., in ..... Precinct, ..... Township (or Ward), ..... County.

Following the required printed matter, a box heading should be made at the left side of each sheet for printing in the words "Signature of Voter." The space in this column should be about four (4) inches wide. Immediately to the right another box heading should be made for printing in the words "Address of Voter." The space in this column should be about three (3) inches wide. In the space remaining to the right, an additional box heading should be made for printing in the words, "If any voter shows his or her ballot after being marked, or by accident mutilates or defaces his or her ballot, note it in this column. Also note any other irregularity in this column." [P.L.5-1986, § 7.]

**3-11-3-19. Binding of looseleaf poll list pages.** — After the polls are closed, the looseleaf poll list sheets that have been used in the precinct on election day shall be assembled and fastened together between two (2) manila tag board covers with the two (2) paper fasteners provided for that purpose. The manila tag board covers shall be punched and cut the same size as the poll list sheets. [P.L.5-1986, § 7.]

**3-11-3-20. Voters' poll list cover.** — On the front cover of the bound looseleaf poll list sheets or the book form poll lists

substantially the following should be printed:

VOTERS' POLL LIST COVER

We hereby certify that the inspector proclaimed to the people outside in a loud tone of voice that the polls were opened at six o'clock A.M. this ..... day of ....., .....

..... ) Clerks of the  
..... ) Election Board

To the Inspector: After the polls are closed the looseleaf poll list sheets that have been used in the precinct on election day should be assembled and fastened together between the two manila tag board covers with the two paper fasteners and this poll list, or one in book form, should be enclosed in a separate envelope provided for that purpose and delivered to the clerk of the circuit court of the county in which the election is held with the other election returns as provided in IC 3.

STATE OF INDIANA )  
 ) ss:  
COUNTY OF ..... )

We, the undersigned, certify that the record of signatures shown in this list is the voters' poll list of the ..... Election held on the ..... day of ....., ..... in ..... Precinct, ..... Township (or Ward), City (or Town) of ....., in this County and State.

In Witness Whereof, we subscribe our names, this ..... day of ....., .....

.....  
Inspector  
Attest: .....  
Judge  
Attest: .....  
Judge  
Clerks of Election Board Election Board  
All duly sworn according to law.

[P.L.5-1986, § 7.]

**3-11-3-21. Poll list sheets, book and covers constitute election supplies.** — The looseleaf poll list sheets, the book form poll lists, and the covers required by sections 17 and 19 [IC 3-11-3-17 and 3-11-3-19] of this chapter are a part of the election supplies. [P.L.5-1986, § 7.]

**3-11-3-22. Instruction cards — Language — Number — Delivery to inspectors.** — (a) Each county election board shall have printed in at least 14 point type on cards in English, braille, and any other language that the board considers necessary, the following:

(1) Instructions for the guidance of voters in preparing their ballots.

(2) Instructions explaining the procedure for write-in voting.

(3) Write-in voting notice cards that must be posted in each precinct that utilizes a voting machine or ballot card voting system that does not permit write-in voting. The notice cards must direct voters who want to cast write-in votes to request a write-in ballot from an election official.

(b) The board shall furnish the number of cards it determines to be adequate for each precinct to the inspector at the same time the board delivers the ballots for the precinct and shall furnish a magnifier upon request to a voter who requests a magnifier to read the cards. [P.L.5-1986, § 7; P.L.3-1987, § 216; P.L.4-1991, § 64; P.L.3-1993, § 120.]

**3-11-3-23. Instruction cards — Contents.** — (a) The cards required by section 22 [IC 3-11-3-22] of this chapter must contain instructions to the voters as to what must be done to:

- (1) Obtain ballots for voting;
- (2) Prepare ballots for voting; and
- (3) Obtain a new ballot in place of one accidentally defaced, mutilated, or spoiled.

(b) The cards must contain, in underlined type, the following:

- (1) That it is a crime to violate Indiana election laws.
- (2) That the voter should examine the ballot to determine if it contains the initials of the poll clerks in ink on the back of the ballot.
- (3) That the voter should examine the ballot to determine if the ballot has any mark (other than the initials of the poll clerks) before voting.
- (4) That the voter should not make any mark on the ballot except a voting mark in the manner provided by IC 3-12-1 because a mark other than a voting mark may void the ballot.
- (5) That the voter should return the ballot to the poll clerks and request another ballot if:
  - (A) The poll clerks' initials have not been properly placed on the ballot;
  - (B) The ballot has a mark (other than the initials of the poll clerks) before the voter places a voting mark on the ballot; or
  - (C) The voter has improperly marked the ballot.

(c) The cards must also set out copies of IC 3-14-2-16, IC 3-14-2-17, IC 3-14-3-10, IC 3-14-3-13, IC 3-14-3-15, IC 3-14-3-16, and

IC 3-14-4-9. [P.L.5-1986, § 7; P.L.3-1987, § 217.]

**3-11-3-24. Instruction cards — Posting.** — The inspector of each precinct shall have the cards required by section 22 [IC 3-11-3-22] of this chapter posted as follows:

- (1) One (1) of each card in each place or compartment provided for the preparation of ballots.
- (2) One (1) of each card at or close to the out end of the chute but not closer than fifty (50) feet from the polls.
- (3) At least three (3) of each card in and about the polls. [P.L.5-1986, § 7.]

**3-11-3-25. Sample ballots.** — The inspector of each precinct shall post the samples of each of the state and local ballots provided by the county election board under this article in and about the polls. The sample ballots shall be printed on different paper than the genuine ballots. [P.L.5-1986, § 7; P.L.10-1988, § 102.]

**3-11-3-26. Loss or destruction of ballots — Report by ballot custodian — Replacement.** — If by accident or casualty the ballots delivered to a county election board, circuit court clerk, inspector, or other messenger are lost or destroyed, the person in custody of the ballots shall report the loss at once to the election board from which the ballots were obtained. The person in custody of the ballots shall make an affidavit of the circumstances of the loss, and the election board from which the ballots were obtained immediately shall resupply the person. [P.L.5-1986, § 7.]

**3-11-3-27. Loss or destruction of ballots — Report by voter — Replacement.** — If the person in custody of the ballots fails or refuses to report and make proof of the loss as required by section 26 [IC 3-11-3-26] of this chapter, then any voter may do so. Upon such a report the election board from which the ballots were obtained immediately shall send a new supply of ballots by special messenger, as provided in other cases. [P.L.5-1986, § 7.]

**3-11-3-28. Lack of ballots or supplies at poll opening.** — If for any reason there are no ballots or other necessary means for voting at the opening of the polls, the precinct election board shall secure them as quickly as possible. If necessary, the board may have ballots printed. However, the ballots must conform as nearly as possible to the official ballots. The printing and the care of the ballots are governed by the same provi-

sions and penalties as the printing and care of the other ballots prescribed by this article. [P.L.5-1986, § 7.]

**3-11-3-29. Candidates appointed or selected to fill vacancies — Only board and board chairman to supply and receive ballot pasters.** — If a new candidate is appointed or selected under IC 3-13-1 or IC 3-13-2 after the printing of ballots and before the election, the chairman or committee that made the appointment or selection shall provide to the county election board the number of pasters the board determines to be necessary for all ballots to reflect the appointment or selection. Pastors may not be given to or received by any person except the board and the board's chairman. [P.L.5-1986, § 7; P.L.3-1987, § 218; P.L.5-1989, § 49.]

**3-11-3-29.5. Pastors to cover names of deceased candidates.** — (a) The county election board shall have pasters made to cover the name of a candidate who has died if:

(1) The candidate's party does not fill the vacancy under IC 3-13-1 or IC 3-13-2; and

(2) The county election board receives a certificate of death issued under IC 16-37-3 not later than the seventh day before the election or by unanimous vote of the entire membership if the board finds that there is good cause to believe that the candidate has died.

(b) The county election board shall provide the number of opaque pasters the board determines to be necessary for all ballots to reflect a vacancy to the following:

- (1) The absentee voter board.
- (2) The inspector of each precinct in which the candidate is on the ballot.
- (3) The circuit court clerk.

[P.L.4-1991, § 65; P.L.2-1993, § 31; P.L.3-1993, § 121.]

**3-11-3-30. Application of pasters to ballots.** — The circuit court clerk, if time permits before the ballots are delivered to the precincts, the poll clerks, or members of the absentee voter board, shall put one (1) of the pasters required by sections 29 and 29.5 [IC 3-11-3-29 and IC 3-11-3-29.5] of this chapter in the proper place on each ballot label bearing the name of the former candidate and on each paper ballot or ballot card to be voted in the precinct before they sign their initials on the ballot. The circuit court clerk shall put one (1) of the pasters on each ballot to be voted by an absentee voter before the clerk signs the

ballot. [P.L.5-1986, § 7; P.L.3-1987, § 219; P.L.4-1991, § 66; P.L.3-1993, § 122.]

**3-11-3-31. Extra ballots — Retention — Destruction.** — Each county election board shall preserve the unused ballots that are left over after supplying the precincts as prescribed by section 11 [IC 3-11-3-11] of this chapter. The ballots shall be preserved until expiration of the time for filing a contest or recount petition under IC 3-12. The board shall then destroy all of the ballots, except for one (1). [P.L.5-1986, § 7; P.L.3-1987, § 220; P.L.3-1993, § 123.]

**3-11-3-32. Placement of retained blank ballot — Record of ballots printed, delivered and destroyed.** — The county election board shall securely paste the one (1) ballot that was preserved under section 31 [IC 3-11-3-31] of this chapter in the election record immediately before the place where the vote is to be recorded. The board shall also enter below the ballot the number of ballots:

- (1) Printed by the board;
- (2) Delivered to each messenger; and
- (3) Destroyed by the board.

[P.L.5-1986, § 7.]

**3-11-3-33. Ballot box.** — Whenever a general election is held, the county election board shall provide a ballot box for each precinct. [P.L.5-1986, § 7; P.L.3-1987, § 221.]

**3-11-3-34. Ballot boxes — Construction.** — Each ballot box provided under section 33 [IC 3-11-3-33] of this chapter must:

- (1) Have an opening in the lid sufficient only for a single ballot;
- (2) Have at least two (2) locks of different kinds and combinations, so that one (1) key will not unlock the other; and
- (3) Be constructed to prevent fraud.

[P.L.5-1986, § 7; P.L.3-1987, § 222.]

**3-11-3-35. Responsibility of Lake County election board for ballots, supplies, and equipment.** — (a) This section applies to a county having a population of more than four hundred thousand (400,000), but less than seven hundred thousand (700,000).

(b) In each precinct where voting is by voting machine or electronic voting system, the county election board shall provide the following to be used if a voting machine or an electronic voting system malfunctions:

(1) The following number of paper ballots:

(A) Not less than ten (10) if the number of registered voters in the precinct is not more than three hundred (300).

(B) Not less than twenty-five (25) if the number of registered voters in the precinct is more than three hundred (300).

(2) The necessary supplies and equipment as required by IC 3-11-11.

(c) Upon notice that a voting machine or an electronic voting system is out of order or fails to work, the precinct election board shall make the paper ballots provided under subsection (b) available to voters. The precinct election board shall contact the county election board to obtain additional ballots.

(d) Upon notice that a voting machine or an electronic voting system is out of order or fails to work, the county election board shall deliver additional necessary supplies to any precinct in the county, including additional paper ballots. [P.L.10-1992, § 22; P.L.20-1993, § 1.]

## CHAPTER 4

### ELIGIBILITY AND APPLICATION FOR ABSENTEE BALLOT

#### SECTION.

- 3-11-4-1. Voters eligible to use absentee ballots.  
 3-11-4-2. Voter must apply for absentee ballot.  
 3-11-4-3. Applications — Timing — Exceptions — Absentee ballot application from confined voter.  
 3-11-4-4. Applications — Supplying forms.  
 3-11-4-5. [Repealed.]  
 3-11-4-5.1. State election board to prescribe form of application.  
 3-11-4-6. Absent uniformed services voters — Free mailing of ballots — Adequate application for general election ballot.  
 3-11-4-7. Applications by absent uniformed services voters.  
 3-11-4-8. Overseas voters — Application for ballots — Free mailing of ballots — Adequate application for general election ballot.  
 3-11-4-9. Application forms for overseas voters.  
 3-11-4-10. Number of ballots required — Determination.  
 3-11-4-11. [Repealed.]  
 3-11-4-12. Ballots for federal and state offices and public questions — Preparation and printing.  
 3-11-4-13. Delivery of ballots to circuit court clerks.  
 3-11-4-14. Ballots for locally elected officials and issues — Preparation and printing.  
 3-11-4-15. Ballots for locally elected officials and issues — Delivery to circuit court clerks.

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- 3-11-4-16. Ballots delivered to circuit court clerks — Package labels — Safekeeping — Distribution.  
 3-11-4-17. Applications — Filing — Recordation of information.  
 3-11-4-18. Mailing of ballots — Postage — Address — Time.  
 3-11-4-19. Mailing of ballots — Circuit court clerk's seal and signature — Initials of absentee voter board members or county election board members.  
 3-11-4-20. Return envelope — Mailing address — Postage.  
 3-11-4-21. Return envelope — Voter's affidavit.  
 3-11-4-22. Absentee ballot records.

**3-11-4-1. Voters eligible to use absentee ballots.** — A voter who is otherwise qualified to vote in person, including a person eligible to vote under IC 3-7-4.5, but who expects to be:

- (1) Absent from the county on election day;
- (2) Absent from the precinct of the voter's residence on election day because of service as a precinct election officer under IC 3-6-5, IC 3-6-6, or IC 3-6-8, as a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10 as a challenger or pollbook holder under IC 3-6-7, or as a person employed by an election board to administer the election for which the absentee ballot is requested;
- (3) Confined on election day to the voter's residence, to a health care facility, or to a hospital because of an illness or injury;
- (4) A voter with disabilities;
- (5) An elderly voter; or
- (6) Prevented from voting due to the voter's care of an individual confined to a private residence because of illness or injury;

is eligible to vote by absentee ballot. [P.L.5-1986, § 7; P.L.3-1987, § 223; P.L.7-1990, § 40; P.L.4-1991, § 67; P.L.3-1993, § 124; P.L.17-1993, § 10; S.B.22-1993(ss), § 2.]

**Editor's Note.** This section was separately amended by P.L.3-1993 and P.L.17-1993, neither act referring to the other. Because the changes made by the acts were in conflict, corrective legislation is to be introduced. For convenience, the State Election Board has directed the Publisher to implement the provisions of Senate Bill 22 of the 1993 First Special Session for this edition of "Indiana Election Code."

**3-11-4-2. Voter must apply for absentee ballot.** — A voter who is eligible to vote by absentee ballot must apply to the county election board for an official absentee ballot. [P.L.5-1986, § 7.]

**3-11-4-3. Applications — Timing — Exceptions — Absentee ballot application from confined voter.** — (a) Except as provided in subsections (b) and (c) and sections 6 and 8 [IC 3-11-4-6 and 3-11-4-8] of this chapter, an application for an absentee ballot must be received by the circuit court clerk not earlier than ninety (90) days before election day nor later than:

(1) Noon on the day before election day if the voter completes the application in the office of the circuit court clerk;

(2) Noon on the day before election day if the application is a mailed or hand delivered application from a confined voter or person caring for a confined person; or

(3) Midnight on the fifth day before election day if the application:

(A) Is a mailed application; or

(B) Was transmitted by a facsimile (FAX) machine;

from other voters.

(b) This subsection applies to an absentee ballot application from a confined voter or person caring for a confined voter that is mailed or hand delivered to the circuit court clerk of a county having a consolidated city. An application subject to this subsection must be received by the circuit court clerk not earlier than ninety (90) days before election day nor later than 10 P.M. on the third day before election day.

(c) This subsection applies to an absentee ballot application from a confined voter or a person caring for a confined voter that is mailed or hand delivered to the circuit court clerk of a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). An application subject to this section must be received by the circuit court clerk not earlier than ninety (90) days before election day nor later than 10 P.M. on the fourth day before election day. [P.L.5-1986, § 7; P.L.3-1987, § 224; P.L.14-1987, § 1; P.L.10-1988, § 103; P.L.5-1989, § 50; P.L.7-1990, § 41; P.L.8-1992, § 17; P.L.12-1992, § 8.]

**3-11-4-4. Applications — Supplying forms.** — (a) Applications may be made:

(1) In person;

(2) By FAX transmission; or

(3) By mail;

on application forms furnished by the county election board or approved by the state election board.

(b) Application forms shall:

(1) Be furnished to all central committees in the county no later than:

(A) June 15, for a general election or a special election ordered under IC 3-12-8-17 or IC 3-12-11-18 following the primary election; or

(B) January 15, for a primary election or a special election ordered under IC 3-12-8-17 or IC 3-12-11-18 following the general election;

(2) Be:

(A) Mailed; or

(B) Except as provided in subsection (c), transmitted by FAX machine;

upon request, to a voter applying by mail, by telephone, or by FAX transmission; and

(3) Be delivered to a voter in person who applies at the circuit court clerk's office.

(c) The county election board shall:

(1) Accept; and

(2) Transmit;

applications for absentee ballots under subsection (a) using a facsimile (FAX) machine only if the county election board owns or has access to a FAX machine. However, a county election board shall accept an application for an absentee ballot transmitted by FAX machine even though the application is delivered to the county election board by a person other than the person submitting the application. [P.L.5-1986, § 7; P.L.3-1987, § 225; P.L.5-1989, § 51; P.L.10-1989, § 6; P.L.8-1992, § 18; P.L.3-1993, § 125.]

### **3-11-4-5. [Repealed.]**

**3-11-4-5.1. State election board to prescribe form of application.** — (a) The state election board shall prescribe the form of an application for an absentee ballot.

(b) The form prescribed by the state election board shall require that a voter who:

(1) Requests an absentee ballot; and

(2) Is eligible to vote in the precinct under IC 3-7-4.5; must include the affidavit required by IC 3-7-4.5. [P.L.8-1992, § 19; P.L.17-1993, § 11.]

**3-11-4-6. Absent uniformed services voters — Free mailing of ballots — Adequate application for general election ballot.** — (a) This section applies, notwithstanding any other provision of this title, to absentee ballot applications for an absent uniformed services voter (as defined in 42 U.S.C. 1973ff-6(1)).

(b) A county election board shall make blank absentee ballot applications available for persons covered by this section after November 20 preceding the election to which the application applies. The per-

son may apply for an absentee ballot at any time after the applications are made available. If the county election board receives an absentee ballot application from a person described by this section, the circuit court clerk shall mail to the person, free of postage as provided by 39 U.S.C. 3406, all ballots for the election immediately upon receipt of the ballots under sections 13 and 15 [IC 3-11-4-13 and 3-11-4-15] of this chapter.

(c) Whenever an absent uniformed services voter files an application for a primary election absentee ballot and indicates on the application that the voter does not expect to be in the county on general election day and on the date of any special election conducted during the twelve (12) months following the date of the application, the application is an adequate application for a general election absentee ballot under this chapter and an absentee ballot for a special election conducted during the twelve (12) months following the date of the application. The circuit court clerk and county election board shall process this application and mail general election and special election absentee ballots to the voter in the same manner as other general election and special election absentee ballot applications are processed and mailed under this chapter.

(d) This subsection applies to a county election board that owns or has access to a facsimile (FAX) machine. The county election board may transmit and receive absentee ballots by FAX machine to voters covered under the Uniformed and Overseas Absentee Voting Act (42 U.S.C. 1973ff) under the following circumstances:

(1) If an emergency is declared by the President of the United States, the Congress of the United States, or the presidential designee under the Uniformed and Overseas Absentee Voting Act (42 U.S.C. 1973ff).

(2) If otherwise mandated to do so under federal law.

[P.L.5-1986, § 7; P.L.6-1986, § 17; P.L.14-1987, § 3; P.L.10-1989, § 8; P.L.7-1990, § 43; P.L.8-1992, § 20.]

**3-11-4-7. Applications by absent uniformed services voters.** — An absentee ballot application under section 6 [IC 3-11-4-6] of this chapter must:

(1) Be made on a standard form approved under 42 U.S.C. 1973ff-(b) or on the form prescribed by the state election board under section 5.1 [IC 3-11-4-5.1] of this chapter, and

(2) Show that the absent uniformed services voter (as defined in 42 U.S.C. 1973ff-6(1)) is a resident otherwise

qualified to vote in the precinct. [P.L.5-1986, § 7; P.L.14-1987, § 4; P.L.3-1989, § 10; P.L.8-1992, § 21.]

**3-11-4-8. Overseas voters — Application for ballots — Free mailing of ballots — Adequate application for general election ballot.** — (a) An overseas voter (as defined in 42 U.S.C. 1973ff-6(5)) may apply for an absentee ballot from this state and vote by absentee ballot in an election in this state for which the voter is qualified and in which absentee ballots are used.

(b) A county election board shall make blank absentee ballot applications available for persons covered by this section after November 20 preceding the election to which the application applies. The person may apply for an absentee ballot at any time after the applications are made available. If the county election board receives an absentee ballot application from a person described by this section, the circuit court clerk shall mail to the person, free of postage to the extent as provided by 39 U.S.C. 3406, all ballots for the election immediately upon receipt of the ballots under sections 13 and 15 [IC 3-11-4-13 and 3-11-4-15] of this chapter.

(c) Whenever an overseas voter files an application for a primary election absentee ballot under this section and indicates on the application that the voter does not expect to be in the county on general election day and on the date of any special election conducted during the twelve (12) months following the date of the application, the application is an adequate application for a general election absentee ballot under this chapter and an absentee ballot for special election conducted during the twelve (12) months following the date of the application. The circuit court clerk and county election board shall process this application and mail general election and special election absentee ballots to the voter in the same manner as other general election and special election absentee ballot applications and ballots are processed and mailed under this chapter. [P.L.5-1986, § 7; P.L.14-1987, § 5; P.L.10-1989, § 9; P.L.7-1990, § 44; P.L.8-1992, § 22.]

**3-11-4-9. Application forms for overseas voters.** — An absentee ballot application under section 8 [IC 3-11-4-8] of this chapter must:

(1) Be made on a standard form approved under 42 U.S.C. 1973ff-(b) or on the form prescribed by the state election board under section 5.1 [IC 3-11-4-5.1] of this chapter; and



(2) Show that the overseas voter was a resident and otherwise qualified to vote in the precinct where the voter resided before leaving the United States. [P.L.5-1986, § 7; P.L.3-1987, § 227; P.L.14-1987, § 6; P.L.8-1992, § 23.]

**3-11-4-10. Number of ballots required — Determination.** — Each circuit court clerk shall:

- (1) Not less than sixty (60) days before the date on which a general, primary, or municipal election is held; or
- (2) Not more than three (3) days after the date on which a special election is ordered;

estimate the number of absentee ballots that will be required in the county for the election. [P.L.5-1986, § 7; P.L.10-1989, § 10; P.L.7-1990, § 45.]

**3-11-4-11. [Repealed.]**

**3-11-4-12. Ballots for federal and state offices and public questions — Preparation and printing.** — (a) The absentee ballots for:

- (1) President and Vice President;
- (2) United States Senator;
- (3) All state offices; and
- (4) The ratification or rejection of a public question to be voted for by the electorate of the state;

shall be prepared and printed under the direction of the state election board.

(b) The state election board shall proceed to prepare and have printed such ballots upon certification of the political party tickets.

(c) Ballots prepared by the state election board under this section must provide space for the voter to cast a write-in ballot.

(d) The state election board shall prepare a special absentee ballot for the use by:

- (1) Absent uniformed services voters; and
- (2) Overseas voters;

who will be outside of the United States on general election day.

(e) The ballot described by subsection (d):

- (1) Must indicate each state office to be elected by the voters at the general election;
- (2) Must set forth each public question to be voted for at the general election by the electorate of the entire state;
- (3) May not state the name of any political party or candidate for election; and

(4) Must permit the voter to write in the name of a political party or a candidate for election to each office.

(f) The special absentee ballot described in subsection (d) must include:

- (1) A form permitting absentee registration under IC 3-7-5.1; and
- (2) A notice stating that regular absentee ballots will be mailed to the voter as soon as the ballots are available. [P.L.5-1986, § 7; P.L.3-1987, § 228; P.L.4-1991, § 69; P.L.3-1993, § 126.]

**3-11-4-13. Delivery of ballots to circuit court clerks.** — (a) Except as provided in subsection (b), the absentee ballots that are prepared and printed under the direction of the state election board shall be delivered to the circuit court clerk or the clerk's authorized deputy not less than forty-five (45) days before a general election or thirty (30) days before a special election. The absentee ballots shall be delivered in the same manner that other official ballots are delivered.

(b) An absentee ballot described by section 12(d) [IC 3-11-4-12(d)] of this chapter shall be delivered by the state election board to the circuit court clerk or the clerk's authorized deputy not later than the first Monday in June before a general election. [P.L.5-1986, § 7; P.L.3-1993, § 127.]

**3-11-4-14. Ballots for locally elected officials and issues — Preparation and printing.** — All absentee ballots other than those specified in section 12 [IC 3-11-4-12] of this chapter shall be prepared and printed under the direction of each county election board. After completing the estimate required by section 10 [IC 3-11-4-10] of this chapter, the county election board shall immediately proceed to prepare and have printed the ballots. Ballots prepared by the county election board under this section must provide space for the voter to cast a write-in ballot. [P.L.5-1986, § 7; P.L.4-1991, § 70.]

**3-11-4-15. Ballots for locally elected officials and issues — Delivery to circuit court clerks.** — The absentee ballots that are prepared and printed under the direction of a county election board shall be delivered to the circuit court clerk at least:

- (1) Forty-five (45) days before a general, primary, or municipal election;
- (2) Thirty (30) days before a special election. [P.L.5-1986, § 7; P.L.10-1989, § 11.]

**3-11-4-16. Ballots delivered to circuit court clerks — Package labels — Safekeeping — Distribution.** — Each package of absentee ballots delivered to a circuit court clerk shall be plainly marked, on an appropriate attached label, with the words: "This package contains ..... (giving number of ballots) absentee ballots." The clerk shall securely keep all ballots in the clerk's office and shall distribute them to applicants as provided in this chapter. [P.L.5-1986, § 7.]

**3-11-4-17. Applications — Filing — Recordation of information.** — Upon receipt of an application for an absentee ballot, a circuit court clerk shall file the application in the clerk's office and record:

- (1) The voter's name;
- (2) The date the application is received;
- (3) The date the ballot is mailed or delivered to the voter;
- (4) If mailed, the address to which the ballot is sent;
- (5) The date the ballot is marked before the clerk, or otherwise received from the voter; and
- (6) Any other information that is necessary or advisable.

[P.L.5-1986, § 7.]

**3-11-4-18. Mailing of ballots — Postage — Address — Time.** — (a) If a voter is entitled to vote an absentee ballot, the county election board shall, at the request of the voter, mail the official ballot, postage fully prepaid, to the address stated in the application.

(b) The ballot shall be mailed:

- (1) On the day of the receipt of the voter's application; or
- (2) Not more than five (5) days after the date of delivery of the ballots under section 15 [IC 3-11-4-15] of this chapter;

whichever is later.

(c) In addition to the ballot mailed under subsection (b), the county election board shall mail a special absentee ballot for:

- (1) Absent uniformed services voters; and
- (2) Overseas voters;

who will be outside of the United States on general election day.

(d) The ballot described in subsection (c):

- (1) Must be mailed:
  - (A) On the day of the receipt of the voter's application; or
  - (B) Not more than five (5) days after the date of delivery of the

ballots under section 13(b) [IC 3-11-4-13(b)] of this chapter; whichever is later; and

(2) May not be mailed after the absentee ballots described by section 13(a) [IC 3-11-4-13(a)] of this chapter have been delivered to the circuit court clerk or the clerk's authorized deputy. [P.L.5-1986, § 7; P.L.3-1987, § 229; P.L.10-1988, § 105; P.L.4-1991, § 71; P.L.3-1993, § 128.]

**3-11-4-19. Mailing of ballots — Circuit court clerk's seal and signature — Initials of absentee voter board members or county election board members.** — (a) A ballot that is mailed must bear the circuit court clerk's official seal and signature or facsimile signature on the back of the ballot. Before the ballot is mailed:

- (1) The two (2) members of the absentee voter board in the office of the circuit court clerk; or
- (2) The two (2) appointed members of the county election board or their designated representatives;

shall place their initials in ink on the back of the ballot. The initials must be in the persons' ordinary handwriting or printing and without a distinguishing mark of any kind. No other initialing of the absentee ballot is necessary.

(b) An absentee ballot that is voted before an absentee voter board under IC 3-11-10-25 or IC 3-11-10-26 must bear the seal, signature, and initials prescribed by IC 3-11-10-27. [P.L.5-1986, § 7; P.L.6-1986, § 18; P.L.3-1987, § 230.]

**3-11-4-20. Return envelope — Mailing address — Postage.** — An absentee ballot mailed under section 18 [IC 3-11-4-18] of this chapter shall be enclosed in an envelope, unsealed and stamped for return to the county election board by at least first class mail. One (1) side of the envelope must bear the name, official title, and post office address of the county election board. The pre-addressed, stamped envelope shall be furnished by the county election board. [P.L.5-1986, § 7.]

**3-11-4-21. Return envelope — Voter's affidavit.** — On the other side of the envelope required by section 20 [IC 3-11-4-20] of this chapter shall be printed an affidavit in substantially the following form:

STATE OF INDIANA )  
 ) ss:  
 COUNTY OF \_\_\_\_\_ )

I affirm under the penalties for perjury that all of the following are true:

(1) That I am: (the voter must check the box before the following statement that applies to the voter)

( ) A resident of; or

( ) Entitled under IC 3-7-4.5 to vote in:

the \_\_\_\_\_ precinct of \_\_\_\_\_ township, or of the \_\_\_\_\_ precinct of the \_\_\_\_\_ ward of the city or town of \_\_\_\_\_.

(2) That I reside at \_\_\_\_\_ (the voter must fill in the voter's complete address, including the name of the city or town) in the county of \_\_\_\_\_ and state of Indiana.

(3) That I am entitled to vote in the precinct at the \_\_\_\_\_ election to be held on \_\_\_\_\_, \_\_\_\_\_.

(4) That I have personally marked the enclosed ballot or ballots in secret and have enclosed them in this envelope and sealed them without exhibiting them to any other person.

Dated \_\_\_\_\_, \_\_\_\_\_ Signed \_\_\_\_\_

[P.L.5-1986, § 7; P.L.17-1993, § 12.]

### 3-11-4-22. Absentee ballot records.

— Each circuit court clerk shall:

(1) Keep a separate absentee ballot record for each precinct in the county; and

(2) Certify to each inspector, at the time that the absentee ballots are delivered:

(A) The number of absentee ballots delivered or mailed to each absentee voter;

(B) The number of absentee ballots marked before the clerk; and

(C) The names of the voters to whom the ballots were delivered or mailed or who marked ballots in person. [P.L.5-1986, § 7.]

## CHAPTER 4.5

### VOTING SYSTEMS ADVISORY COMMITTEE

#### SECTION.

3-11-4.5-1. Committee established.

3-11-4.5-2. Composition — Qualifications of members.

3-11-4.5-3. Appointment of members — Terms — Financial interest statement.

3-11-4.5-4. Filling of vacancies.

3-11-4.5-5. Compensation.

3-11-4.5-6. Chairperson.

3-11-4.5-7. Calling meetings.

3-11-4.5-8. Notice of meetings.

3-11-4.5-9. Meeting rooms and staff support.

3-11-4.5-10. Powers and duties.

### 3-11-4.5-1. Committee established.

— The Indiana voting systems advisory committee (referred to in this chapter as the "committee") is established. The committee shall advise the state election board on the approval of voting systems which have not been previously approved. [P.L.4-1991, § 72.]

### 3-11-4.5-2. Composition — Qualifications of members.

— The committee shall be composed of seven (7) members who must be registered voters of Indiana and who meet the following qualifications:

(1) Two (2) county election board members, one (1) from each of the two (2) major political parties of the state.

At least one (1) of the members appointed under this subdivision must be a circuit court clerk.

(2) Two (2) individuals who are familiar with computer software, one (1) from each of the two (2) major political parties of the state.

(3) One (1) individual familiar with mechanical voting systems.

(4) One (1) individual who is familiar with electronic voting systems and who is from a major political party other than the major political party of the person appointed under subdivision (3).

(5) One (1) individual who has been admitted to the practice of law in Indiana. [P.L.4-1991, § 72.]

### 3-11-4.5-3. Appointment of members

— **Terms — Financial interest statement.** — (a) The state election board shall appoint the members of the committee. Each member serves a term of two (2) years from the date of the appointment.

(b) Before the appointment of an individual to the committee becomes effective, the individual must file a sworn statement with the state ethics commission certifying that the individual does not have a direct or indirect financial interest in a voting equipment vendor. [P.L.4-1991, § 72.]

### 3-11-4.5-4. Filling of vacancies.

— If a vacancy occurs on the committee, the state election board shall, within ninety (90) days of the vacancy, appoint an individual having the required qualifications to fill the vacancy. [P.L.4-1991, § 72.]

### 3-11-4.5-5. Compensation.

— Each member of the committee who is not an elected official is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). Each committee member is also entitled to reimbursement for traveling expenses and other expenses actually

incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the budget agency. [P.L.4-1991, § 72.]

**3-11-4.5-6. Chairperson.** — The chairperson of the committee shall be appointed by the state election board. [P.L.4-1991, § 72.]

**3-11-4.5-7. Calling meetings.** — The chairperson of the committee shall call a meeting of the committee whenever:

- (1) Required by the executive director or chairperson of the state election board; or
- (2) The chairperson considers it necessary for the performance of the committee's duties. [P.L.4-1991, § 72.]

**3-11-4.5-8. Notice of meetings.** — The chairperson of the committee shall give at least ten (10) days written notice of meetings to each committee member unless an emergency is declared by the chairperson. If an emergency is declared, the emergency notice provisions of IC 5-14-1.5-5 apply. [P.L.4-1991, § 72.]

**3-11-4.5-9. Meeting rooms and staff support.** — The state election board shall provide meeting rooms and staff support for the committee. [P.L.4-1991, § 72.]

**3-11-4.5-10. Powers and duties.** — The powers and duties of the committee are as follows:

- (1) To serve as a technical advisor to the state election board.
- (2) To test or have tested for the state election board any voting system proposed for use in the state or currently in use in the state to determine whether the system meets standards set by statute and rule.
- (3) To examine all contracts, leases, or purchase orders, and modifications thereof, for the sale or lease of voting equipment, systems, or software proposed for use by county officials of Indiana.
- (4) To make recommendations to the state election board on the procurement of voting systems including general standards and provisions that may be applied to contracts utilized by county officials of Indiana when purchasing or leasing voting equipment, systems, or software.
- (5) To recommend to the state election board standards and procedures for

the approval of voting systems. [P.L.4-1991, § 72.]

## CHAPTER 5

### APPROVAL OF VOTING MACHINES

#### SECTION.

- 3-11-5-1. State election board approval required.
- 3-11-5-2. Request for examination and approval.
- 3-11-5-3. Examination of machines — Report.
- 3-11-5-4. Approval of machines.
- 3-11-5-5. Improvements and changes in approved machines.
- 3-11-5-6. Location of examinations.
- 3-11-5-7. Specifications — Compliance with IC 3-11-5-8 — 3-11-5-20 required for approval.
- 3-11-5-8. Specifications — Secrecy.
- 3-11-5-9. Specifications — Ability to vote on all candidates and issues.
- 3-11-5-10. Specifications — Straight party ticket voting — Individual candidate voting — Write-in candidates — Public questions — Presidential electors.
- 3-11-5-11. Specifications — Prevention of multiple voting.
- 3-11-5-12. Specifications — Primary elections use.
- 3-11-5-13. Specifications — Counting of votes.
- 3-11-5-14. Specifications — Use determination.
- 3-11-5-15. Specifications — Public counter.
- 3-11-5-16. Specifications — Vote counters.
- 3-11-5-17. Specifications — Lock.
- 3-11-5-18. Specifications — Mechanical model for voter instruction.
- 3-11-5-19. Specifications — Number.
- 3-11-5-20. Specifications — Ballot frames and cover.
- 3-11-5-21. Specifications — New machines rendering IC 3-11-5-8 — 3-11-5-20 unnecessary.
- 3-11-5-22. Purchase of machines by county executive — Machine requirements.
- 3-11-5-23. Purchase of machines by county executive — Maintenance agreement required.
- 3-11-5-24. Insufficient number of machines for each precinct.
- 3-11-5-25. Care and custody of machines while not in use.
- 3-11-5-26. Use of experimental machines.

**3-11-5-1. State election board approval required.** — The state election board must approve any form of voting machine before it may be used at an election. [P.L.5-1986, § 7.]

**3-11-5-2. Request for examination and approval.** — A person owning or interested in a voting machine may request the state election board to examine the machine and report on its accuracy, efficiency, and capacity. [P.L.5-1986, § 7.]

**3-11-5-3. Examination of machines — Report.** — The state election board, on request, shall examine a voting machine

and determine whether the kind of machine examined:

- (1) Complies with the requirements of this chapter; and
  - (2) Can be safely used by voters at an election under the conditions prescribed by this article.
- [P.L.5-1986, § 7; P.L.3-1993, § 129.]

**3-11-5-4. Approval of machines.** — If the state election board finds that a voting machine complies with this chapter and can be safely used by voters, the board shall approve the machine. Machines of its kind then may be adopted for use at an election. [P.L.5-1986, § 7.]

**3-11-5-5. Improvements and changes in approved machines.** — After the state election board has examined and approved a voting machine, an improvement or change that does not impair its accuracy, efficiency, or capacity does not require a reexamination or reapproval of the machine. [P.L.5-1986, § 7.]

**3-11-5-6. Location of examinations.** — The state election board may go anywhere in the state to examine a machine, but it is not required to make the examination at any place other than the state capitol. [P.L.5-1986, § 7.]

**3-11-5-7. Specifications — Compliance with IC 3-11-5-8 — 3-11-5-20 required for approval.** — The state election board may not approve a voting machine unless the machine meets the specifications in sections 8 through 20 [IC 3-11-5-8 — 3-11-5-20] of this chapter. [P.L.5-1986, § 7.]

**3-11-5-8. Specifications — Secrecy.** — A voting machine must insure secrecy to a voter in the act of voting. [P.L.5-1986, § 7.]

**3-11-5-9. Specifications — Ability to vote on all candidates and issues.** — A voting machine must provide facilities that will permit votes to be cast for any candidate at any election and for or against any public question. [P.L.5-1986, § 7.]

**3-11-5-10. Specifications — Straight party ticket voting — Individual candidate voting — Write-in candidates — Public questions — Presidential electors.** — (a) A voting machine must permit a voter to vote:

- (1) Except at a primary election, for:

- (A) All the candidates of one (1) political party;
- (B) One (1) or more candidates of each political party;
- (C) One (1) or more candidates nominated by petition under IC 3-8-6; or
- (D) A write-in candidate, unless the procedures in subsection (b) are followed;

(2) For as many candidates for an office as the voter may vote for, but no more;

(3) For or against a public question on which the voter may vote, but no other; and

(4) For all the candidates for presidential electors of a political party or an independent ticket at one (1) time.

(b) In a precinct using voting machines that do not permit write-in votes, the precinct election board shall provide a paper ballot to a voter who requests to cast a write-in vote. After such a request, a poll clerk, an assistant poll clerk, or a member of the precinct election board shall:

(1) Require the voter to sign the poll list; and

(2) Inform the voter of the procedure that must be followed to cast a write-in vote. [P.L.5-1986, § 7; P.L.11-1987, § 5; P.L.4-1991, § 73; P.L.3-1993, § 130.]

**3-11-5-11. Specifications — Prevention of multiple voting.** — A voting machine must prevent a voter from voting for the same candidate, or for or against the same public question, more than once. [P.L.5-1986, § 7.]

**3-11-5-12. Specifications — Primary elections use.** — A voting machine must be adjustable for use in a primary election so that a voter may not vote for a candidate except those seeking nomination as candidates of the voter's political party. [P.L.5-1986, § 7.]

**3-11-5-13. Specifications — Counting of votes.** — A voting machine must correctly register and accurately count all votes cast for each candidate, and for or against each public question. [P.L.5-1986, § 7.]

**3-11-5-14. Specifications — Use determination.** — A voting machine must be designed so that it can be determined whether the machine has been unlocked and operated after once being locked. [P.L.5-1986, § 7.]

**3-11-5-15. Specifications — Public counter.** — A voting machine must show at all times during an election how many voters have voted by a device referred to as a public counter. [P.L.5-1986, § 7.]

**3-11-5-16. Specifications — Vote counters.** — A voting machine must have a counter indicating the number of votes cast for each candidate and for or against each public question that can not be seen or tampered with without unlocking a covering device that can not be unlocked by a key that unlocks any other part of the machine. When the counters are exposed the machine must be designed so that it can no longer be placed into condition for operation without the use of a special key, which must not be in the possession of the election officers at the polls. If this specification has the effect of eliminating from consideration any other make of machine, this section does not apply. [P.L.5-1986, § 7.]

**3-11-5-17. Specifications — Lock.** — A voting machine must have an operating device and operating mechanism that may be locked before the time for opening the polls and after the time for closing the polls. [P.L.5-1986, § 7.]

**3-11-5-18. Specifications — Mechanical model for voter instruction.** — A voting machine must be accompanied by a mechanical model illustrating the manner of voting on the machine, suitable for the instruction of voters. [P.L.5-1986, § 7.]

**3-11-5-19. Specifications — Number.** — A voting machine must bear a number that will distinguish it from any other machine. [P.L.5-1986, § 7.]

**3-11-5-20. Specifications — Ballot frames and cover.** — A voting machine must have the frames in which ballot labels are placed constructed with transparent protective devices, in order that the names can not be mutilated or altered. [P.L.5-1986, § 7.]

**3-11-5-21. Specifications — New machines rendering IC 3-11-5-8 — 3-11-5-20 unnecessary.** — Section 7 [IC 3-11-5-7] of this chapter does not prevent the approval of a new or improved type of voting machine that renders unnecessary or obsolete one (1) or more of the specifications in sections 8 through 20 [IC 3-11-5-8 — 3-11-5-20] of this chapter. [P.L.5-1986, § 7.]

**3-11-5-22. Purchase of machines by county executive — Machine requirements.** — A county executive may adopt and purchase or procure a voting machine only after determining that the machine:

- (1) Complies with this chapter;
- (2) Is thoroughly reliable and correct in its operation;
- (3) Is readily understood and operated;
- (4) Cannot be fraudulently manipulated; and
- (5) Will unquestionably maintain the secrecy of the ballot. [P.L.5-1986, § 7.]

**3-11-5-23. Purchase of machines by county executive — Maintenance agreement required.** — A county executive also may not purchase or procure a voting machine unless the person selling the machine has guaranteed, in writing, to keep the machine in working order at least five (5) years. [P.L.5-1986, § 7; P.L.3-1987, § 231; P.L.7-1990, § 46.]

**3-11-5-24. Insufficient number of machines for each precinct.** — If it is impossible to supply each precinct with a voting machine at an election following the adoption of the machines in a county, as many machines shall be supplied as it is possible to procure. The county election board shall determine the precincts of the county in which the machines will be used. [P.L.5-1986, § 7.]

**3-11-5-25. Care and custody of machines while not in use.** — The circuit court clerk is responsible for the care and custody of all voting machines while not in use. [P.L.5-1986, § 7.]

**3-11-5-26. Use of experimental machines.** — The county election board may provide for the experimental use of a voting machine at an election in one (1) or more precincts in the county. The machine may be used without a formal adoption or purchase but must be approved by the state election board. The experimental use of a machine at an election is valid for all purposes as if formally adopted. [P.L.5-1986, § 7.]

## CHAPTER 6

### FUND FOR PURCHASE OF VOTING MACHINES AND SYSTEMS

#### SECTION.

- 3-11-6-1. Establishment by county legislative board — Approval by state board of tax commissioners.
- 3-11-6-2. Public notice and hearing of proposed establishment required.

## SECTION.

- 3-11-6-3. Notice of hearing on proposed establishment.
- 3-11-6-4. Public notice following proposal to state board of tax commissioners.
- 3-11-6-5. Taxpayer petition objecting to proposal.
- 3-11-6-6. State board of tax commissioners — Hearing.
- 3-11-6-7. State board of tax commissioners — Notice of hearing.
- 3-11-6-8. State board of tax commissioners — Decision.
- 3-11-6-9. Tax levy — Property taxable — Rate.
- 3-11-6-10. Tax levy — Annual — Time limit — Notice.
- 3-11-6-11. Tax levy — Reduction — Rescission.
- 3-11-6-12. Tax levy — Taxpayer petition requesting reduction or revision.
- 3-11-6-13. Voting system purchase fund — Deposit of tax levy — Purposes — Expenditures.
- 3-11-6-14. Voting system purchase fund — Transfer of balance to general fund.

**3-11-6-1. Establishment by county legislative board — Approval by state board of tax commissioners.** — The legislative body of a county may establish a cumulative fund to provide funds for the purchase of voting machines, ballot card voting systems, or electronic voting systems. However, before the fund may be established, the state board of tax commissioners must approve the establishment of the fund. [P.L.5-1986, § 7; P.L.5-1988, § 6.]

**3-11-6-2. Public notice and hearing of proposed establishment required.** — Before submitting a proposal to establish a cumulative fund to the state board of tax commissioners for approval, a county legislative body must:

- (1) Give notice of the proposed action to the taxpayers affected by the decision; and
- (2) Provide for a public hearing on the proposal.

[P.L.5-1986, § 7.]

**3-11-6-3. Notice of hearing on proposed establishment.** — A county legislative body must give notice of the public hearing required by section 2 [IC 3-11-6-2] of this chapter by publication in accordance with IC 5-3-1. The county legislative body shall also post a notice of the proposal and the public hearing in three (3) public places in the county. [P.L.5-1986, § 7.]

**3-11-6-4. Public notice following proposal to state board of tax commissioners.** — If after a public hearing under section 2 [IC 3-11-6-2] of this chapter a county legislative body submits a proposal to the state board of tax commissioners for

approval, the state board of tax commissioners shall require that a notice of the submission be given to the taxpayers of the county. The notice shall be published in one (1) publication and posted in the same manner as required by section 3 [IC 3-11-6-3] of this chapter. [P.L.5-1986, § 7.]

**3-11-6-5. Taxpayer petition objecting to proposal.** — Not later than noon thirty (30) days after the publication of the notice required by section 4 [IC 3-11-6-4] of this chapter, at least one hundred (100) taxpayers in the county may file a petition with the county auditor stating their objections to the proposed levy to fund the cumulative fund. Upon the filing of the petition, the county auditor shall immediately certify the petition to the state board of tax commissioners. [P.L.5-1986, § 7; P.L.10-1988, § 106.]

**3-11-6-6. State board of tax commissioners — Hearing.** — The state board of tax commissioners shall within a reasonable time fix a date for a hearing on a petition filed under section 5 [IC 3-11-6-5] of this chapter. The hearing shall be held in the county affected by the proposed action. [P.L.5-1986, § 7.]

**3-11-6-7. State board of tax commissioners — Notice of hearing.** — The state board of tax commissioners must give notice of the hearing required by section 6 [IC 3-11-6-6] of this chapter to:

- (1) The county auditor; and
- (2) The first ten (10) taxpayers whose names appear on the petition.

The notice must be given by letter signed by the secretary or any member of the state board of tax commissioners and sent by mail with prepaid postage to the auditor and the taxpayers at their usual place of residence at least five (5) days before the date fixed for the hearing. [P.L.5-1986, § 7.]

**3-11-6-8. State board of tax commissioners — Decision.** — After a hearing upon a proposal to establish a cumulative fund, the state board of tax commissioners shall certify approval, disapproval, or modification of the proposal to the county auditor. The action of the state board of tax commissioners with respect to the proposed levy is final and conclusive. [P.L.5-1986, § 7.]

**3-11-6-9. Tax levy — Property taxable — Rate.** — To provide for a cumulative fund, a county may levy a tax on all taxable property within the county. The tax may not exceed five cents (\$0.05) on

each one hundred dollars (\$100) of assessed valuation. [P.L.5-1986, § 7.]

**3-11-6-10. Tax levy — Annual — Time limit — Notice.** — After approval by the state board of tax commissioners under section 8 [IC 3-11-6-8] of this chapter, the tax rate may be levied annually beginning with the first annual tax levy and continuing for a period not exceeding ten (10) years. The tax levy shall be advertised annually as other tax levies are advertised. [P.L.5-1986, § 7.]

**3-11-6-11. Tax levy — Reduction — Rescission.** — If a county considers it advisable after the levy has been approved, the county may reduce or rescind the annual levy. [P.L.5-1986, § 7.]

**3-11-6-12. Tax levy — Taxpayer petition requesting reduction or revision.** — At least fifty (50) taxpayers in a county may file with the county auditor, by noon August 1 of a year, a petition for reduction or revision of the levy approved under section 8 [IC 3-11-6-8] of this chapter. The petition must state the taxpayers' objections to the levy. The county auditor shall certify the petition to the state board of tax commissioners, and the same procedure for notice and hearing shall be followed that was required for the original levy. After a hearing on the petition, the state board of tax commissioners may confirm, reduce, or rescind the levy. The board's action is final and conclusive. [P.L.5-1986, § 7; P.L.3-1987, § 232.]

**3-11-6-13. Voting system purchase fund — Deposit of tax levy — Purposes — Expenditures.** — The tax collected under section 9 [IC 3-11-6-9] of this chapter shall be held in a cumulative fund to be known as the voting system purchase fund. The fund may not be expended for any purpose other than the purchase of voting machines, ballot card voting systems, or electronic voting systems. Expenditures may be made from the fund only after an appropriation has been made in the manner provided by law for making other appropriations. [P.L.5-1986, § 7; P.L.3-1987, § 233.]

**3-11-6-14. Voting system purchase fund — Transfer of balance to general fund.** — If a county legislative body decides that the need for additional voting machines, ballot card voting systems, or electronic voting systems no longer exists, the legislative body may transfer the balance in the fund to the county general fund. [P.L.5-1986, § 7; P.L.3-1987, § 234.]

## CHAPTER 7

### APPROVAL OF BALLOT CARD VOTING SYSTEMS

#### SECTION.

- 3-11-7-1. Approval by state election board required.
- 3-11-7-2. Rules and standards.
- 3-11-7-3. Standards — Secrecy.
- 3-11-7-4. Standards — Voting methods.
- 3-11-7-5. Standards — Design — Construction — Safety, efficiency and accuracy — Rules.
- 3-11-7-6. Standards for counting individual ballot votes — Straight party ticket vote and duplicating individual candidate votes.
- 3-11-7-7. Standards for counting individual ballot votes — Straight party ticket votes — Unopposed candidates — Combined straight party ticket and different individual candidate votes.
- 3-11-7-8. Standards for counting individual ballot votes — Straight party ticket voting where multiple openings in office.
- 3-11-7-9. Standards for counting individual ballot votes — Multiple straight party ticket votes.
- 3-11-7-10. Standards for counting individual ballot votes — Fewer votes for less candidates than openings in office.
- 3-11-7-11. Standards for counting individual ballot votes — More votes for candidates than openings in office.
- 3-11-7-12. Testing of systems.
- 3-11-7-13. Notice to county election board of system approval.
- 3-11-7-14. Instructions and procedures for system use.
- 3-11-7-15. Improvements or changes in approved systems.
- 3-11-7-16. Disapproval of sale of system for failure to meet standards.
- 3-11-7-17. Periodic testing of systems — Rescission of approval of vendor.
- 3-11-7-18. Filing of copies of contracts, leases, or purchase orders.
- 3-11-7-19. Ballot card voting system — Expiration — Renewal application.

**3-11-7-1. Approval by state election board required.** — The state election board must approve a ballot card voting system before it may be used in an election. [P.L.5-1986, § 7; P.L.3-1987, § 235.]

**3-11-7-2. Rules and standards.** — The state election board shall adopt rules setting standards for the approval of ballot card voting systems. The board may approve a system only if it determines that the system:

- (1) Complies with the standards in the rules; and
- (2) Meets the standards in this chapter.

[P.L.5-1986, § 7; P.L.3-1987, § 236.]



**3-11-7-3. Standards — Secrecy.** — A ballot card voting system must enable a voter to cast a vote in secrecy for all offices and public questions for which the voter is entitled to vote. [P.L.5-1986, § 7; P.L.3-1987, § 237.]

**3-11-7-4. Standards — Voting methods.** — A ballot card voting system must permit a voter to vote either:

- (1) A straight party ticket for all of the candidates of a political party by a single mark or punch on each ballot card;
- (2) A split ticket for the candidates of different political parties and for independent candidates; or
- (3) A straight party ticket and then split that ticket by casting individual votes for candidates of another political party or independent candidate. [P.L.5-1986, § 7; P.L.3-1987, § 238; P.L.3-1993, § 131.]

**3-11-7-5. Standards — Design — Construction — Safety, efficiency and accuracy — Rules.** — A ballot card voting system must be:

- (1) Suitably designed for the purpose used;
- (2) Of durable construction;
- (3) Safe, efficient, and accurate in the conduct of elections and counting of ballots; and
- (4) In compliance with the standards for systems that are purchased after the effective date of the standards established by the state election board under section 2 [IC 3-11-7-2] of this chapter. [P.L.5-1986, § 7; P.L.6-1986, § 19; P.L.3-1987, § 239; P.L.4-1991, § 74.]

**3-11-7-6. Standards for counting individual ballot votes — Straight party ticket vote and duplicating individual candidate votes.** — If a voter votes a straight party ticket and also votes for one (1) or more individual candidates who are all of the same political party as the straight ticket vote, a ballot card voting system must count the straight ticket vote and not the individual candidate votes as required by IC 3-12-1-7(a). [P.L.5-1986, § 7; P.L.3-1987, § 240; P.L.3-1993, § 132.]

**3-11-7-7. Standards for counting individual ballot votes — Straight party ticket votes — Unopposed candidates — Combined straight party ticket and different individual candidate votes.** — (a) A ballot card voting system must count the vote for an office on a ballot in

accordance with IC 3-12-1-7(b) and this section whenever:

- (1) A voter has voted a straight party ticket for the candidates of one (1) political party;
- (2) Only one (1) person may be elected to an office; and
- (3) The voter has voted for one (1) or more individual candidates for the office described in subdivision (2) who are in a political party other than the party for which the voter voted a straight ticket.

(b) If the voter has voted for one (1) individual candidate for the office described in subsection (a)(2), the individual candidate vote for that office must be counted, the straight party ticket vote for that office may not be counted, and the straight party ticket votes for other offices on the ballot must be counted.

(c) If the voter has voted for more than one (1) individual candidate for the office described in subsection (a)(2), the individual candidate votes for that office may not be counted, the straight party ticket vote for that office may not be counted, and the straight party ticket votes for other offices on the ballot must be counted. [P.L.5-1986, § 7; P.L.3-1987, § 241; P.L.3-1993, § 133.]

**3-11-7-8. Standards for counting individual ballot votes — Straight party ticket voting where multiple openings in office.** — If there is an office to which more than one (1) person can be elected, and a voter votes a straight party ticket and then votes both for individual candidates in the same political party as the straight ticket vote and in a different party for that office, or votes for only individuals in a different party for that office, a ballot card voting system must in accordance with IC 3-12-1-7(c) count the individual candidate votes and not the straight ticket votes for that office. However, if the number of individual candidate votes for that office exceeds the number of openings for that office, the system must not count any of the votes concerning that office. [P.L.5-1986, § 7; P.L.3-1987, § 242; P.L.3-1993, § 134.]

**3-11-7-9. Standards for counting individual ballot votes — Multiple straight party ticket votes.** — If a voter votes a straight party ticket for more than one (1) political party, a ballot card voting system must consider the whole ballot void in accordance with IC 3-12-1-7(d). [P.L.5-1986, § 7; P.L.3-1987, § 243; P.L.3-1993, § 135.]

**3-11-7-10. Standards for counting individual ballot votes — Fewer votes for candidates than openings in office.** — If a voter does not vote a straight party ticket and the number of votes cast by the voter for the candidates for an office is less than or equal to the number of openings for that office, a ballot card voting system must count the individual candidates' votes in accordance with IC 3-12-1-7(e). [P.L.5-1986, § 7; P.L.3-1987, § 244; P.L.3-1993, § 136.]

**3-11-7-11. Standards for counting individual ballot votes — More votes for candidates than openings in office.** — If a voter does not vote a straight party ticket and the number of votes cast by that voter for an office exceeds the number of openings for that office, a ballot card voting system must not count any of the votes concerning that office in accordance with IC 3-12-1-7(f). [P.L.5-1986, § 7; P.L.5-1988, § 7; P.L.3-1993, § 137.]

**3-11-7-11.5. Counting write-in votes.** — A ballot card voting system must permit the counting of write-in votes in accordance with IC 3-12-1-7.5. [P.L.3-1993, § 138.]

**3-11-7-12. Testing of systems.** — The state election board shall have tests conducted concerning the suitability of a ballot card voting system before determining whether to approve it. [P.L.5-1986, § 7; P.L.3-1987, § 245.]

**3-11-7-13. Notice to county election board of system approval.** — If the state election board approves a ballot card voting system, the board shall notify the appropriate county election board that the system may be used. [P.L.5-1986, § 7; P.L.3-1987, § 246.]

**3-11-7-14. Instructions and procedures for system use.** — The state election board may issue supplementary instructions and procedures for the safe and efficient use of ballot card voting systems to carry out this chapter. [P.L.5-1986, § 7; P.L.3-1987, § 247.]

**3-11-7-15. Improvements or changes in approved systems.** — (a) A proposed improvement or change to a ballot card voting system shall be reported to the state election board by:

- (1) The vendor, if a vendor is involved in the proposed change; and
- (2) The county election board, if a county is proposing the change.

A proposed improvement or change may not be implemented before the improvement or change is approved by the state election board.

(b) A report of an improvement or change must be in the form prescribed by the state election board.

(c) The state election board shall determine, within a reasonable period of time, whether the improvement or change impairs the accuracy, efficiency, capacity, or ability to meet the requirements of this chapter or the standards adopted by the state election board under section 2 [IC 3-11-7-2] of this chapter.

(d) After the state election board has approved an improvement or change, the improvement or change may be implemented. [P.L.5-1986, § 7; P.L.3-1987, § 248; P.L.4-1991, § 75.]

**3-11-7-16. Disapproval of sale of system for failure to meet standards.** — The state election board may not approve the sale of a ballot card voting system by a vendor if the board finds that the system fails to meet all statutory requirements and the standards adopted by the state election board under section 2 [IC 3-11-7-2] of this chapter. [P.L.5-1986, § 7; P.L.3-1987, § 249; P.L.5-1988, § 8; P.L.4-1991, § 76.]

**3-11-7-17. Periodic testing of systems — Rescission of approval of vendor.** — (a) The state election board may periodically examine a ballot card voting system that the board has previously approved to determine if the system is still in compliance with all statutory requirements and the standards adopted by the state election board under section 2 [IC 3-11-7-2] of this chapter.

(b) If the state election board finds that a system examined under subsection (a) fails to meet all requirements and standards, the board may, by unanimous vote of all of the members of the state election board, rescind the board's approval of the vendor.

(c) If the board's approval is rescinded under subsection (b), the state election board may, by unanimous vote of all of the members of the state election board:

- (1) Recommend that use of the system be discontinued; and
- (2) Prohibit the system from being leased, marketed, or sold for use in Indiana in an election conducted under this title.

(d) This subsection applies to a ballot card voting system approved before:

- (1) The initial adoption of rules under section 2 of this chapter; or

(2) A revision of the rules adopted under section 2 of this chapter.

The state election board may, by unanimous consent of its entire membership, require the voting system to be tested by an independent authority designated by the state election board. The vendor shall pay any testing expenses under this subsection.

(e) If the independent testing authority determines that a voting system tested under subsection (d) does not comply with the standards adopted by the state election board under section 2 of this chapter, the state election board may, by unanimous consent of its entire membership, prohibit the system from being leased, marketed, or sold for use in Indiana in an election conducted under this title.

(f) This subsection applies to a ballot card voting system that:

(1) The state election board has recommended discontinuing under subsection (b); or

(2) An independent testing authority has determined under subsection (d) to be out of compliance with the standards adopted under section 2 of this chapter.

Notwithstanding the recommendation under subsection (b) or the determination under subsection (d), a ballot card voting system may be used in a county until the circuit court clerk or the county election board of a county that uses the ballot card voting system files a request with the state election board for an investigation of the ballot card voting system and the state election board, by unanimous consent of its entire membership, makes a finding under subsection (g).

(g) The state election board finding described under subsection (f) must satisfy both of the following:

(1) Be based on evidence of the ballot card voting system's use by a county election board.

(2) Contain the following determinations:

(A) The use of the voting system has resulted in a clear pattern of unreliable or erroneous casting or tabulation of ballots.

(B) The continued use of the voting system would undermine the public confidence in the accuracy and integrity of Indiana's electoral system. [P.L.4-1991, § 77; P.L.3-1993, § 139.]

**3-11-7-18. Filing of copies of contracts, leases, or purchase orders.** — (a) The state election board may require a county executive to file a copy of all

contracts, leases, or purchase orders, including modifications, for the sale or lease of voting equipment, systems, or software with the state election board.

(b) The state election board may advise or instruct county officials on the content of the documents listed in subsection (a). [P.L.4-1991, § 78.]

**3-11-7-19. Ballot card voting system — Expiration — Renewal application.**

— (a) The approval of a ballot card voting system under this chapter expires five (5) years after the date the state election board approves the system.

(b) The vendor of a voting system approved under this chapter may request that the approval be renewed by filing an application with the state election board.

(c) The application described in subsection (b) must identify all counties that are currently using the voting system. Before considering the application for renewal, the state election board shall give notice by regular United States mail of the application to the circuit court clerk of each county listed in the application.

(d) When the state election board considers the application, the board shall request comments regarding the renewal of the application from any interested person.

(e) The state election board may, by unanimous consent of its entire membership, order the voting system to be tested by an independent authority designated by the state election board. The vendor shall pay any testing expenses under this subsection.

(f) The state election board shall approve an application for renewal under this section if the board finds that the voting system:

(1) Complies with the standards prescribed under this chapter;

(2) Has worked effectively where the system has been used; and

(3) Has been adequately supported by the vendor of the system. [P.L.3-1993, § 140.]

## CHAPTER 7.5

### APPROVAL OF ELECTRONIC VOTING SYSTEMS

#### SECTION.

3-11-7.5-1. Authorization.

3-11-7.5-2. Request for examination.

3-11-7.5-3. Establishment of standards — Compliance required.

3-11-7.5-4. Approval.

3-11-7.5-5. Improvements or changes in approved systems.

3-11-7.5-6. Location of examination.

## SECTION.

- 3-11-7.5-7. Specifications and standards for approval.
- 3-11-7.5-8. Specifications for approval — Secrecy.
- 3-11-7.5-9. Specifications for approval — Completeness of ballot.
- 3-11-7.5-10. Specifications for approval — Straight ticket voting — Ability to limit number of candidates and issues presented to voter.
- 3-11-7.5-11. Specifications for approval — Prevention of multiple voting.
- 3-11-7.5-12. Specifications for approval — Ability to limit ballot by party affiliation in primary.
- 3-11-7.5-13. Specifications for approval — Register and accurately count votes.
- 3-11-7.5-14. Specifications for approval — Security of system after voting.
- 3-11-7.5-15. Specifications for approval — Counting of voters.
- 3-11-7.5-16. Specifications for approval — Security of counting device.
- 3-11-7.5-17. Specifications for approval — Security before and after polls open and close.
- 3-11-7.5-18. Specifications for approval — Unique identifying number.
- 3-11-7.5-19. Specifications for approval — Protection for ballot label.
- 3-11-7.5-20. Development of improved system.
- 3-11-7.5-21. Approval required for purchase or procurement of system.
- 3-11-7.5-22. System service agreement.
- 3-11-7.5-23. Determination of precincts to receive system.
- 3-11-7.5-24. Care and custody while not in use.
- 3-11-7.5-25. Experimental use of a system at election.
- 3-11-7.5-26. Periodic testing of systems — Rescission of approval of vendor.
- 3-11-7.5-27. Filing of copies of contracts, leases, or purchase orders.
- 3-11-7.5-28. Electronic voting system — Expiration — Renewal application.

**3-11-7.5-1. Authorization.** — The state election board must approve any form of electronic voting system before it may be used at an election. [P.L.3-1987, § 250.]

**3-11-7.5-2. Request for examination.** — A person owning or interested in an electronic voting system may request the state election board to examine the system and report on its accuracy, efficiency, and capacity. [P.L.3-1987, § 250.]

**3-11-7.5-3. Establishment of standards — Compliance required.** — The state election board shall adopt rules establishing standards for electronic voting systems purchased after the effective date of the standards. The board may approve a system only if the system complies with the:

- (1) Requirements of this chapter; and

(2) Standards adopted by the state election board.  
[P.L.3-1987, § 250; P.L.4-1991, § 79.]

**3-11-7.5-4. Approval.** — If the state election board finds that an electronic voting system complies with this chapter and the standards adopted by the state election board under section 3 [IC 3-11-7.5-3] of this chapter, the board may approve the system. The approved system then may be adopted for use at an election. [P.L.3-1987, § 250; P.L.4-1991, § 80.]

**3-11-7.5-5. Improvements or changes in approved systems.** — (a) A proposed improvement or change to an electronic voting system shall be reported to the state election board by:

- (1) The vendor, if a vendor is involved in the proposed change; and
- (2) The county election board, if a county is proposing the change.

A proposed improvement or change may not be implemented before the improvement or change is approved by the state election board.

(b) A report of an improvement or change must be in the form prescribed by the state election board.

(c) The state election board shall determine within a reasonable period of time whether the improvement or change impairs the accuracy, efficiency, capacity, or ability to meet the requirements of this chapter or of the standards adopted by the state election board under section 3 [IC 3-11-7.5-3] of this chapter.

(d) After the state election board has examined and approved an improvement or change to an electronic voting system, the improvement or change may be implemented. [P.L.3-1987, § 250; P.L.4-1991, § 81.]

**3-11-7.5-6. Location of examination.** — The state election board may go anywhere in the state to examine a system, but it is not required to make the examination at any place other than the state capitol. [P.L.3-1987, § 250.]

**3-11-7.5-7. Specifications and standards for approval.** — The state election board may not approve an electronic voting system unless the system meets:

- (1) The specifications in sections 8 through 19 [IC 3-11-7.5-8 — 3-11-7.5-19] of this chapter; and
- (2) The standards adopted by the state election board under section 3 [IC 3-11-7.5-3] of this chapter. [P.L.3-1987, § 250; P.L.4-1991, § 82.]

**3-11-7.5-8. Specifications for approval — Secrecy.** — An electronic voting system must ensure secrecy to a voter in the act of voting. [P.L.3-1987, § 250.]

**3-11-7.5-9. Specifications for approval — Completeness of ballot.** — An electronic voting system must provide facilities that will permit votes to be cast for any candidate at any election and for or against any public question. [P.L.3-1987, § 250.]

**3-11-7.5-10. Specifications for approval — Straight ticket voting — Ability to limit number of candidates and issues presented to voter.** — An electronic voting system must permit a voter to vote:

- (1) Except at a primary election, for all the candidates of one (1) political party, for one (1) or more candidates of each political party, or for one (1) or more candidates nominated by petition;
- (2) For as many candidates for an office as the voter may vote for, but no more;
- (3) For or against a public question on which the voter may vote, but no other; and
- (4) For all the candidates for presidential electors of a political party or an independent ticket at one (1) time. [P.L.3-1987, § 250; P.L.3-1993, § 141.]

**3-11-7.5-11. Specifications for approval — Prevention of multiple voting.** — An electronic voting system must prevent a voter from voting for the same candidate or for or against the same public question more than once. [P.L.3-1987, § 250.]

**3-11-7.5-12. Specifications for approval — Ability to limit ballot by party affiliation in primary.** — An electronic voting system must be adjustable for use in a primary election so that a voter may not vote for a candidate except those seeking nomination as candidates of the voter's political party. [P.L.3-1987, § 250.]

**3-11-7.5-13. Specifications for approval — Register and accurately count votes.** — An electronic voting system must correctly register and accurately count all votes cast for each candidate and for or against each public question. [P.L.3-1987, § 250.]

**3-11-7.5-14. Specifications for approval — Security of system after voting.** — An electronic voting system must be designed so that it can be determined whether the system has been operated after once being secured against additional voting. [P.L.3-1987, § 250.]

**3-11-7.5-15. Specifications for approval — Counting of voters.** — An electronic voting system must be able to indicate during an election how many voters have voted by use of a counting device. [P.L.3-1987, § 250.]

**3-11-7.5-16. Specifications for approval — Security of counting device.** — An electronic voting system must have a counting device that records the number of votes cast for each candidate and for or against each public question on the ballot that cannot be tampered with or altered at any time while votes are being cast on the system. When the computer memory pack that permits votes to be recorded on the counting device is removed, the system must be designed so that it can no longer be placed into operation. [P.L.3-1987, § 250.]

**3-11-7.5-17. Specifications for approval — Security before and after polls open and close.** — An electronic voting system must have a device or method that prevents the operation of the system before the time for opening the polls and after the time for closing the polls. [P.L.3-1987, § 250.]

**3-11-7.5-18. Specifications for approval — Unique identifying number.** — Each electronic voting system must bear a number that will distinguish it from any other system. [P.L.3-1987, § 250.]

**3-11-7.5-19. Specifications for approval — Protection for ballot label.** — An electronic voting system must have the frame in which the ballot label is placed constructed with a transparent protective sheet in order that the names cannot be mutilated or altered. [P.L.3-1987, § 250.]

**3-11-7.5-20. Development of improved system.** — Section 7 [IC 3-11-7.5-7] of this chapter does not prevent the approval of a new or improved type of electronic voting system that renders unnecessary or obsolete one (1) or more of the specifications in sections 8 through 19 [IC 3-11-7.5-8 — 3-11-7.5-19] of this chapter. [P.L.3-1987, § 250.]

**3-11-7.5-21. Approval required for purchase or procurement of system.** — A county executive may adopt and purchase or procure an electronic voting system only after the system has been approved by the state election board. [P.L.3-1987, § 250; P.L.4-1991, § 83.]

**3-11-7.5-22. System service agreement.** — A county executive also may not purchase or procure an electronic voting system unless the person selling the system has guaranteed, in writing, to keep the system in working order at least five (5) years. [P.L.3-1987, § 250; P.L.7-1990, § 47.]

**3-11-7.5-23. Determination of precincts to receive system.** — If it is impossible to supply each precinct with an electronic voting system at an election following the adoption of the systems in a county, as many systems shall be supplied as it is possible to procure. The county election board shall determine the precincts of the county in which the systems will be used. [P.L.3-1987, § 250.]

**3-11-7.5-24. Care and custody while not in use.** — The circuit court clerk is responsible for the care and custody of all electronic voting systems while not in use. [P.L.3-1987, § 250.]

**3-11-7.5-25. Experimental use of a system at election.** — The county election board may provide for the experimental use of an electronic voting system at an election in one (1) or more precincts in the county. The system may be used without a formal adoption or purchase but must be approved by the state election board. The experimental use of a system at an election is valid for all purposes as if formally adopted. [P.L.3-1987, § 250.]

**3-11-7.5-26. Periodic testing of systems — Rescission of approval of vendor.** — (a) The state election board may periodically examine an electronic voting system that the board has previously approved to determine if that system is still in compliance with all statutory requirements and the standards adopted by the state election board under section 3 [IC 3-11-7.5-3] of this chapter.

(b) If the state election board finds that a system examined under subsection (a) fails to meet all requirements and standards, the board may, by unanimous vote of all of the members of the state election board, rescind the board's approval of the vendor.

(c) If the board's approval is rescinded under subsection (b), the state election board may by unanimous vote of all of the members of the state election board:

(1) Recommend that use of the system be discontinued; and

(2) Prohibit the system from being leased, marketed, or sold for use in Indiana in an election conducted under this title.

(d) This subsection applies to an electronic voting system approved before:

(1) The initial adoption of rules under section 3 of this chapter; or

(2) A revision of the rules adopted under section 3 of this chapter.

The state election board may, by unanimous consent of its entire membership, require the voting system to be tested by an independent authority designated by the state election board. The vendor shall pay any testing expenses under this subsection.

(e) If the independent testing authority determines that a voting system tested under subsection (d) does not comply with the standards adopted by the state election board under section 3 of this chapter, the state election board may, by unanimous consent of its entire membership, prohibit the system from being leased, marketed, or sold for use in Indiana in an election conducted under this title.

(f) This subsection applies to an electronic voting system that:

(1) The state election board has recommended discontinuing under subsection (b); or

(2) An independent testing authority has determined under subsection (d) to be out of compliance with the standards adopted under section 3 of this chapter.

Notwithstanding the recommendation under subsection (e) or the determination under subsection (d), an electronic voting system may be used in a county until the circuit court clerk or the county election board of a county that uses the electronic voting system files a request with the state election board for an investigation of the electronic voting system and the state election board, by unanimous consent of its entire membership, makes a finding under subsection (g).

(g) The state election board finding described under subsection (f) must satisfy both of the following:

(1) Be based on evidence of the electronic voting system's use by a county election board.

(2) Contain the following determinations:

(A) The use of the voting system has resulted in a clear pattern of

unreliable or erroneous casting or tabulation of ballots.

(B) The continued use of the voting system would undermine the public confidence in the accuracy and integrity of Indiana's electoral system. [P.L.4-1991, § 84; P.L.3-1993, § 142.]

**3-11-7.5-27. Filing of copies of contracts, leases, or purchase orders. —** (a)

The state election board may require a county executive to file a copy of all contracts, leases, or purchase orders, including modifications, for the sale or lease of voting equipment, systems, or software with the state election board.

(b) The state election board may advise or instruct county officials on the content of the documents listed in subsection (a). [P.L.4-1991, § 85.]

**3-11-7.5-28. Electronic voting system — Expiration — Renewal application. —** (a)

The approval of an electronic voting system under this chapter expires five (5) years after the date the state election board approves the system.

(b) The vendor of a voting system approved under this chapter may request that the approval be renewed by filing an application with the state election board.

(c) The application described in subsection (b) must identify all counties that are currently using the voting system. Before considering the application for renewal, the state election board shall give notice by regular United States mail of the application to the circuit court clerk of each county listed in the application.

(d) When the state election board considers the application, the board shall request comments regarding the renewal of the application from any interested person.

(e) The state election board may, by unanimous consent of its entire membership, order the voting system to be tested by an independent authority designated by the state election board. The vendor shall pay any testing expenses under this subsection.

(f) The state election board shall approve an application for renewal under this section if the board finds that the voting system:

- (1) Complies with the standards prescribed under this chapter;
- (2) Has worked effectively where the system has been used; and

(3) Has been adequately supported by the vendor of the system. [P.L.3-1993, § 143.]

## CHAPTER 8

### VOTING PROCEDURES GENERALLY

#### SECTION.

- 3-11-8-1. Applicability.
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- 3-11-8-22. Challenged voters — Voting.
- 3-11-8-23. Challenged voters — Affidavit of eligibility to vote.
- 3-11-8-24. [Repealed.]
- 3-11-8-25. Procedure upon voter entering polls — Challenge of voter's identity by clerk.
- 3-11-8-26. Voters unable to sign or having difficulty in signing poll lists.
- 3-11-8-27. Voter challenges by precinct election board members.
- 3-11-8-28. Stamping or marking of affidavit or form of registration.
- 3-11-8-29. Separate poll lists not permitted.

## SECTION.

3-11-8-30. Poll lists — Return to circuit court clerk — Retention.

3-11-8-31 — 3-11-8-33. [Repealed.]

**3-11-8-1. Applicability.** — This chapter applies to each precinct. [P.L.5-1986, § 7.]

**3-11-8-2. Voters to vote in precinct of residence — Exceptions.** — A voter shall vote at the polls for the precinct where the voter resides except when authorized to vote in another precinct under IC 3-7-4, IC 3-7-4.5, or at a special voting poll under section 6 [IC 3-11-8-6] of this chapter. [P.L.5-1986, § 7; P.L.10-1988, § 107; P.L.4-1991, § 86; P.L.17-1993, § 13.]

**3-11-8-3. Precinct voting room — County executive to provide — Location outside precinct.** — (a) Before each election each county executive shall secure for each precinct of the county a suitable room in which to hold the election.

(b) If there is no suitable room available within the precinct, then the polls may be located in a public building in an adjoining precinct if the public building is:

- (1) Not more than one (1) mile from the closest boundary of the precinct for which it is the polls; or
- (2) Is located in the same township as the precinct that has no suitable room available, if the polling place complies with accessibility requirements for disabled voters established by the state election board. [P.L.5-1986, § 7; P.L.3-1987, § 251; P.L.3-1993, § 144.]

**3-11-8-3.1. Designation of polls — Inaccessibility for voters with disabilities.** — A county executive shall designate the polls for each precinct not less than thirty (30) days before election day. The county executive shall then file the report required by section 6 [IC 3-11-8-6] of this chapter concerning polls that are inaccessible to voters with disabilities. [P.L.13-1988, § 8; P.L.4-1991, § 87.]

**3-11-8-3.2. Notice of voting place — Change of voting place.** — (a) A county executive shall give ten (10) days notice of the place of voting in each precinct by publication in the manner prescribed by IC 5-3-1-4. If it is necessary to change a place for voting after giving notice, notice of the change shall be given in the same manner. However, except as provided in subsection (b), no change may be made within two (2) days before an election.

(b) If the county election board determines by a unanimous vote of the board's entire membership that the use of a polling place at an election would be dangerous or impossible, the county election board may order the relocation of the polling place during the final two (2) days before an election. The county election board shall give the best possible notice of this change to news media and the voters of the precinct. [P.L.13-1988, § 9; P.L.3-1993, § 145.]

**3-11-8-4. Precinct voting room — Availability of public buildings.** — School buildings, fire stations, and all other public buildings shall be made available without charge to a county for holding an election. [P.L.5-1986, § 7.]

**3-11-8-4.1. Only one location for precinct polls.** — The polls for each precinct may be located in only one (1) place. [P.L.13-1988, § 10.]

**3-11-8-4.2. Location of polls in town with largest population.** — If there is one (1) or more towns in a township that contains only one (1) precinct, the county executive shall locate the polls at a convenient location in the town that has the largest population. [P.L.13-1988, § 11.]

**3-11-8-4.3. Precinct with less than two hundred fifty voters.** — If a precinct contains less than two hundred fifty (250) voters, the county executive may locate the polls for the precinct at the polls for an adjoining precinct, using the precinct election board of the adjoining precinct. [P.L.13-1988, § 12; P.L.5-1989, § 53.]

**3-11-8-5. Precinct voting room — Location where alcoholic beverages kept or sold prohibited.** — An election may not be held in a room in which alcoholic beverages are kept or sold. [P.L.5-1986, § 7.]

**3-11-8-6. Accessibility to elderly voters and voters with disabilities — Special voting polls.** — (a) If possible, the county executive shall locate the polls for each precinct in a facility that meets accessibility guidelines established by the state election board for voters with disabilities and elderly voters. If the county executive determines that no accessible facility is available in a precinct and that no facility can be made temporarily accessible, the county executive shall designate one (1) special voting poll in the county at



least thirty (30) days before election day. A special voting poll must:

- (1) Be accessible to voters with disabilities and elderly voters under guidelines established by the state election board; and
- (2) Operate under all other requirements for precincts and polls under this title.

(b) The county executive shall:

- (1) Provide public notice; and
- (2) File a report;

listing each inaccessible precinct and each special voting poll in the county with the state election board at least thirty (30) days before election day. The list shall be available to any person upon request.

(c) A precinct poll may also be used as a special voting poll for the county if the precinct poll meets the guidelines for accessibility by voters with disabilities and elderly voters established by the state election board.

(d) The circuit court clerk or board of registration shall assign a special voting poll to a voter with disabilities or elderly voter:

- (1) Whose regular precinct poll is inaccessible to voters with disabilities or elderly voters; and
- (2) Who submits an application on a form prescribed by the state election board at least ten (10) days before election day.

(e) Applications may be submitted under subsection (d)(2):

- (1) In person at the principal office of the circuit court clerk or board of registration; or
- (2) By mail.

(f) The precinct election board at a special voting poll shall do the following:

- (1) Provide each voter with disabilities or elderly voter assigned under subsection (d) a ballot that includes all offices and public questions to be voted for in the voter's precinct of residence.
- (2) Prepare a separate poll list for the voters with disabilities and elderly voters assigned to the special voting poll.

(g) Votes cast at a special voting poll shall be counted and reported in the same manner as votes cast at a precinct under this title. [P.L.5-1986, § 7; P.L.3-1987, § 252; P.L.10-1988, § 108; P.L.4-1991, § 88.]

**3-11-8-7. Precinct voting room — Division into areas.** — In preparing the polls for an election, the county executive shall:

- (1) Have placed within the room a railing separating the part of the room

to be occupied by the precinct election board from that part of the room to be occupied by the voting machines, ballot card voting system, electronic voting systems, and the three (3) or more booths or compartments for marking paper ballots, whenever either or two (2) of these voting systems are used;

(2) Ensure that the portion of the room set apart for the precinct election board includes a door at which each voter appears for challenge; and

(3) Provide a chute with a railing, rope, or wire on each side, beginning fifty (50) feet away from and leading to the door for challenge and to the room in which the election is held. [P.L.5-1986, § 7; P.L.3-1987, § 253.]

**3-11-8-8. Poll hours.** — The polls in each precinct open at 6 A.M. and close at 6 P.M. on election day. [P.L.5-1986, § 7.]

**3-11-8-9. Proclamation of poll opening and closing.** — The inspector of each precinct shall proclaim the opening and closing of the polls to the people outside the polls in a loud tone of voice. [P.L.5-1986, § 7.]

**3-11-8-10. Record of poll closing proclamation.** — The poll clerks of each precinct shall make a record of:

- (1) The inspector's proclamation of the closing of the polls; and
- (2) The time the proclamation was made.

The poll clerks shall enter the record required by this section on the tally papers. After the record has been made no more voters may vote except as provided in section 11 [IC 3-11-8-11] of this chapter. [P.L.5-1986, § 7.]

**3-11-8-11. Voters eligible to vote when polls close.** — When the hour for closing the polls occurs, the precinct election board shall permit all voters who:

- (1) Have passed the challengers and who are waiting to announce their names to the poll clerks for the purpose of signing the poll list;
- (2) Have signed the poll list but who have not voted; or
- (3) Are in the act of voting;

to vote. In addition, the inspector shall require all voters who have not yet passed the challengers to line up in single file within the chute. The poll clerks shall record the names of the voters in the chute, and these voters may vote unless otherwise prevented according to law. [P.L.5-1986, § 7.]

**3-11-8-12. Adjournment or recess in poll hours prohibited.** — After the opening of the polls, there may be no adjournment or recess until after the polls have been closed and the inspector is ready to leave with the ballot box and other documents and papers to be delivered to the circuit court clerk. [P.L.5-1986, § 7; P.L.3-1987, § 254.]

**3-11-8-13. Voting and comments by poll clerks, judges and inspectors.** — An inspector, judge, or poll clerk of a precinct may not vote after the polls have closed nor make a statement concerning the result of the election before the closing of the polls. [P.L.5-1986, § 7.]

**3-11-8-14. Reading of IC 3-14-4-7 at poll opening — Oath of precinct election board regarding IC 3-14-4-7.** — At the opening of the polls, the inspector of each precinct shall read IC 3-14-4-7 to the precinct election board. Each member of the board shall take an oath that the member has not violated and will not violate IC 3-14-4-7. [P.L.5-1986, § 7.]

**3-11-8-15. Persons allowed in polls.**

— (a) Persons other than:

- (1) Members of a precinct election board;
- (2) Poll clerks and assistant poll clerks;
- (3) Election sheriffs;
- (4) Deputy election commissioners;
- (5) Watchers; and
- (6) Minor children accompanying voters as provided under IC 3-11-11-8 and IC 3-11-12-29;

are not permitted in the polls during an election except for the purpose of voting.

(b) This subsection applies to a simulated election for minors conducted with the authorization of the county election board. An individual participating in the simulated election may be in the polls for the purpose of voting. A person supervising the simulated election may be in the polls to perform the supervision.

(c) The inspector of a precinct has authority over all simulated election activities conducted under subsection (b) and shall ensure that the simulated election activities do not interfere with the election conducted in that polling place. [P.L.5-1986, § 7; P.L.4-1991, § 89; P.L.3-1993, § 146.]

**3-11-8-16. Persons allowed in and around poll chutes.** — Challengers and pollbook holders appointed under IC 3-6-7 are entitled to stand at the sides of the chute. No other person may remain within

fifty (50) feet of the chute except for the purpose of offering to vote. [P.L.5-1986, § 7; P.L.3-1993, § 147.]

**3-11-8-17. Number of voters permitted in polls at one time.** — In a precinct for which assistant poll clerks are provided, as many as six (6) voters may be admitted to the polls at one time for the purpose of voting. If there are no assistant poll clerks, no more than three (3) voters may be admitted to the polls at any one time. [P.L.5-1986, § 7.]

**3-11-8-18. Conversations in polls.** — A voter or person offering to vote may not converse or communicate with a person other than a member of the precinct election board while at the polls. [P.L.5-1986, § 7.]

**3-11-8-19. Order of entry into poll chutes — Announcement of name to challengers.** — Voters shall approach and enter the chute in the order in which they appear for the purpose of voting. A voter shall immediately announce the voter's full and true name to the challengers. [P.L.5-1986, § 7.]

**3-11-8-20. Challenges — Affidavit required.** — If a voter offering to vote is challenged by a challenger or by a member of the precinct election board, the person challenging the voter shall reduce the challenge to affidavit form, setting forth succinctly the reasons for the challenge. [P.L.5-1986, § 7.]

**3-11-8-21. Challenges — Form of affidavit.** — The affidavit of challenge prescribed by section 20 [IC 3-11-8-20] of this chapter must be in the following form:

I swear (or affirm) that I am informed and believe that ....., now offering to vote, is not a legal voter in this precinct for the following reasons: ..... I obtained the information from ..... and ..... I understand that making a false statement on this affidavit is punishable under the penalties of perjury. [P.L.5-1986, § 7.]

**3-11-8-22. Challenged voters — Voting.** — A voter challenged under section 20 [IC 3-11-8-20] of this chapter may vote if the voter:

- (1) Makes an affidavit in writing that the voter is a legal voter of the precinct; and
- (2) Unless the voter's name appears on the registration list, produces a certificate of error issued by a regis-

tration official of the county in accordance with IC 3-7-3-6 showing that the voter is registered in the precinct where the voter resides and offers to vote, or produces an affidavit executed under IC 3-7-4 or IC 3-7-4.5, if the voter executed an affidavit under those provisions. [P.L.5-1986, § 7; P.L.10-1988, § 109; P.L.4-1991, § 90; P.L.17-1993, § 14.]

**3-11-8-23. Challenged voters — Affidavit of eligibility to vote.** — The affidavit of a challenged voter required by section 22 [IC 3-11-8-22] of this chapter must be in the following form:

I swear (or affirm):

- (1) That I am a citizen of the United States;
- (2) That my date of birth is \_\_\_\_\_ to the best of my information and belief;
- (3) That I have been a resident of this precinct for thirty (30) days immediately before this election or qualify to vote in this precinct under IC 3-7-4 or IC 3-7-4.5;
- (4) That I am generally known by the name in which I now desire to vote, which is \_\_\_\_\_;
- (5) That I have not voted and will not vote in any other precinct in this election;
- (6) That my occupation is \_\_\_\_\_; and
- (7) That my present residence is \_\_\_\_\_ (if in a city or town, give the street or number), and that thirty (30) days before this election I resided at \_\_\_\_\_, I removed from \_\_\_\_\_ to \_\_\_\_\_ on the following date \_\_\_\_\_.

I understand that making a false statement on this affidavit is punishable under the penalties of perjury.

[P.L.5-1986, § 7; P.L.3-1987, § 255; P.L.10-1988, § 110; P.L.4-1991, § 91; P.L.17-1993, § 15.]

**3-11-8-24. [Repealed.]**

**3-11-8-25. Procedure upon voter entering polls — Challenge of voter's identity by clerk.** — (a) After a voter has passed the challengers or has been sworn in, the voter shall be admitted to the polls. Upon entering the polls, the voter shall announce the voter's name to the poll clerks or assistant poll clerks. A poll clerk, an assistant poll clerk, or a member of the precinct election board shall require the voter to sign on the poll list the voter's name, and current address of residence.

(b) This subsection does not apply to precinct in a county with a computerized registration system whose inspector was:

- (1) Furnished with a list certified under IC 3-7-7-9; and
- (2) Not furnished with a certified photocopy of the signature on the affidavit of registration of each voter of the precinct for the comparison of signatures under this section.

In case of doubt concerning a voter's identity, the precinct election board shall compare the voter's signature with the signature on the affidavit of registration or any certified copy of the signature provided under IC 3-7-7-11. If the board determines that the voter's signature is authentic, the voter may then vote. If either poll clerk doubts the voter's identity following comparison of the signatures the poll clerk shall challenge the voter in the manner prescribed by section 21 [IC 3-11-8-21] of this chapter.

(c) If, in a precinct governed by subsection (b):

- (1) The poll clerk does not execute a challenger's affidavit; or
- (2) The voter executes a challenged voter's affidavit under section 22 [IC 3-11-8-22] of this chapter or had executed the affidavit before signing the poll list;

the voter may then vote. [P.L.5-1986, § 7; P.L.3-1987, § 256; P.L.5-1989, § 54; P.L.7-1990, § 48; P.L.1-1991, § 5.]

**3-11-8-26. Voters unable to sign or having difficulty in signing poll lists.** — If a voter:

- (1) Cannot sign; or
- (2) Is a voter with a disability that makes it difficult for the voter to sign;

the voter's name and address, the poll clerks shall, by proper interrogation, satisfy themselves that the voter is the person the voter represents the voter to be. If satisfied as to the voter's identity, one (1) of the poll clerks shall then place on the poll list the name of the voter and the voter's current address of residence. The poll clerk shall then add the clerk's initials in parentheses, after or under the signature. The voter then may vote. [P.L.5-1986, § 7; P.L.3-1987, § 257; P.L.1-1990, § 9; P.L.4-1991, § 92.]

**3-11-8-27. Voter challenges by precinct election board members.** — If a member of a precinct election board is not satisfied that a person who offers to vote is the person who the person represents the person to be, the member may challenge the person and the person may vote only if the person signs the affidavit required to

be signed by voters who are challenged under section 20 [IC 3-11-8-20] of this chapter. [P.L.5-1986, § 7.]

**3-11-8-28. Stamping or marking of affidavit or form of registration.** — As soon as a voter has voted, the precinct election board shall stamp or otherwise mark the affidavit or form of registration, in the space provided for that purpose, showing that the voter has voted at the election. [P.L.5-1986, § 7.]

**3-11-8-29. Separate poll lists not permitted.** — A precinct election board may not keep a poll list other than the poll list required by section 25 [IC 3-11-8-25] of this chapter. [P.L.5-1986, § 7.]

**3-11-8-30. Poll lists — Return to circuit court clerk — Retention.** — Each inspector shall return the poll lists, together with the oaths of the precinct election board members, in a sealed envelope separate from all other precinct election returns to the circuit court clerk. The clerk shall preserve the poll lists for the period required by IC 3-10-1-31. [P.L.5-1986, § 7; P.L.3-1993, § 148.]

**3-11-8-31 — 3-11-8-33. [Repealed.]**

## CHAPTER 9

### ASSISTANCE TO CERTAIN VOTERS

#### SECTION.

3-11-9-1. Applicability.

3-11-9-2. Voters with disabilities or unable to read or write English — Assistance by designated person.

3-11-9-3. Assistance for voters with disabilities.

3-11-9-4. [Repealed.]

**3-11-9-1. Applicability.** — This chapter applies to each precinct and to absentee voting. [P.L.5-1986, § 7; P.L.8-1992, § 24.]

**3-11-9-2. Voters with disabilities or unable to read or write English — Assistance by designated person.** — (a) A voter who:

(1) Is a voter with disabilities; or

(2) Is unable to read or write English; may request assistance in voting before entering the voting booth and designate a person (other than the voter's employer, an officer of the voter's union, or an agent of the voter's employer or union) to assist the voter in voting at an election, as required by 42 U.S.C. 1973aa-6.

(b) This subsection does not apply to a person designated by a voter described by subsection (a) who is voting absentee be-

fore two (2) members of the absentee voter board. The person designated must execute a sworn affidavit on a form provided by the precinct election board or absentee voter board stating that, to the best of the designated person's knowledge, the voter:

(1) Is a voter with disabilities or is unable to read or write English; and

(2) Has requested the designated person to assist the voter in voting under this section.

(c) The person designated may then accompany the voter into the voting booth and assist the voter in marking the voter's paper ballot or ballot card or in registering the voter's vote on the voting machine or electronic voting system. [P.L.5-1986, § 7; P.L.3-1987, § 258; P.L.10-1988, § 112; P.L.4-1991, § 93; P.L.8-1992, § 25; P.L.3-1993, § 149.]

**3-11-9-3. Assistance for voters with disabilities.** — (a) The following individuals shall assist a voter described by section 2 [IC 3-11-9-2] of this chapter who requests assistance in voting before entering the voting booth but does not wish to designate a person under that section.

(1) The two (2) judges if the voter is voting at a precinct.

(2) Two (2) members of the absentee voter board if the voter is voting absentee.

(b) This subsection does not apply to a person designated by a voter described by subsection (a) who is voting absentee before two (2) members of the absentee voter board. The individuals described in subsection (a) shall execute a sworn affidavit on a form provided by the precinct election board stating that, to the best of the individuals' knowledge, the voter:

(1) Is a voter with disabilities or is unable to read or write English;

(2) Has requested assistance in voting; and

(3) Does not wish to designate a person to assist the voter in voting under section 2 of this chapter.

(c) The two (2) individuals described in subsection (a) shall then accompany the voter into the voting booth to assist the voter in marking the voter's paper ballot or ballot card or in registering the voter's vote on the voting machine or electronic voting system. [P.L.5-1986, § 7; P.L.3-1987, § 259; P.L.10-1988, § 113; P.L.4-1991, § 94; P.L.8-1992, § 26; P.L.3-1993, § 150.]

**3-11-9-4. [Repealed.]**

## CHAPTER 10

## VOTING BY ABSENTEE BALLOT

## SECTION.

- 3-11-10-1. Voting procedure.
- 3-11-10-1.5. Recasting absentee ballots.
- 3-11-10-2. Use of pen or pencil.
- 3-11-10-3. Time limit for receipt of ballot by county election board.
- 3-11-10-4. Examination of voter's signature.
- 3-11-10-5. Signature on ballot found to be not genuine.
- 3-11-10-6. Signature on ballot envelope disputed — Delivery to precinct election board.
- 3-11-10-7. Signature on ballot envelope disputed — Determination of status by precinct election board.
- 3-11-10-8. Genuine signature on ballot envelope — Delivery to circuit court clerk.
- 3-11-10-9. Genuine signature on ballot envelope — Storage by circuit court clerk.
- 3-11-10-10. Storage of ballots by county election boards.
- 3-11-10-11. Circuit court clerk to visit post office on election day.
- 3-11-10-12. Delivery of ballots to precinct election board — Time.
- 3-11-10-13. Delivery of ballots to precinct election board — Persons making delivery — Receipt.
- 3-11-10-14. Ballots received after delivery to precinct election board.
- 3-11-10-15. Opening of outer envelope — Examination of voter's signature.
- 3-11-10-16. Opening of ballot envelope — Placement of ballot in ballot box — Entry on poll list.
- 3-11-10-17. Unacceptable or rejected ballots — Grounds.
- 3-11-10-18. Unacceptable or rejected ballots — Disposition.
- 3-11-10-19. Initialing ballot.
- 3-11-10-20. Announcement of absentee ballot to challengers and pollbook holders.
- 3-11-10-21. Challenge at polls to absentee voter — Grounds — Determination.
- 3-11-10-22. Challenge at polls to absentee voter — Evidence — Procedure.
- 3-11-10-23. Ballots of voters dying after voting.
- 3-11-10-24. Voters entitled to vote by mail.
- 3-11-10-25. Ill or injured persons, persons caring for others, and voters with disabilities.
- 3-11-10-26. Application — Time for voting.
- 3-11-10-27. When official seal, signature, and initials required.
- 3-11-10-28. Marking ballot — Placement in envelope — Degree of privacy.
- 3-11-10-29. Voting before absentee voter board — Affidavit on envelope.
- 3-11-10-30. Voting at polls by voters receiving absentee ballots — General conditions.
- 3-11-10-31. Voting at polls by voters receiving absentee ballots — Voters not returning absentee ballot.
- 3-11-10-32. Voting at polls by voters receiving absentee ballots — Voters who have returned absentee ballot.

## SECTION.

- 3-11-10-33. Voting at polls by voters receiving absentee ballots — Voter's ballot already deposited in ballot box.
- 3-11-10-34. Voting at polls by voters receiving absentee ballots — Voter's ballot rejected.
- 3-11-10-35. Ballots unopened at poll closing.
- 3-11-10-36. Absentee voter board members — Appointment — Qualifications.
- 3-11-10-37. Absentee voter board members — Nominations.
- 3-11-10-38. Absentee voter board members — Compensation.
- 3-11-10-39. Absentee voter board members — Training session.

**3-11-10-1. Voting procedure.** — A voter voting by absentee ballot shall make and subscribe to the affidavit prescribed by IC 3-11-4-21. The voter then shall:

- (1) Mark the ballot in the presence of no other person;
- (2) Fold each ballot separately;
- (3) Fold each ballot so as to conceal the marking;
- (4) Enclose each ballot, with the seal and signature of the circuit court clerk on the outside, together with any unused ballot, in the envelope provided;
- (5) Securely seal the envelope; and
- (6) Either mail the envelope to the county election board or deliver it in person. [P.L.5-1986, § 7.]

**3-11-10-1.5. Recasting absentee ballots.** — (a) This section applies to a voter voting by an absentee ballot that includes a candidate for election to office who:

- (1) Ceases to be candidate; and
- (2) Is succeeded by a candidate selected under IC 3-13-1 or IC 3-13-2.

(b) If the original absentee ballot has not been delivered to the appropriate precinct and deposited in the ballot box, the absentee voter may recast their ballot. To obtain another set of ballots the absentee voter must present a written request for another set of ballots from the circuit court clerk.

(c) Upon receiving a written request under subsection (b), the circuit court clerk shall do the following:

- (1) Place the written request with the absentee voter's original ballots.
- (2) Mark "canceled" on the original set of ballots.
- (3) Preserve the original ballots with other defective ballots.
- (4) Deliver a new set of ballots to the absentee voter.

[P.L.4-1991, § 95.]

**3-11-10-2. Use of pen or pencil.** — A voter voting by absentee ballot may mark

a ballot with a pen or a lead pencil. [P.L.5-1986, § 7; P.L.5-1989, § 55.]

**3-11-10-3. Time limit for receipt of ballot by county election board.** — A county election board must receive an absentee ballot in time for the board to deliver the ballot to the precinct election board of the voter's precinct before the closing of the polls on election day. [P.L.5-1986, § 7.]

**3-11-10-4. Examination of voter's signature.** — Upon receipt of an absentee ballot, a county election board shall immediately examine the signature of the absentee voter to determine its genuineness. The board shall compare the signature as it appears upon the envelope containing the absentee ballot with the signature of the voter as it appears upon the application for the absentee ballot. The board may also compare the signature on the ballot envelope with any other admittedly genuine signature of the voter. [P.L.5-1986, § 7.]

**3-11-10-5. Signature on ballot found to be not genuine.** — If a county election board unanimously finds that the signature on a ballot envelope is not genuine, the board shall write upon the ballot envelope the words "The county election board has questioned the genuineness of the signature of this voter." These ballots shall be delivered to the polls on election day under section 12 [IC 3-11-10-12] of this chapter with instructions to verify the voter's signature under section 15 [IC 3-11-10-15] of this chapter. [P.L.5-1986, § 7; P.L.3-1987, § 260.]

**3-11-10-6. Signature on ballot envelope disputed — Delivery to precinct election board.** — If a county election board is unable to unanimously determine whether the signature on a ballot envelope is genuine, the board shall write upon the ballot envelope the words "Signature Disputed." The board then shall deliver all disputed ballot envelopes, together with any evidence of a documentary nature presented before the board, to the proper precinct at the same time that undisputed ballots are delivered. [P.L.5-1986, § 7.]

**3-11-10-7. Signature on ballot envelope disputed — Determination of status by precinct election board.** — After receipt of disputed ballots under section 6 [IC 3-11-10-6] of this chapter, a precinct election board shall determine whether each disputed ballot will be voted or rejected. [P.L.5-1986, § 7.]

**3-11-10-8. Genuine signature on ballot envelope — Delivery to circuit court clerk.** — If a county election board unanimously finds that the signature on a ballot envelope is genuine, the board shall enclose immediately the accepted and unopened ballot envelope, together with the voter's application for the absentee ballot in a large or carrier envelope. The envelope shall be securely sealed and endorsed with the name and official title of the circuit court clerk and the following words: "This envelope contains an absentee ballot and must be opened only at the polls on election day while the polls are open." [P.L.5-1986, § 7.]

**3-11-10-9. Genuine signature on ballot envelope — Storage by circuit court clerk.** — Each circuit court clerk shall keep all accepted ballot envelopes securely in the clerk's office until they are delivered to the proper precincts in accordance with section 12 [IC 3-11-10-12] of this chapter. [P.L.5-1986, § 7.]

**3-11-10-10. Storage of ballots by county election boards.** — During the period that absentee ballots are being received, each county election board shall keep the ballots in cabinets, boxes, or a room upon which there are two (2) locks, one (1) for each of the appointed members of the board. Each day the absentee ballots shall be placed in the cabinets, boxes, or room under the direction of the appointed members of the board. If an appointed member cannot be present each day, then that member shall designate someone from the member's political party to be present with the key to the lock at the time the ballots are secured. [P.L.5-1986, § 7.]

**3-11-10-11. Circuit court clerk to visit post office on election day.** — On election day each circuit court clerk (or an agent of the clerk) shall visit the appropriate post office to accept delivery of absentee envelopes at the latest possible time that will permit delivery of the ballots to the appropriate precinct election boards before 6 P.M. [P.L.5-1986, § 7.]

**3-11-10-12. Delivery of ballots to precinct election board — Time.** — (a) Each county election board shall have all absentee ballots delivered to the precinct election boards at their respective polls on election day.

(b) The absentee ballots shall be delivered during the hours that the polls are open and in sufficient time to enable the

precinct election boards to vote the ballots during the time the polls are open.

(c) This subsection applies to a special write-in absentee ballot described in:

- (1) 42 U.S.C. 1973ff for federal offices; and
- (2) IC 3-11-4-12(d) for state offices.

If the county election board receives both a special write-in absentee ballot and the regular absentee ballot described by IC 3-11-4-12 from the same voter, the county election board shall reject the special write-in ballot and deliver only the regular absentee ballot to the precinct election board. [P.L.5-1986, § 7; P.L.3-1993, § 151.]

**3-11-10-13. Delivery of ballots to precinct election board — Persons making delivery — Receipt.** — The appointed members of the county election board or members of the absentee voter boards established under section 36 [IC 3-11-10-36] of this chapter shall deliver the absentee ballots under section 12 [IC 3-11-10-12] of this chapter. The delivery of the absentee ballots must be at all times under the combined control of members of both political parties represented on the county election board. Upon delivery of absentee ballots to a precinct election board, the inspector shall sign a receipt for the ballots. [P.L.5-1986, § 7.]

**3-11-10-14. Ballots received after delivery to precinct election board.** — Subject to section 11 [IC 3-11-10-11] of this chapter, absentee ballots received by mail after the county election board has started the final delivery of the ballots to the precincts on election day are considered as arriving too late and need not be delivered to the polls. [P.L.5-1986, § 7.]

**3-11-10-15. Opening of outer envelope — Examination of voter's signature.** — At any time between the opening and closing of the polls on election day, the inspector, in the presence of the precinct election board, shall:

- (1) Open the outer or carrier envelope containing an absentee ballot envelope and application;
- (2) Announce the absentee voter's name; and
- (3) Compare the signature upon the application with the signature upon the affidavit on the ballot envelope. [P.L.5-1986, § 7.]

**3-11-10-16. Opening of ballot envelope — Placement of ballot in ballot box — Entry on poll list.** — (a) If the

inspector finds under section 15 [IC 3-11-10-15] of this chapter that:

- (1) The affidavit is properly executed;
- (2) The signatures correspond;
- (3) The absentee voter is a qualified voter of the precinct;
- (4) The absentee voter is registered;
- (5) The absentee voter has not voted in person at the election; and
- (6) In case of a primary election, if the absentee voter has not previously voted, the absentee voter has executed the proper declaration relative to age and qualifications and the political party with which the absentee voter intends to affiliate;

then the inspector shall open the envelope containing the absentee ballots so as not to deface or destroy the affidavit and take out each ballot enclosed without unfolding or permitting a ballot to be unfolded or examined.

(b) The inspector shall then hand the ballots to the judges who shall deposit the ballots in the proper ballot box and enter the absentee voter's name on the poll list, as if the absentee voter had been present and voted in person.

(c) If an absentee ballot is opened under this section in a precinct using voting machines, the precinct election board shall prepare certificates and memoranda under IC 3-12-2-6 that distinguish the votes cast by absentee ballots from votes cast on voting machines. [P.L.5-1986, § 7; P.L.3-1987, § 261.]

**3-11-10-17. Unacceptable or rejected ballots — Grounds.** — If the inspector finds under section 15 [IC 3-11-10-15] of this chapter that:

- (1) The affidavit is insufficient;
- (2) The signatures do not correspond or there is no signature;
- (3) The absentee voter is not a qualified voter in the precinct;
- (4) The absentee voter has voted in person at the election;
- (5) The absentee voter has not registered;
- (6) The ballot is open, or has been opened and resealed;
- (7) The ballot envelope contains more than one (1) ballot of any kind;
- (8) In case of a primary election, if the absentee voter has not previously voted, the voter failed to execute the proper declaration relative to age and qualifications and the political party with which the voter intends to affiliate; or
- (9) The ballot has been challenged and not supported;

then the ballots may not be accepted or counted. [P.L.5-1986, § 7; P.L.3-1987, § 262.]

**3-11-10-18. Unacceptable or rejected ballots — Disposition.** — Each ballot not accepted or counted for any of the reasons prescribed by section 17 [IC 3-11-10-17] of this chapter shall, without being unfolded to disclose how it is marked, be endorsed with the words: "Rejected (giving the reason or reasons therefor)." All rejected absentee ballots shall be enclosed and securely sealed in an envelope on which the inspector shall write the words: "Defective absentee ballots." The inspector shall also identify the precinct and the date of the election on the envelope containing the rejected ballots. The defective absentee ballots shall be returned to the same officer and in the same manner as prescribed by this title for the return and preservation of official ballots cast and uncast at the election. [P.L.5-1986, § 7.]

**3-11-10-19. Initialing ballot.** — If a circuit court clerk has signed an absentee ballot and the ballot has been initialed as prescribed by IC 3-11-4-19, no other initialing is required. [P.L.5-1986, § 7; P.L.3-1987, § 263.]

**3-11-10-20. Announcement of absentee ballot to challengers and pollbook holders.** — Before depositing an absentee ballot in a ballot box, the inspector shall:

- (1) Notify the challengers and the pollbook holders that the inspector is about to deposit an absentee ballot; and
- (2) Provide the challengers and pollbook holders with the name and address of the absentee voter so that the voter may be challenged under this article. [P.L.5-1986, § 7.]

**3-11-10-21. Challenge at polls to absentee voter — Grounds — Determination.** — The vote of an absentee voter may be challenged at the polls for the reason that the absentee voter is not a legal voter of the precinct where the ballot is being cast. The precinct election board may hear and determine a challenge under this section as though the ballot was cast by the voter in person. [P.L.5-1986, § 7.]

**3-11-10-22. Challenge at polls to absentee voter — Evidence — Procedure.** — If an absentee ballot is challenged under section 21 [IC 3-11-10-21] of this chapter, the absentee voter's application for an absentee ballot shall be considered

as the affidavit required to be made by a voter when challenged at the polls while voting in person. In all other respects the challenge procedure is the same as though the ballot was cast by the voter in person. If a proper affidavit is made that would entitle the absentee voter to vote if the absentee voter had personally appeared, then the absentee ballot shall be placed in the ballot box. [P.L.5-1986, § 7.]

**3-11-10-23. Ballots of voters dying after voting.** — If proof is given to a precinct election board that an absentee voter marked and forwarded an absentee ballot but died before election day, then the inspector shall return the ballot of the deceased voter with the other defective ballots to the officer issuing the ballots. However, the casting of an absentee ballot by a deceased voter does not invalidate an election. [P.L.5-1986, § 7.]

**3-11-10-24. Voters entitled to vote by mail.** — Each voter entitled to vote by absentee ballot is entitled to vote by mail. [P.L.5-1986, § 7; P.L.4-1991, § 96.]

**3-11-10-25. Ill or injured persons, persons caring for others, and voters with disabilities.** — (a) Voters who are entitled to vote by absentee ballot because of:

- (1) Illness or injury; or
  - (2) Caring for a confined person at a private residence;
- under IC 3-11-4-1 and who are within the county on election day may vote before an absentee voter board or by mail.

(b) If requested by a voter described in subsection (a) or by a voter with disabilities whose precinct is not accessible to voters with disabilities, an absentee voter board shall visit the voter's place of confinement, the residence of the voter with disabilities, or the private residence:

- (1) During the regular office hours of the circuit court clerk;
- (2) At a time agreed to by the board and the voter;
- (3) On any of the twelve (12) days immediately before election day; and
- (4) Only once before an election, unless:

- (A) The confined voter is unavailable at the time of the board's first visit due to a medical emergency; or
- (B) The board, in its discretion, decides to make an additional visit.

(c) The county election board, by unanimous vote of the board's entire membership, may authorize an absentee voter board to visit a voter who is confined due to illness or injury and will be outside of



the county on election day in accordance with the procedures set forth in subsection (b). [P.L.5-1986, § 7; P.L.3-1987, § 264; P.L.10-1988, § 114; P.L.5-1989, § 56; P.L.4-1991, § 97; P.L.3-1993, § 152.]

**3-11-10-26. Application — Time for voting.** — (a) In addition to voting by mail, a voter entitled to cast an absentee ballot may vote by absentee ballot before an absentee voter board in the office of the circuit court clerk.

(b) The voter must sign an application on the form prescribed by the state election board under IC 3-11-4-5.1 before being permitted to vote. The application must be received by the circuit court clerk not later than the time prescribed by IC 3-11-4-3.

(c) The voter may vote before the board not more than thirty (30) days nor later than noon on the day before election day.

(d) The absentee voter board in the office of the circuit court clerk must permit voters to cast absentee ballots under this section for at least seven (7) hours on each of the two (2) Saturdays preceding election day. [P.L.5-1986, § 7; P.L.3-1987, § 265; P.L.5-1989, § 57; P.L.4-1991, § 98; P.L.8-1992, § 27.]

**3-11-10-27. When official seal, signature, and initials required.** — (a) This section does not apply to a ballot mailed to a voter under this chapter.

(b) Before a ballot is voted under section 25 or 26 [IC 3-11-10-25 or IC 3-11-10-26] of this chapter before an absentee voter board other than the absentee voter board in the office of the circuit court clerk, it must bear the circuit court clerk's official seal and signature or facsimile signature and be initialed by the absentee voter board located in the office of the circuit court clerk. The initials must be in ink on the back of the ballot, in the person's ordinary handwriting or printing, and without a distinguishing mark of any kind. No other initialing of the absentee ballot is necessary. [P.L.5-1986, § 7; P.L.6-1986, § 20; P.L.3-1987, § 266; P.L.10-1988, § 115; P.L.4-1991, § 99; P.L.3-1993, § 153.]

**3-11-10-28. Marking ballot — Placement in envelope — Degree of privacy.** — A voter voting before an absentee voter board shall mark the voter's ballot in the presence of the board, but not in such a manner that either of the members of the board can see for whom the voter voted, unless the voter requests the help of the board in marking a ballot under IC 3-11-9. The voter shall then, in the presence of the board, place the ballot in an envelope

furnished by the county election board. The circuit court clerk shall provide, to the extent practicable, the same degree of privacy to absentee voters voting at the office of the circuit court clerk as provided to voters at the polls on election day. [P.L.5-1986, § 7; P.L.4-1991, § 100; P.L.8-1992, § 28.]

**3-11-10-29. Voting before absentee voter board — Affidavit on envelope.** — The envelope required by section 28 [IC 3-11-10-28] of this chapter must bear upon its face a printed affidavit in the following form:

STATE OF INDIANA )  
 ) ss:  
COUNTY OF \_\_\_\_\_ )

I affirm under the penalties of perjury that all of the following are true:

I am: (the voter must check the box before the following statement that applies to the voter)

( ) a resident of and entitled to vote; or

( ) entitled under IC 3-7-4.5 to vote;

in the \_\_\_\_\_ precinct of \_\_\_\_\_ township, or the \_\_\_\_\_ precinct of the \_\_\_\_\_ ward of the city or town of \_\_\_\_\_ and the state of Indiana at the \_\_\_\_\_ election to be held on \_\_\_\_\_, \_\_\_\_\_.

Dated \_\_\_\_\_, \_\_\_\_\_

(Signature of voter)

Signed in our presence \_\_\_\_\_  
(Absentee Voter Board)  
[P.L.5-1986, § 7; P.L.17-1993, § 16.]

**3-11-10-30. Voting at polls by voters receiving absentee ballots — General conditions.** — Even though the voter may have applied for and received an absentee ballot, a voter who returns to the voter's place of residence before the close of the polls on election day may vote in person under the conditions prescribed by section 31 or 32 [IC 3-11-10-31 or 3-11-10-32] of this chapter. [P.L.5-1986, § 7.]

**3-11-10-31. Voting at polls by voters receiving absentee ballots — Voters not returning absentee ballot.** — If a voter has not returned an absentee ballot, then the voter may vote in person. However, before the voter may vote, the voter must return the ballot to the inspector. The absentee ballot shall be marked "cancelled" and preserved with other defective ballots. [P.L.5-1986, § 7.]

**3-11-10-32. Voting at polls by voters receiving absentee ballots — Voters who have returned absentee ballot.** — If a voter has marked and returned an absentee ballot but appears in person at the precinct before the ballot is deposited in the ballot box, then the voter may:

(1) Have the voter's absentee ballot envelope opened in the voter's presence and the ballot contained in the envelope deposited in the ballot box; or

(2) Request a new ballot, which the voter may vote as any other voter voting in person. However, before the voter may vote, the inspector shall take the unopened absentee ballot envelope and write upon the envelope the words "Unopened because voter appeared and voted in person." The envelope shall be preserved with other defective ballots. [P.L.5-1986, § 7.]

**3-11-10-33. Voting at polls by voters receiving absentee ballots — Voter's ballot already deposited in ballot box.** — If an absentee ballot has been deposited in the ballot box before the voter appears in person at the precinct, a voter may not vote in person. [P.L.5-1986, § 7.]

**3-11-10-34. Voting at polls by voters receiving absentee ballots — Voter's ballot rejected.** — If an envelope containing an absentee ballot has been marked "Rejected as defective" and the voter appears in person at the precinct before the polls close, the voter may vote as any other voter voting in person. [P.L.5-1986, § 7.]

**3-11-10-35. Ballots unopened at poll closing.** — If an envelope containing an absentee ballot has not been opened before the close of the polls, then the envelope may not be opened without an order of a court. [P.L.5-1986, § 7.]

**3-11-10-36. Absentee voter board members — Appointment — Qualifications.** — (a) Each county election board shall appoint absentee voter boards consisting of two (2) voters of the county, one (1) from each of the two (2) political parties that have appointed members on the county election board.

(b) A person is not eligible to serve on an absentee voter board if the person:

- (1) Is unable to read, write, and speak the English language;
- (2) Has any property bet or wagered on the result of the election;
- (3) Is a candidate to be voted for at the election, except as an unopposed can-

didate for precinct committeeman or state convention delegate; or

(4) Is the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, niece, or first cousin of a candidate or declared write-in candidate to be voted for at the election except as an unopposed candidate. This subdivision disqualifies a person whose relationship to the candidate is the result of birth, marriage, or adoption. This subdivision does not disqualify a person who is the spouse of a first cousin of the candidate. [P.L.5-1986, § 7; P.L.3-1987, § 267; P.L.7-1990, § 49; P.L.4-1991, § 101; P.L.3-1993, § 154.]

**3-11-10-37. Absentee voter board members — Nominations.** — Each county election board shall notify the county chairmen of the two (2) political parties that have appointed members on the county election board of the number of absentee voter boards to be appointed under section 36 [IC 3-11-10-36] of this chapter. The county chairmen shall make written recommendations for the appointments within ten (10) days, and the county election board shall make the appointments as recommended. If a county chairman fails to make any recommendations, then the county election board may appoint any voters of the county. [P.L.5-1986, § 7.]

**3-11-10-38. Absentee voter board members — Compensation.** — The voters appointed to the absentee voter boards under section 36 [IC 3-11-10-36] of this chapter shall be compensated in the following manner:

(1) The boards that are sent to voters under section 25 [IC 3-11-10-25] of this chapter are entitled to a per diem not to exceed fifty dollars (\$50) and a sum for mileage equal in rate to that rate paid to state officers and employees.

(2) The boards that are assigned to the circuit court clerk's office during the period from thirty (30) days before election day through the day before election day are entitled to a per diem not to exceed fifty dollars (\$50).

(3) The boards that are assigned to deliver the absentee ballots to the precincts on election day are entitled to a per diem not to exceed fifty dollars (\$50) and a sum for mileage equal in rate to that rate paid to state officers

and employees. [P.L.5-1986, § 7; P.L.3-1987, § 268; P.L.5-1989, § 58.]

**3-11-10-39. Absentee voter board members — Training session.** — Each county election board may, not later than the fourth day before election day, conduct a one (1) day training session for the members of the absentee voter boards. At the training session the duties of the absentee voter boards and the election laws and penalties pertaining to their duties shall be explained in detail. The members of absentee voter boards are entitled to a per diem not to exceed twenty dollars (\$20) for attending the training session. [P.L.5-1986, § 7.]

## CHAPTER 11

### VOTING BY PAPER BALLOT

#### SECTION.

- 3-11-11-1. Applicability.
- 3-11-11-1.1. County board may designate use.
- 3-11-11-1.5. Sample ballots — Form.
- 3-11-11-1.6. Sample ballots — Delivery.
- 3-11-11-1.7. Sample ballots — Distribution — Display.
- 3-11-11-1.8. Time for delivery of ballots and equipment to polls.
- 3-11-11-1.9. Sample ballots — Verification — Posting.
- 3-11-11-2. Preparation for opening polls — Inspection and locking of poll box.
- 3-11-11-3. Opening and initial distribution of ballot packages and pens to poll clerks.
- 3-11-11-4. Initialing of ballots by poll clerks.
- 3-11-11-5. Resupply of poll clerks.
- 3-11-11-6. Distribution of ballots and pens or pencils to voters — Instructions.
- 3-11-11-7. Ballot marking — Casting write-in votes.
- 3-11-11-8. One voter per voting booth only — Exception for minor children — Assistance by judges.
- 3-11-11-9. Screening of voter during ballot marking — Poll booths in plain view.
- 3-11-11-10. Straight party ticket voting.
- 3-11-11-10.5. Time limit for voting — Enforcement.
- 3-11-11-11. Folding of ballot.
- 3-11-11-12. Refolding of improperly folded ballots.
- 3-11-11-13. Return of ballots and pencils by voters.
- 3-11-11-14. Placement of ballots in ballot box.
- 3-11-11-15. Marking of poll list that voter has voted.
- 3-11-11-16. Effect of voter showing ballot marks to another person.
- 3-11-11-17. Voter to leave polls after voting.
- 3-11-11-18. Voters accidentally ruining ballots — Replacement ballots.
- 3-11-11-19. [Repealed.]

**3-11-11-1. Applicability.** — This chapter applies to each precinct where voting is by paper ballot. [P.L.5-1986, § 7.]

**3-11-11-1.1. County board may designate use.** — A county election board may use paper ballots:

- (1) In any election;
- (2) In all or in some of the precincts within a political subdivision holding an election; and
- (3) Instead of or in combination with any other voting method. [P.L.3-1987, § 269.]

**3-11-11-1.5. Sample ballots — Form.** — The state election board shall provide each county election board the number of sample ballots for each precinct considered adequate by the county election board. The sample ballots must be:

- (1) Exact copies of the official ballots furnished by the state election board; and
- (2) Printed on different colored paper than the official ballots. [P.L.3-1987, § 270.]

**3-11-11-1.6. Sample ballots — Delivery.** — The state election board shall enclose the sample ballots in a separate wrapper or envelope from that of other papers delivered by the board to the circuit court clerk and deliver them to the clerk or the messenger authorized by the clerk to receive the ballots. [P.L.3-1987, § 271.]

**3-11-11-1.7. Sample ballots — Distribution — Display.** — (a) Each county election board shall provide an adequate number of sample ballots for each precinct of the county. The county election board shall arrange the sample ballots in the form of a diagram showing:

- (1) The political party ticket; and independent tickets;
- (2) The offices to be filled;
- (3) The names of the candidates; and
- (4) The public questions;

in the same order in which they will occur on the official ballots printed under the jurisdiction of the state election board and the county election board. However, if presidential electors are to be voted for at an election, then the ballot of each party or independent ticket must be in the form prescribed by IC 3-10-4-1.

(b) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). At least ten (10) days before an election, each county election board shall duplicate, distribute, and cause to be posted copies of official sample ballots:

- (1) Received from the state election board; and
- (2) Prepared by the county election board;

to schools, fire stations, county court-houses, and other public buildings in the

county. [P.L.3-1987, § 272; P.L.10-1988, § 116; P.L.7-1991, § 5; P.L.12-1992, § 9; P.L.3-1993, § 155.]

**3-11-11.8. Time for delivery of ballots and equipment to polls.** — Each county election board shall have the ballots and all necessary furniture and appliances that go with the ballots at the polls delivered to the appropriate precinct not later than 6 P.M. of the day before election day. The county executive shall provide transportation for the material if requested to do so by the county election board. [P.L.3-1987, § 273.]

**3-11-11.9. Sample ballots — Verification — Posting.** — (a) Before the opening of the polls, the precinct election board shall compare the ballots with the sample ballots and determine whether the names, numbers, and letters are in agreement. The board then shall certify that the ballots and the sample ballots are in agreement. Forms shall be provided for certification, and the certification shall be filed with the election returns.

(b) The inspector of each precinct, or a person under the direction of the inspector, shall post sample ballots near the entrance of the chute for the precinct. The ballots must be available for public inspection throughout election day. [P.L.3-1987, § 274.]

**3-11-11.2. Preparation for opening polls — Inspection and locking of poll box.** — (a) On the morning of election day, the precinct election officers shall meet at the polls at least one (1) hour before the time for opening the polls. The inspector then shall have:

- (1) The chute erected;
- (2) The sample ballots and instruction cards posted; and
- (3) Everything put in readiness for the commencement of voting at the opening of the polls.

(b) At the opening of the polls, the inspector and judges shall see that there are no ballots in the ballot box before the voting begins. After the inspection of the box, the inspector shall:

- (1) Securely lock the box;
- (2) Give one (1) key to the judge of the opposite political party; and
- (3) Retain one (1) key.

(c) Once securely locked, the ballot box may not be opened again until after the polls have been closed and the precinct election board is ready to immediately proceed with the counting, except as otherwise provided for central counting.

(d) The voting booths or compartments must be of a size and design to permit a voter to mark ballots in secret. [P.L.5-1986, § 7; P.L.3-1987, § 275.]

**3-11-11.3. Opening and initial distribution of ballot packages and pens to poll clerks.** — At the opening of the polls, after the organization of and in the presence of the precinct election board, the inspector shall:

- (1) Open the packages of ballots in a manner that preserves the seals intact;
- (2) Deliver twenty-five (25) of each of the state and local ballots to the poll clerk of the opposite political party; and
- (3) Deliver to the other poll clerk a pen for marking the ballots. [P.L.5-1986, § 7; P.L.5-1989, § 59; P.L.3-1993, § 156.]

**3-11-11.4. Initialing of ballots by poll clerks.** — Upon receipt of the ballots and pen under section 3 [IC 3-11-11-3] of this chapter, the poll clerks or assistant poll clerks immediately shall place their initials in ink on the back of each ballot. The initials must be in the clerks' ordinary handwriting or printing and without a distinguishing mark of any kind. [P.L.5-1986, § 7; P.L.3-1987, § 276; P.L.3-1993, § 157.]

**3-11-11.5. Resupply of poll clerks.** — Following the resolution of any challenge to a voter, as each successive voter calls for a ballot, the poll clerks or assistant poll clerks shall deliver to the voter the first initialed ballot of each type. The inspector shall then deliver to the clerks another ballot of each type, which the clerks shall initial as before. [P.L.5-1986, § 7; P.L.3-1987, § 277.]

**3-11-11.6. Distribution of ballots and pens or pencils to voters — Instructions.** — After a voter has signed the poll list, one (1) of the poll clerks or assistant poll clerks shall deliver to the voter one (1) of each ballot that the voter is entitled to vote at the election and one (1) pencil or pen. Both judges, on request, shall give an explanation of the voting method. If necessary, a precinct election officer shall assist a voter in determining if the proper initials appear on a ballot. [P.L.5-1986, § 7; P.L.3-1987, § 278; P.L.5-1989, § 60; P.L.3-1993, § 158.]

**3-11-11.7. Ballot marking — Casting write-in votes.** — (a) After receiving ballots under section 6 [IC 3-11-11-6] of

this chapter, a voter shall, without leaving the room, go alone into one (1) of the booths or compartments that is unoccupied and indicate:

- (1) The candidates for whom the voter desires to vote by making a voting mark on or in the squares immediately before the candidates' names; and
- (2) The voter's preference on each public question by making a voting mark in front of the word "yes" or "no" under the question.

(b) Write-in votes shall be cast by:

- (1) Making a voting mark on or in the square immediately before the space provided for write-in voting; and
- (2) Printing the name of the candidate in the space provided for write-in voting. [P.L.5-1986, § 7; P.L.6-1986, § 21; P.L.4-1991, § 102.]

**3-11-11-8. One voter per voting booth only — Exception for minor children — Assistance by judges.** — (a) Only one (1) voter may occupy a booth or compartment at one time. Booths shall be constructed and arranged so that all members of the precinct election board can see whether more than one (1) voter enters a booth at any one time. However, a voter who is a parent, grandparent, or other person caring for a minor child may take the child into the voting booth.

(b) If a voter needs additional instruction after entering the voting booth, the voter may request assistance from the two (2) judges. The judges shall then approach but not enter the voting booth and call out additional instructions to the voter. [P.L.5-1986, § 7; P.L.3-1987, § 279; P.L.4-1991, § 103.]

**3-11-11-9. Screening of voter during ballot marking — Poll booths in plain view.** — A voter shall mark all ballots while screened from observation. The exterior of a voting booth or compartment and each area of the polls must be in plain view of the precinct election board. Each voting booth or compartment shall be placed so that a person voting on the opposite side of the railing or a person on the outside of the polls cannot see or determine how a voter votes. The inspector, judges, and poll clerks may not remain or allow any other person to remain in a position or near a position that would permit them to see or ascertain how a voter votes. [P.L.5-1986, § 7; P.L.3-1987, § 280.]

**3-11-11-10. Straight party ticket voting.** — If an election is a general or

municipal election and a voter desires to vote for all the candidates of one (1) political party or group of petitioners, the voter may make a voting mark on or in a large circle enclosing the device and before the name under which the candidates of the party or group of petitioners are printed. The voter's vote shall then be counted for all the candidates under that party name or for the two (2) candidates comprising an independent ticket. [P.L.5-1986, § 7; P.L.6-1986, § 22; P.L.3-1987, § 281; P.L.3-1993, § 159.]

**3-11-11-10.5. Time limit for voting — Enforcement.** — (a) At a primary election, a voter may not remain in the voting booth longer than three (3) minutes.

(b) At a general, municipal, or special election, a voter may not remain in the voting booth longer than two (2) minutes.

(c) If a voter refuses to leave the voting booth after the lapse of the time provided under subsection (a) or (b), the precinct election board, or the election sheriff or sheriffs upon the order of the board, shall immediately remove the voter from the booth. [P.L.3-1987, § 282.]

**3-11-11-11. Folding of ballot.** — Before leaving the booth or compartment, a voter shall fold each of the voter's ballots separately so that:

- (1) No part of the face of a ballot is exposed; and
- (2) The initials of the poll clerks or assistant poll clerks are exposed. [P.L.5-1986, § 7; P.L.3-1987, § 283.]

**3-11-11-12. Refolding of improperly folded ballots.** — If a voter offers to vote a ballot folded so that it does not disclose the initials of the poll clerks or assistant poll clerks while also not disclosing the face of the ballot, the precinct election board shall direct the voter to return to the booth and fold the ballot properly. [P.L.5-1986, § 7; P.L.3-1987, § 284.]

**3-11-11-13. Return of ballots and pencils by voters.** — After leaving the booth or compartment, a voter shall return the pencil to the poll clerk or assistant poll clerk and [display] the initials on the ballots to the inspector (or to the judge who is temporarily authorized to act for the inspector). [P.L.5-1986, § 7; P.L.3-1987, § 285.]

**3-11-11-14. Placement of ballots in ballot box.** — Upon displaying the initials on the ballots to the inspector (or the judge who is temporarily authorized to act for the inspector), the voter shall:

- (1) Deposit the ballots in the ballot box; or  
 (2) Deliver the ballots to the inspector, who shall deposit the ballots in the ballot box. [P.L.5-1986, § 7; P.L.3-1987, § 286.]

**3-11-11-15. Marking of poll list that voter has voted.** — After a voter's ballots have been deposited in the ballot box, the poll clerks or assistant poll clerks shall make a voting mark after the name of the voter on the poll list. [P.L.5-1986, § 7; P.L.3-1987, § 287.]

**3-11-11-16. Effect of voter showing ballot marks to another person.** — If a voter shows the voter's ballot or a part of the ballot to another person after the ballot has been marked so as to disclose any of the candidates voted for or how the voter voted on a public question, the ballot may not be deposited in a ballot box. A record of the occurrence shall be made on the poll list, and the voter may not vote again at the election. [P.L.5-1986, § 7; P.L.10-1988, § 117.]

**3-11-11-17. Voter to leave polls after voting.** — After voting, a voter shall leave the polls. However, a voter to whom ballots and a pencil have been delivered may not leave the polls without:

- (1) Voting the ballots or returning them to the poll clerk; and  
 (2) Returning the pencil to the poll clerk from whom the voter received it. [P.L.5-1986, § 7.]

**3-11-11-18. Voters accidentally ruining ballots — Replacement ballots.** — A voter who by accident or mistake spoils, defaces, or mutilates the voter's ballot may, by returning the ballot to the poll clerks or assistant poll clerks and satisfying them that the spoiling, defacing, or mutilation and was not intentional, receive another ballot. The poll clerks or assistant poll clerks shall make a record of the fact on the poll list, and the ballot shall then be marked "VOID" by the precinct election board in the presence of the voter and returned with the other election materials as required by IC 3-10-1-31. [P.L.5-1986, § 7; P.L.3-1987, § 288.]

**3-11-11-19. [Repealed.]**

## CHAPTER 12

### VOTING BY VOTING MACHINE

#### SECTION.

3-11-12-1. Applicability.

#### SECTION.

- 3-11-12-1.1. Use determined by county board.  
 3-11-12-2. Ballot labels — General requirements — Write-in ballots.  
 3-11-12-3. Ballot labels — Primary elections — Party names and devices.  
 3-11-12-4. State election board sample ballots — Number — Style — Color.  
 3-11-12-5. State election board sample ballots — Delivery to county clerks.  
 3-11-12-6. County election board sample ballots — Number — Form.  
 3-11-12-7. County election board sample ballots — Arrangement of parties, offices, names, in public questions.  
 3-11-12-8. [Repealed.]  
 3-11-12-9. Voting machine arrangement of party ticket.  
 3-11-12-10. Voting machine arrangement of school district election candidates.  
 3-11-12-11. Comparison of ballot labels and sample ballots — Posting of sample ballots near ballot chute.  
 3-11-12-12. Voting machine diagrams and instruction cards.  
 3-11-12-13 — 3-11-12-15. [Repealed.]  
 3-11-12-16. Use of voting machines for voter instruction.  
 3-11-12-17. Machines used for voter instruction — Candidates and questions listed — Vote tallying prohibited.  
 3-11-12-18. Ballot labels — Placement on machines.  
 3-11-12-19. [Repealed.]  
 3-11-12-20. Alphabetical rotation of candidates' names in primary elections.  
 3-11-12-21. Setting, adjusting and labeling machines prior to use.  
 3-11-12-22. Delivery of machines to precinct — Time — Transportation.  
 3-11-12-23. Inspection of sample ballots and ballot labels — Readjustment of machines.  
 3-11-12-24. Poll preparations by inspectors — Poll chute erection — Posting of sample ballots and instructions — General duties.  
 3-11-12-25. Poll preparations by precinct election boards — Comparison of sample and machine ballots — Zeroing vote counters — Checking machines.  
 3-11-12-26. Malfunctioning machines — Duties of county election boards.  
 3-11-12-27. Placement of voting machines — Persons prohibited from watching voters.  
 3-11-12-28. Persons allowed in vicinity of voting machines.  
 3-11-12-29. Voting procedure.  
 3-11-12-29.5. Time limit for voting — Enforcement.  
 3-11-12-29.8. Disclosure of vote prior to vote registering — Disqualification of voter.  
 3-11-12-30. Locking of machines against voting at poll closing — Opening of counter compartments.  
 3-11-12-31, 3-11-12-32. [Repealed.]  
 3-11-12-33. Locking of machines following vote count.  
 3-11-12-34. Disposition of keys after machines locked.  
 3-11-12-35. County auditor to store keys after machines locked.  
 3-11-12-36. Certificates and statements of votes cast.

## SECTION.

3-11-12-37. Paper vote recording roll.

3-11-12-38. Municipal elections — Use of county machines permitted.

3-11-12-39. Municipal elections — Furnishing of machines and equipment by county — Expenses.

**3-11-12-1. Applicability.** — This chapter applies to each precinct where voting is by voting machine. [P.L.5-1986, § 7.]

**3-11-12-1.1. Use determined by county board.** — A county election board may use an approved voting machine system:

- (1) In any election;
- (2) In all or in some of the precincts within a political subdivision holding an election; and
- (3) Instead of or in combination with any other voting method. [P.L.3-1987, § 290.]

**3-11-12-2. Ballot labels — General requirements — Write-in ballots.** — (a) The county election board shall furnish ballot labels. The board shall have them printed:

- (1) In black ink on clear white material;
- (2) In the size that will fit in a voting machine; and
- (3) In plain, clear type as space will reasonably permit.

(b) The county election board may also provide paper ballots printed as prescribed in IC 3-11-2-6 for a voter desiring to cast a write-in ballot. [P.L.5-1986, § 7; P.L.4-1991, § 104.]

**3-11-12-3. Ballot labels — Primary elections — Party names and devices.** — Political parties may be distinguished in a primary election by the use of different colored ballot labels. The party device for a political party that has been adopted in accordance with IC 3-8 and the party name or other designation shall be prefixed to the list of candidates of the party. [P.L.5-1986, § 7.]

**3-11-12-4. State election board sample ballots — Number — Style — Color.** — The state election board shall provide each county election board with the number of sample ballots the county election board considers adequate for each precinct. The sample ballots must be:

- (1) Exact copies of the official ballots furnished by the state election board; and

(2) Printed on different colored paper from the official ballots. [P.L.5-1986, § 7; P.L.3-1987, § 291.]

**3-11-12-5. State election board sample ballots — Delivery to county clerks.** — The state election board shall enclose the sample ballots in a separate wrapper or envelope from that of other papers delivered by the board to the county clerk and deliver them to the clerk or the messenger authorized by the clerk to receive the ballots. [P.L.5-1986, § 7.]

**3-11-12-6. County election board sample ballots — Number — Form.** — Each county election board shall provide the number of sample ballots it considers adequate for each precinct of the county. The county election board shall arrange the sample ballots in the form of a diagram showing the entire front of a voting machine as it will appear after the ballot labels have been arranged on the machine for voting on election day. [P.L.5-1986, § 7; P.L.3-1987, § 292.]

**3-11-12-7. County election board sample ballots — Arrangement of parties, offices, names, in public questions.** — The county election board shall arrange:

- (1) The political party ticket and independent tickets;
- (2) The offices to be filled;
- (3) The names of the candidates; and
- (4) The public questions;

on the sample ballots in the same order in which they will occur on the official ballots printed under the jurisdiction of the state election board and the county election board. However, if presidential electors are to be voted for at an election, then the first ballot label of each party or independent ticket must be in the form prescribed by IC 3-10-4-1. [P.L.5-1986, § 7; P.L.10-1988, § 118; P.L.3-1993, § 160.]

**3-11-12-8. [Repealed.]**

**3-11-12-9. Voting machine arrangement of party ticket.** — Each ticket shall be arranged on a voting machine for voting in exact accordance with the sample ballots furnished by the county election board. [P.L.5-1986, § 7.]

**3-11-12-10. Voting machine arrangement of school district election candidates.** — In school district elections the county election board shall arrange the names of candidates in alphabetical order on the voting machines in such a way that the name of each candidate appears in the

same column of each machine used in each precinct. [P.L.5-1986, § 7.]

**3-11-12-11. Comparison of ballot labels and sample ballots — Posting of sample ballots near ballot chute.** — (a) Before the opening of the polls, the precinct election board shall compare the ballot labels with the sample ballots furnished and determine whether the names, numbers, and letters are in agreement. The board then shall certify that the ballot labels and the sample ballots are in agreement. Forms shall be provided for certification, and the certification shall be filed with the election returns.

(b) The inspector of each precinct, or a person under the direction of the inspector, shall post sample ballots near the entrance of the chute for the precinct. The ballots must be available for public inspection throughout election day. [P.L.5-1986, § 7; P.L.3-1987, § 293.]

**3-11-12-12. Voting machine diagrams and instruction cards.** — In addition to the sample ballots, the county election board may furnish diagrams (with instruction cards) of the front of the voting machine, with ballot labels pasted on the diagram. These diagrams shall be posted near the polls. [P.L.5-1986, § 7; P.L.3-1987, § 294.]

**3-11-12-13 — 3-11-12-15. [Repealed.]**

**3-11-12-16. Use of voting machines for voter instruction.** — (a) Each county election board may make available at convenient places throughout the county voting machines for the instruction of the voters. The board shall locate the machines at places where people usually assemble, such as shopping centers. The board shall have the machines attended at convenient hours designated by the board by persons able to instruct others in their use. The county chairmen of the major political parties of the state must approve the persons attending the machines under this section.

(b) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). At least ten (10) days before an election, each county election board shall duplicate, distribute, and cause to be posted copies of official sample ballots:

- (1) Received from the state election board; and
- (2) Prepared by the county election board;

to schools, fire stations, county courthouses, and other public buildings in the county. [P.L.5-1986, § 7; P.L.3-1987, § 295; P.L.7-1991, § 6; P.L.12-1992, § 10; P.L.3-1993, § 161.]

**3-11-12-17. Machines used for voter instruction — Candidates and questions listed — Vote tallying prohibited.** — Each voting machine used for instructional purposes must contain the names of all candidates and a description of all public questions as they will appear on the official sample ballot for machines on election day. However, the machines may not be set to record a tally or total. [P.L.5-1986, § 7.]

**3-11-12-18. Ballot labels — Placement on machines.** — Each county election board shall, before election day, have the proper ballot labels put on each voting machine with the device named and the list of candidates of each political party or independent ticket in the same order as on the sample ballot. [P.L.5-1986, § 7; P.L.3-1993, § 162.]

**3-11-12-19. [Repealed.]**

**3-11-12-20. Alphabetical rotation of candidates' names in primary elections.** — A county election board may require that the names of candidates for nomination at a primary election be rotated alphabetically on voting machines. If the board does so, the names shall be rotated by precincts in regular serial sequence, so that each name of a list or group of candidates for an office appears upon the machines an equal number of times, as nearly as practicable, at the top, at the bottom, and in each intermediate place under the title of the office sought. [P.L.5-1986, § 7.]

**3-11-12-21. Setting, adjusting and labeling machines prior to use.** — (a) Before a voting machine is delivered to a precinct, the county election board shall have the machine put in order, set and adjusted, and labeled to be ready for use in voting. The board shall employ one (1) or more qualified persons to label and prepare machines in accordance with this section.

(b) The county chairman of each major political party of the county may appoint one (1) person to observe the ordering, setting and adjustment, and labeling of voting machines under subsection (a). The county chairman shall file the name of a person appointed with the circuit court clerk.



(c) A person appointed under subsection (b) serves until:

- (1) The county chairman notifies the circuit court clerk that the person's appointment has been revoked;
- (2) The county chairman notifies the clerk that the person has died; or
- (3) The person files a letter of resignation with the clerk.

(d) A person appointed under subsection (b):

- (1) May attend the ordering, setting and adjustment, and labeling only as a witness;
- (2) Shall remain silent and subject to the orders of the board; and
- (3) May not obstruct or interfere with the ordering, setting and adjustment, or labeling.

(e) A person appointed under subsection (b) is not entitled to compensation for services except from the political party of the county chairman making the appointment. [P.L.5-1986, § 7; P.L.5-1989, § 61.]

**3-11-12-22. Delivery of machines to precinct — Time — Transportation.** — Each county election board shall have each voting machine, along with all necessary furniture and appliances that go with the machine at the polls, delivered to the appropriate precinct not later than 6 P.M. of the day before election day. The county executive shall provide transportation for the machines if requested to do so by the county election board. [P.L.5-1986, § 7.]

**3-11-12-23. Inspection of sample ballots and ballot labels — Readjustment of machines.** — After the delivery of a voting machine to a precinct, the precinct election board may meet at the polls on the same day and open the package containing the sample ballots and, if necessary, the ballot labels, to determine whether the machine is ready for use in accordance with section 20 [IC 3-11-12-20] of this chapter. If a machine is not in compliance with that section, the board shall immediately label, set and adjust, and place the machine in order or have it done. [P.L.5-1986, § 7.]

**3-11-12-24. Poll preparations by inspectors — Poll chute erection — Posting of sample ballots and instructions — General duties.** — On the morning of election day, each precinct election board, the poll clerks, and the election sheriffs shall meet at the polls at least one (1) hour before the time for opening the polls. The inspector then shall have:

- (1) The chute erected;

(2) The sample ballots and instruction cards posted;

(3) Everything put in readiness for the commencement of voting at the opening of the polls. [P.L.5-1986, § 7.]

**3-11-12-25. Poll preparations by precinct election boards — Comparison of sample and machine ballots — Zeroing vote counters — Checking machines.** — Before the opening of the polls, each precinct election board shall:

- (1) Compare the ballot labels on each voting machine with the sample ballot to see that they are correct;
- (2) See that all the counters in the machine are set at zero (0); and
- (3) See that the machine is otherwise in perfect order.

After the counters have been set at zero (0), the precinct election board may not permit the counters to be operated or moved except by voters in voting. [P.L.5-1986, § 7.]

**3-11-12-26. Malfunctioning machines — Duties of county election boards.** — Each county election board shall be at its office from 5 A.M. until 6 P.M. on election day. Upon notice that a voting machine is out of order or fails to work, the board shall be ready between those hours to deliver to any precinct in the county:

- (1) Necessary ballots;
- (2) Election booths with an adequate number of stalls;
- (3) Ballot boxes; and
- (4) All necessary supplies and equipment as required by law. [P.L.5-1986, § 7; P.L.3-1987, § 296.]

**3-11-12-27. Placement of voting machines — Persons prohibited from watching voters.** — The exterior of a voting machine and each area of the polls must be in plain view of the precinct election board. Each voting machine shall be placed so that a person voting on the opposite side of the railing or a person on the outside of the polls can not see or determine how a voter votes. The inspector, judges, and poll clerks may not remain or allow any other person to remain in a position or near a position that would permit them to see or ascertain how a voter votes. [P.L.5-1986, § 7.]

**3-11-12-28. Persons allowed in vicinity of voting machines.** — After the opening of the polls, the inspector, judges, and poll clerks may not allow any person to pass within the railing to the part of the room where a voting machine is situated,

except for the purpose of voting. Except as provided in IC 3-11-9, they may not permit more than one (1) voter at a time to be in the part of the room where a machine is situated. [P.L.5-1986, § 7.]

**3-11-12-29. Voting procedure.** — (a) After a voter has signed the poll list, both judges, on request, shall give an explanation of the manner of voting.

(b) If a voter is not challenged by a member of the precinct election board, the voter may pass the railing to the side where a voting machine is and into the voting booth or compartment. There the voter shall register the voter's vote in secret by indicating:

(1) The candidates for whom the voter desires to vote by causing a voting mark to appear on or in the squares immediately above the candidates' names; and

(2) The voter's preference on each public question by causing a voting mark to appear above the word "yes" or "no" under the question.

(c) If an election is a general or municipal election and a voter desires to vote for all the candidates of one (1) political party or group of petitioners, the voter may cast a straight party ticket by pulling that party's lever. The voter's vote shall then be counted for all the candidates under that party name. If a voter pulls an independent ticket's lever, the voter's vote shall only be counted for the two (2) candidates comprising an independent ticket and not for any other independent candidate on the ballot.

(d) Only one (1) voter may occupy a booth or compartment at one time. Booths shall be constructed and arranged so that all members of the precinct election board can see whether more than one (1) voter enters a booth at any one time. However, a voter who is a parent, grandparent, or other person caring for a minor child may take the child into the voting booth.

(e) If a voter needs additional instruction after entering the voting booth, the voter may request assistance from the two (2) judges. The judges shall then approach but not enter the voting booth and call out additional instructions to the voter.

(f) After voting, the voter shall immediately leave the booth or compartment and announce to the poll clerks that the voter has voted. The poll clerks shall make a voting mark after the voter's name on the poll list, and the voter shall leave the room. [P.L.5-1986, § 7; P.L.3-1987, § 297; P.L.4-1991, § 105; P.L.3-1993, § 163.]

**3-11-12-29.5. Time limit for voting — Enforcement.** — (a) At a primary election, a voter may not remain in the voting booth longer than three (3) minutes.

(b) At a general, municipal, or special election, a voter may not remain in the voting booth longer than two (2) minutes.

(c) If a voter refuses to leave a voting booth after the lapse of time prescribed by subsection (a) or (b), the precinct election board, or the election sheriff or sheriffs upon the order of the board, shall immediately remove the voter from the booth. [P.L.3-1987, § 298.]

**3-11-12-29.8. Disclosure of vote prior to vote registering — Disqualification of voter.** — If a voter shows or discloses to another person the candidates voted for or how the voter voted on a public question before the vote is registered, the vote may not be registered on the voting machine. A record of the occurrence shall be made on the poll list, and the voter may not vote again at the election. [P.L.3-1987, § 299; P.L.10-1988, § 119.]

**3-11-12-30. Locking of machines against voting at poll closing — Opening of counter compartments.** — Subject to IC 3-12-2-5, as soon as the polls are closed, the inspector, in the presence of the judges and poll clerks, immediately shall lock each voting machine against voting and open each counting compartment, giving a full view of all the counter numbers to the members of the precinct election board and to the poll clerks and election sheriffs. [P.L.5-1986, § 7.]

**3-11-12-31, 3-11-12-32. [Repealed.]**

**3-11-12-33. Locking of machines following vote count.** — As soon as the vote count is completed, the inspector shall close and lock each voting machine against voting or being tampered with. Each machine shall be kept locked as provided in section 35 [IC 3-11-12-35] of this chapter. [P.L.5-1986, § 7; P.L.3-1987, § 300.]

**3-11-12-34. Disposition of keys after machines locked.** — After a voting machine is locked at the close of an election, the inspector shall:

(1) Place all the keys to the machine on a strong and sufficient string or wire;

(2) Label the keys with the make and number of the machine and the precinct where the keys were used during the election; and

(3) Return the keys to the county auditor not later than 11 A.M. of the

day after election day. [P.L. 5-1986, § 7.]

**3-11-12-35. County auditor to store keys after machines locked.** — (a) The county auditor shall securely keep the keys returned under section 34 [IC 3-11-12-34] of this chapter and may not permit the keys to be taken or a voting machine to be unlocked, except as provided by law, for sixty (60) days after the election unless:

- (1) Ordered otherwise by a court;
- (2) Required under IC 3-12; or
- (3) Requested by the Indiana voting system advisory committee for the purposes of conducting an evaluation of the county's voting system under IC 3-11-4.5-10(2).

(b) A request made under subsection (a)(3) must be made in writing by the chairperson of the voting system advisory committee or the executive director of the state election board. [P.L.5-1986, § 7; P.L.3-1987, § 301; P.L.3-1993, § 164.]

**3-11-12-36. Certificates and statements of votes cast.** — The certificates of the number of votes cast for each person shall be made and signed as required by IC 3-12, and the election officers shall make and sign all statements of the number of votes required by law in duplicate, triplicate, or otherwise. The certificates and other papers shall be returned to the circuit court clerk in the same manner and with the same penalties that are prescribed in IC 3-12 for election returns from precincts in which voting machines are not used. [P.L.5-1986, § 7.]

**3-11-12-37. Paper vote recording roll.** — In addition to the specifications required by IC 3-11-5-8 through IC 3-11-5-20, a voting machine may be supplied with a paper recording roll on which all the votes registered on the mechanical counters will be separately recorded. If a machine is supplied with a recording roll, the roll may not be removed from the machine or examined by the precinct election board. The machine shall be locked with the recording roll and shall be kept locked for at least thirty (30) days, unless within that time the machine is ordered opened and the roll taken out and examined by a court. At the end of the thirty (30) days, the roll may be taken out unless ordered otherwise by a court. [P.L.5-1986, § 7.]

**3-11-12-38. Municipal elections — Use of county machines permitted.** — If a county has procured voting machines for

use, the machines may be used at a municipal election. If there are not sufficient machines on hand for each precinct of the municipality, the county election board shall determine in what precincts machines will be used at the election. [P.L.5-1986, § 7.]

**3-11-12-39. Municipal elections — Furnishing of machines and equipment by county — Expenses.** — If voting machines are used in a municipal election, the county election board shall furnish to the municipality:

- (1) The requisite number of machines; and
- (2) All the furniture and appliances that go with the machines.

However, the municipality shall pay the expenses of moving the machines and furniture to and from the polls, and also for any damage or loss to the machines or furniture. [P.L.5-1986, § 7.]

## CHAPTER 13

### VOTING BY BALLOT CARD VOTING SYSTEM

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**3-11-13-1. Applicability.** — This chapter applies to each precinct where voting is by ballot card voting system. [P.L.5-1986, § 7; P.L.3-1987, § 302.]

**3-11-13-2. Permitted uses by county election boards.** — A county election board may use an approved ballot card voting system:

- (1) In any election;
- (2) In all or in some of the precincts within a political subdivision holding an election; and
- (3) Instead of or in combination with any other voting method. [P.L.5-1986, § 7; P.L.3-1987, § 303.]

**3-11-13-3. Primary elections.** — A ballot card voting system may be used at a primary election only if the automatic tabulating machines for the system will:

- (1) Count only votes for the candidates of one (1) political party;
- (2) Reject all votes for an office when the number of votes for the office exceeds the number that the voter is entitled to cast; and
- (3) Reject all votes cast for candidates of more than one (1) political party. [P.L.5-1986, § 7; P.L.3-1987, § 304.]

**3-11-13-4. Training and educational meeting.** — A county election board using a ballot card voting system shall conduct a training and educational meeting no later than the day before election day. The board shall require inspectors and judges to attend the meeting and may require other precinct election officers to attend the meeting. [P.L.5-1986, § 7; P.L.3-1987, § 305.]

**3-11-13-5. [Repealed.]**

**3-11-13-6. Preparation of marking devices — Providing supplies.** — (a) Before an election at which a ballot card voting system is used, a county election board shall:

- (1) Have the marking devices prepared for the election;
- (2) Have the marking devices put in order, set and adjusted, and made ready for voting when delivered to the precincts; and
- (3) Provide the precinct election officers with marking devices, a demonstration marking devices, ballot cards, ballot boxes, ballot labels, and other records and supplies as required.

(b) Each county election board shall have each ballot card voting system, along with all necessary furniture and appliances that go with the system at the polls, delivered to the appropriate precinct not later than 6 P.M. of the day before election day. The county executive shall provide transportation for the systems if requested to do so by the county election board. [P.L.5-1986, § 7; P.L.3-1987, § 306.]

**3-11-13-7. Demonstration marking devices — Candidate names prohibited.** — Demonstration marking devices may not bear the name of any candidate or the text of any public question at an election. [P.L.5-1986, § 7; P.L.10-1988, § 120.]

**3-11-13-8. Voting booths.** — Unless the marking devices enable the voter to

mark a ballot card in secret, a sufficient number of voting booths for each precinct shall be provided. The booths must be of a size and design so as to enable a voter to mark a ballot card in secret. [P.L.5-1986, § 7.]

**3-11-13-9. Sample ballots — Contents — Form.** — The public officials charged with the duty of providing ballot cards or ballot labels shall also provide sample ballots. The sample ballots must be:

- (1) Exact copies of the official ballot cards or ballot labels; and
- (2) Arranged in the form of a diagram showing the front of the marking device as it will appear on election day. [P.L.5-1986, § 7.]

**3-11-13-10. Sample ballots — Posting.** — The appropriate precinct election officers shall post sample ballots near the entrance to the polls on election day and see that they are available to public inspection throughout the day. [P.L.5-1986, § 7.]

**3-11-13-11. Marking devices — Arrangement of ballot information.** — The ballot information, whether placed on the ballot card or on the marking device, should, as far as practicable, be in the order of arrangement provided for ballots under IC 3-11-2. However, the ballot information may be in vertical or horizontal rows or in a number of separate pages. Ballot cards for all public questions must be provided in the same manner and must be arranged on or in the marking device in the places provided for that purpose. [P.L.5-1986, § 7; P.L.3-1987, § 307.]

**3-11-13-12. Ballot labels — Listing of offices and parties.** — If ballot labels consist of a number of separate pages, the office title with a statement of the number of candidates to be voted for may be printed above or at the side of the name of each candidate for that office. Except in a primary election, the political party designation or independent status of each candidate, which may be abbreviated, shall be printed following the candidate's name. [P.L.5-1986, § 7; P.L.3-1993, § 165.]

**3-11-13-13. Ballot labels — Candidates for an office on more than one page — Arrows and numbers.** — If there are more candidates for an office than can be printed on one (1) ballot page, the ballot label shall be clearly marked that the list of candidates is continued on the following page. Arrows and numbers

may be used to indicate the place to vote for each candidate and on each public question. [P.L.5-1986, § 7.]

**3-11-13-14. Ballot labels — Straight party ticket voting.** — In partisan elections, the ballot labels must include a voting square or position where a voter may by one (1) mark or punch on each card record a straight party or an independent ticket vote for all the candidates of one (1) political party or the independent ticket, except for offices for which the voter has voted individually for a candidate. If the voter records a vote for the two (2) candidates comprising an independent ticket, the vote must not count for any other independent candidate on the ballot. [P.L.5-1986, § 7; P.L.3-1993, § 166.]

**3-11-13-15. [Repealed.]**

**3-11-13-16. Marking devices — Rotation of candidate names in primary elections.** — If a county election board requires that the names of candidates for nomination at a primary election be rotated alphabetically on the marking devices, then the names shall be rotated by precincts in regular serial sequence, so that each name of a list or group of candidates for an office appears upon the marking devices an equal number of times, as nearly as practicable, at the top, at the bottom, and in each intermediate place under the title of the office sought. Each type card within a precinct must be of the same rotation series. [P.L.5-1986, § 7.]

**3-11-13-17. Providing ballot cards to precincts.** — Each county election board shall provide each precinct where a ballot card voting system is used with a sufficient number of ballot cards of the size, design, and stock suitable for processing by automatic data processing machines. [P.L.5-1986, § 7; P.L.3-1987, § 308.]

**3-11-13-18. Ballot cards — Serial numbers — Election information stub.** — (a) Each ballot card provided under section 17 [IC 3-11-13-17] of this chapter must have two (2) attached perforated stubs on which is printed the same serial number. The top stubs shall be bound or stapled in the package of ballot cards retained by the precinct election officers. The following information must be printed on the second stub:

- (1) The name of the political subdivision holding the election.
- (2) The designation of the election.

- (3) The date of the election.
- (4) The instructions to the voters.
- (5) In a primary election, the name of the political party.

(b) The county election board in a county using a ballot card voting system shall provide ballot cards to the precinct election board that permit voters to cast write-in votes for each officer to be voted for at that election.

(c) The ballot cards provided under subsection (b) must be:

- (1) Designed to be folded; or
- (2) Accompanied by secrecy envelope;

to ensure the secrecy of each of the votes cast by a voter.

(d) A write-in vote shall be cast by printing the name of the candidate and the title of the office in the space provided for write-in votes on a ballot card or secrecy envelope. [P.L.5-1986, § 7; P.L.4-1991, § 106.]

**3-11-13-19. Precinct stamp required on ballot cards and secrecy envelopes.** — Each circuit court clerk shall print or stamp the precinct number or designation and a line for each poll clerk's initials on both a ballot card and the ballot card's secrecy envelope before the election. [P.L.5-1986, § 7; P.L.4-1991, § 107.]

**3-11-13-20. Ballot cards — Record of precinct distribution by serial number.** — Each county election board shall maintain a record of the serial numbers of all of the ballot cards provided to a precinct and shall note in this record the precinct to which each ballot card relates. [P.L.5-1986, § 7.]

**3-11-13-21. Ballot cards — Color in primary elections.** — In a primary election, the ballot cards of each political party must be distinctively marked or be of a different color or tint so that the ballot cards of each party are easily distinguishable. [P.L.5-1986, § 7.]

**3-11-13-22. Testing of tabulating machines — Performance by election officer — Public notice.** — At least fourteen (14) days before election day, the election officer of each county in charge shall have the automatic tabulating machines tested to ascertain that the machines will correctly count the votes cast for all candidates and on all public questions. Public notice of the time and place of the tests shall be given at least forty-eight (48) hours before the test. The notice shall be published once in accordance with IC 5-3-1-4. [P.L.5-1986, § 7; P.L.6-1986, § 24.]

**3-11-13-23. Testing of tabulating machines — Observation and certification by county election board members — Public observation.** — The two (2) appointed members of the county election board shall observe the tests required by section 22 [IC 3-11-13-22] of this chapter and certify them as meeting the requirements of section 22 of this chapter. A copy of the certification shall be mailed to the state election board immediately, and another copy shall be filed with the election returns. The tests must be open to representatives of political parties, candidates, the media, and the public. [P.L.5-1986, § 7; P.L.6-1986, § 25.]

**3-11-13-24. Testing of tabulating machines — Contents of test.** — The tests required by section 22 [IC 3-11-13-22] of this chapter must:

(1) Include the visual inspection of the voting devices for the correct alignment of the card stock and the templates for proper punching;

(2) Be conducted by processing a pre-audited group of ballot cards punched or marked so as to record a predetermined number of valid votes for each candidate and on each public question; and

(3) Include for each office one (1) or more ballot cards that have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating machines to reject the votes. [P.L.5-1986, § 7; P.L.6-1986, § 26.]

**3-11-13-25. Testing of tabulating machines — Detection and correction of errors.** — If an error is detected during the tests required by section 22 [IC 3-11-13-22] of this chapter, the cause of the error shall be determined and corrected, and an errorless count shall be made before the automatic tabulating machines are approved. [P.L.5-1986, § 7; P.L.6-1986, § 27; P.L.5-1988, § 9.]

**3-11-13-26. Testing of tabulating machines — Retesting and certification prior to official use.** — The tests required by section 22 [IC 3-11-13-22] of this chapter shall be repeated and certified again in the same manner immediately before the start of the official count of the ballot cards. The certification shall be filed with the election returns. After the completion of the count, the tested tabulating machines shall be sealed in the same manner as voting machines under IC 3-12-2.5-6, and the ballot cards and all other election materials shall be sealed,

retained, and disposed of as provided for paper ballots. [P.L.5-1986, § 7; P.L.6-1986, § 28; P.L.3-1987, § 309.]

**3-11-13-26.5. Demonstrations of voting system for voters — Locations — Candidates and public questions on sample ballots.** — (a) Each county election board may make available at convenient places throughout the county ballot card voting systems for the instruction of the voters. The board shall locate the systems at places where people usually assemble, such as shopping centers. The board shall have the systems attended at convenient hours designated by the board by persons able to instruct others in their use. The county chairmen of the major political parties of the state must approve the persons attending the systems under this section.

(b) Each ballot card voting system used for instructional purposes must contain the names of all candidates and a description of all public questions as they will appear on the official sample ballot for the system on election day. However, the system may not be set to record a tally or total. [P.L.3-1987, § 310; P.L.3-1993, § 167.]

**3-11-13-27. Examination and certification of system prior to election day — Preparation of polls on election day.** — (a) After the delivery of a ballot card voting system to a precinct, the precinct election board may meet at the polls on the same day and open the package containing the sample ballot cards, to determine whether the system is ready for use in accordance with section 16 [IC 3-11-13-16] of this chapter. If a ballot card voting system is not in compliance with that section, the board shall immediately label, set and adjust, and place the system in order or have it done.

(b) On the morning of election day, the precinct election officers shall meet at the polls at least one (1) hour before the time for opening the polls. The inspector then shall have:

- (1) The chute erected;
- (2) The sample ballots and instruction cards posted; and
- (3) Everything put in readiness for the commencement of voting at the opening of the polls.

(c) Before the opening of the polls, the precinct election officers shall compare the ballot cards used in the marking device with the sample ballots furnished and determine whether the names, numbers, and letters are in agreement. The officers then shall certify that the marking device

and the sample ballots are in agreement. Forms shall be provided for certification, and the certification shall be filed with the election returns. [P.L.5-1986, § 7; P.L.3-1987, § 311.]

**3-11-13-27.5. Opening of ballot cards — Distribution.** — At the opening of the polls, after the organization of and in the presence of the precinct election board, the inspector shall:

- (1) Open the packages of ballot cards in a manner that preserves the seals intact;
- (2) Deliver twenty-five (25) of each of the state and local ballots to the poll clerk of the opposite political party; and
- (3) Deliver to the other poll clerk a device for marking the ballots. [P.L.3-1987, § 312.]

**3-11-13-28. Ballot cards — Initials of poll clerks required.** — (a) This section does not apply to a ballot card voted by absentee ballot.

(b) The two (2) poll clerks of each precinct shall place their initials in ink on the back of each ballot card at the time the card is issued to a voter. The initials must be in the poll clerks' ordinary handwriting or printing and without a distinguishing mark of any kind. A ballot card is not valid unless it is initialed by both poll clerks. [P.L.5-1986, § 7; P.L.3-1987, § 313; P.L.3-1993, § 168.]

**3-11-13-28.5. Distribution of ballot cards to voters.** — (a) Unless challenged, a voter may proceed to vote. After a voter has signed the poll list, the poll clerk holding the ballot card shall deliver to the voter one (1) of each ballot card that the voter is entitled to vote at the election.

(b) As each successive voter calls for a ballot, the poll clerks shall deliver to the voter the first initialed ballot of each type. The inspector shall then deliver to the poll clerks another ballot of each type, which the clerks shall initial as before. [P.L.3-1987, § 314.]

**3-11-13-28.7. Poll clerks' initials required on secrecy envelopes.** — (a) The two (2) poll clerks of each precinct shall place their initials in ink on the secrecy envelope of a ballot card at the time the card is issued to a voter. The initials must be in the poll clerk's ordinary handwriting or printing and without a distinguishing mark of any kind.

(b) A write-in vote cast on a secrecy envelope:

- (1) Is not valid unless the write-in vote is initialed by both poll clerks; and
- (2) Makes the secrecy envelope a ballot for purposes of this title. [P.L.4-1991, § 108; P.L.3-1993, § 169.]

**3-11-13-29. Voter instructions — Posting — Giving to voter.** — (a) In addition to the instructions printed on the ballot card or ballot labels, instructions to voters shall be posted in each voting booth or placed on the marking device. Each voter shall be instructed by both judges, on request, on how to operate the voting device before the voter enters the voting booth.

(b) The instructions posted in the voting booth or placed on the marking device must state the following:

- (1) That the voter should examine the ballot card to determine if it contains the initials of the poll clerks in ink on the back of the card.
- (2) That the voter should not make an unnecessary mark or punch on the ballot card because the mark or punch may void the card.
- (3) That the voter should examine the ballot card to determine if the card has any mark (other than the initials of the poll clerks) before voting.
- (4) That the voter should return the ballot card to the poll clerks and request another ballot card if:
- (A) The poll clerks' initials have not been properly placed on the card;
- (B) The card has a mark (other than the initials of the poll clerks) before the voter places a voting mark on the ballot; or
- (C) The voter has improperly marked or punched the card.
- (5) That the voter should examine the ballot card after voting to determine that all marks or punches made on the card to indicate the voter's selections have been completely marked or punched. P.L.5-1986, § 7; P.L.3-1987, § 315.]

**3-11-13-30. Voter instructions — Content.** — When a voter is handed a ballot card, the voter shall be instructed to:

- (1) Use only the marking device provided for punching, slotting, or marking the cards and that the voter is not to mark a card in any other way;
- (2) Be certain that the initials of the poll clerks appear on the voter's card and that if the initials are not on the card it will not be counted; and

- (3) Place the voter's card in an envelope or other container after the voter has voted or to fold the card in a manner so that no card is exposed upon which a choice is indicated. [P.L.5-1986, § 7.]

**3-11-13-31. Assisting voter in determining if ballot properly initialed.** — If necessary, a precinct election officer shall assist a voter in determining if the proper initials appear on a ballot card. [P.L.5-1986, § 7.]

**3-11-13-31.5. Poll booths in plain view — Privacy of voter.** — (a) The exterior of a voting booth or compartment and each area of the polls must be in plain view of the precinct election board. Each voting booth or compartment shall be placed so that a person voting on the opposite side of the railing or a person on the outside of the polls cannot see or determine how a voter votes. The inspector, judges, and poll clerks may not remain or allow any other persons to remain in a position or near a position that would permit them to see or ascertain how a voter votes.

(b) Only one (1) voter may occupy a booth or compartment at one time. Booths shall be constructed and arranged so that all members of the precinct election board can see whether more than one (1) voter enters a booth at any one time. [P.L.3-1987, § 316.]

**3-11-13-31.7. Marking ballot cards — Straight-ticket voting.** — (a) After receiving ballot cards, a voter shall, without leaving the room, go alone into one (1) of the booths or compartments that is unoccupied and indicate:

- (1) The candidates for whom the voter desires to vote by punching a hole in or marking the squares immediately before the candidates' names; and
- (2) The voter's preference on each public question by punching a hole in or marking the square beside the word "yes" or "no" under the question.

(b) If an election is a general or municipal election and a voter desires to vote for all the candidates of one (1) political party or group of petitioners, the voter may punch a hole in or mark the circle enclosing the device and before the name under which the candidates of the party or group of petitioners are printed. The voter's vote shall then be counted for all the candidates under that name. However, if the voter punches a hole in or marks the circle of an independent ticket comprised of two (2) candidates, the vote shall not be counted



for any other independent candidate on the ballot. [P.L.3-1987, § 317; P.L.3-1993, § 170.]

**3-11-13-32. Voter instruction after entry into booth.** — If a voter needs additional instruction after entering the voting booth, the voter may request assistance from the two (2) judges. The judges shall then approach but not enter the booth and call out the additional instructions to the voter. [P.L.5-1986, § 7; P.L.3-1987, § 318.]

**3-11-13-32.5. Time limit on voting — Enforcement.** — (a) At a primary election, a voter may not remain in the voting booth or compartment longer than three (3) minutes.

(b) At a general, municipal, or special election, a voter may not remain in the voting booth or compartment longer than two (2) minutes.

(c) If a voter refuses to leave a voting booth or compartment after the lapse of the time provided under subsection (a) or (b), the precinct election board, or the election sheriff or sheriffs upon the order of the board, shall immediately remove the voter from the booth or compartment. [P.L.3-1987, § 319.]

**3-11-13-32.8. Disclosure of vote prior to vote registering — Disqualification of voter.** — If a voter shows the voter's ballot card or a part of the card to another person after the card has been marked so as to disclose any of the candidates voted for or how the voter voted on a public question, the ballot card may not be deposited in a ballot box. A record of the occurrence shall be made on the poll list, and the voter may not vote again at the election. [P.L.3-1987, § 320; P.L.10-1988, § 121.]

**3-11-13-33. Disposition of voted ballot cards.** — (a) After a voter has marked a ballot card, the voter shall place it inside the envelope provided for this purpose and return the ballot card to the judge, who shall remove the stub from the envelope. The judge shall then offer to return the envelope with the ballot card inside to the voter, who shall:

- (1) Accept the envelope and deposit it in the ballot box; or
- (2) Decline the envelope and require the judge to deposit it in the ballot box.

(b) If a voter offers to vote a ballot card that is not inside the envelope provided for this purpose, the precinct election board shall direct the voter to return to the booth

and place the ballot card in the envelope provided for this purpose.

(c) After a voter's ballot cards have been deposited in the ballot box, the poll clerks shall make a voting mark after the voter's name on the poll list.

(d) After voting, a voter shall leave the polls. However, a voter to whom ballot cards and a marking device have been delivered may not leave the polls without voting the ballot cards or returning them to the poll clerk from whom the voter received them. [P.L.5-1986, § 7; P.L.3-1987, § 321.]

**3-11-13-34. Ballot cards with stub detached void.** — The judge in charge of the ballot box may not accept a ballot card from which the stub has been detached. Such a card and stub shall be marked "VOID" and placed with the void ballots. [P.L.5-1986, § 7.]

**3-11-13-35. Ballot cards spoiled, defaced, etc., by voter — Replacement — Disposition of defective cards.** — If a voter spoils or defaces a ballot card or marks it erroneously, the voter shall return the card with the stub folded so as not to disclose any choices that the voter has made. The voter then may receive another ballot card. Upon receipt of a defective ballot card, the precinct election board shall:

- (1) Immediately cancel the defective card by writing on the back of the card and stub the word "VOID" in ink or in indelible pencil; and
- (2) Without detaching the stub, place the card in the container for voided ballots in a manner that does not expose the choices of the voter. [P.L.5-1986, § 7.]

**3-11-13-36. Securing marking devices at poll closing.** — As soon as the polls are closed, the inspector shall secure the marking devices against further voting. [P.L.5-1986, § 7.]

**3-11-13-37. Audit of vote by county election board.** — If a petition is filed under section 38 [IC 3-11-13-38] of this chapter, the county election board shall confirm that the votes cast in an election:

- (1) For each candidate and each public question; and
- (2) On a ballot card voting system in a precinct specified under section 38 of this chapter;

were correctly counted by the system. [P.L.6-1986, § 29; P.L.3-1987, § 322.]

**3-11-13-38. Petition for audit of vote.** — Each county chairman for either of the major parties in the county may petition the county election board for confirmation of the vote cast on a ballot card voting system no earlier than the Saturday before an election and no later than the Thursday after an election. The petition may specify not more than five percent (5%) of the precincts or five (5) precincts, whichever is greater, in which a ballot card voting system was used for an audit under section 37 [IC 3-11-13-37] of this chapter. [P.L.6-1986, § 30; P.L.3-1987, § 323.]

**3-11-13-39. Vote auditing tests and procedures.** — The county election board shall conduct an audit under section 37 [IC 3-11-13-37] of this chapter by means of tests and procedures that are approved by the state election board and independent of the provider of the ballot card voting system being audited. [P.L.6-1986, § 31; P.L.3-1987, § 324.]

**3-11-13-40. Certification of county election board's vote audit.** — The county election board shall certify the results of an audit under section 37 [IC 3-11-13-37] of this chapter not later than twelve (12) days after the election. The certification must be on the form prescribed by the state election board. One (1) copy must be filed with the election returns, and one (1) copy must be delivered to the state election board. [P.L.6-1986, § 32.]

**3-11-13-41. Notice of vote audit.** — Public notice of the time and place of an audit under section 37 [IC 3-11-13-37] of this chapter shall be given at least forty-eight (48) hours before the audit. The notice shall be published once in accordance with IC 5-3-1-4. However, if publication in accordance with IC 5-3-1-4 will not allow the county election board to certify the results of the audit within ten (10) days after the election, notice shall be given by posting it:

- (1) At or near the county courthouse; and
- (2) At the post office serving the county courthouse.

[P.L.6-1986, § 33.]

**3-11-13-42. Use of ballot card voting system in municipal elections — Placement.** — If a county has procured ballot card voting systems for use, the ballot card voting systems may be used at a municipal election. If there are not sufficient ballot card voting systems on hand for each

precinct of the municipality, the county election board shall determine in what precincts ballot card voting systems will be used at the election. [P.L.3-1987, § 325.]

**3-11-13-43. Implementation of ballot card voting system.** — (a) If ballot card voting systems are used in a municipal election, the county election board shall furnish to the municipality:

- (1) The requisite number of ballot card voting systems; and
- (2) All the furniture and appliances that go with the ballot card voting systems.

(b) However, the municipality shall pay the expenses of moving the ballot card voting systems and furniture to and from the polls and also for any damage or loss to the ballot card voting system or furniture. [P.L.3-1987, § 326.]

**3-11-13-44. Appointment of person to observe ordering, setting, and adjusting machines prior to use.** — (a) The county chairman of each major political party of the county may appoint one (1) person to observe:

- (1) The ordering and the setting and adjustment of automatic tabulating machines under section 6 [IC 3-11-13-6] of this chapter;
- (2) The testing of automatic tabulating machines under section 22 [IC 3-11-13-22] of this chapter; and
- (3) The determination of the cause of and correction of errors in the counting of ballot cards under section 25 [IC 3-11-13-25] of this chapter.

(b) The county chairman shall file the name of a person appointed under this section with the circuit court clerk.

(c) A person appointed under this section serves until:

- (1) The county chairman notifies the circuit court clerk that the person's appointment has been revoked;
- (2) The county chairman notifies the clerk that the person has died; or
- (3) The person files a letter of resignation with the clerk.

(d) A person appointed under subsection (a):

- (1) May attend the ordering and the setting and the adjustment of the automatic tabulating machines only as a witness;
- (2) Shall remain silent and subject to the orders of the board; and
- (3) May not obstruct or interfere with the ordering and setting and adjustment of the automatic tabulating machines.

(e) A person appointed under subsection (a) is not entitled to compensation for services except from the political party of the county chairman making the appointment. [P.L.5-1989, § 62.]

## CHAPTER 14

### VOTING BY ELECTRONIC VOTING SYSTEM

#### SECTION.

- 3-11-14-1. Applicability.
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- 3-11-14-32. Certificates of number of votes.
- 3-11-14-33. Use of electronic voting systems in municipal elections.
- 3-11-14-34. Implementation of electronic voting system.

**3-11-14-1. Applicability.** — This chapter applies to each precinct where voting is by electronic voting system. [P.L.3-1987, § 327.]

**3-11-14-2. Use of system.** — A county election board may use an approved electronic voting system:

- (1) In any election;
- (2) In all or in some of the precincts within a political subdivision holding an election; and
- (3) Instead of or in combination with any other voting method. [P.L.3-1987, § 327.]

**3-11-14-3. Ballot labels.** — The county election board shall furnish ballot labels. The board shall have them printed:

- (1) In black ink on clear white material;
  - (2) In the size that will fit on an electronic system; and
  - (3) In plain, clear type as space will reasonably permit.
- [P.L.3-1987, § 327.]

**3-11-14-4. Different color ballot labels — Party devices — Party name.** — Political parties may be distinguished in a primary election by the use of different color ballot labels. The party device for a political party that has been adopted in accordance with IC 3-8 and the party name or other designation shall be prefixed to the list of candidates of the party. [P.L.3-1987, § 327.]

**3-11-14-5. Sample ballots.** — The state election board shall provide each county election board with the number of sample ballots the county election board considers adequate for each precinct. The sample ballots must be:

- (1) Exact copies of the official ballots furnished by the state election board; and
- (2) Printed on different color paper from the official ballots. [P.L.3-1987, § 327.]

**3-11-14-6. Wrapping and delivery of sample ballots.** — The state election board shall enclose the sample ballots in a separate wrapper or envelope from that of other papers delivered by the board to the circuit court clerk and deliver them to the clerk or the messenger authorized by the clerk to receive the ballots. [P.L.3-1987, § 327.]

**3-11-14-7. Display of sample ballots.** — Each county election board shall provide the number of sample ballots it considers adequate for each precinct of the county. The county election board shall arrange the sample ballots in the form of a diagram showing the entire front of an electronic voting system as it will appear on the official ballots printed under the jurisdiction of the state election board and the county election board. However, if

presidential electors are to be voted for at an election, then the ballot label of each political party or independent ticket must be in the form prescribed by IC 3-10-4-1. [P.L.3-1987, § 327; P.L.3-1993, § 171.]

**3-11-14-8. Making system available for instruction of voters.** — (a) Each county election board may make available at convenient places throughout the county electronic voting systems for the instruction of the voters. The board shall locate the systems at places where people usually assemble, such as shopping centers. The board shall have the systems attended at convenient hours designated by the board by persons able to instruct others in their use. The county chairmen of the major political parties of the state must approve the persons attending the systems under this section.

(b) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). At least ten (10) days before an election, each county election board shall duplicate, distribute, and cause to be posted copies of official sample ballots:

(1) Received from the state election board; and

(2) Prepared by the county election board;

to schools, fire stations, county courthouses, and other public buildings in the county. [P.L.3-1987, § 327; P.L.7-1991, § 7; P.L.12-1992, § 11; P.L.3-1993, § 172.]

**3-11-14-9. Instructional display to be accurate as to candidates and public questions.** — Each electronic voting system used for instructional purposes must contain the names of all candidates and a description of all public questions as they will appear on the official sample ballot on election day. However, the systems may not be set to record a tally or total. [P.L.3-1987, § 327.]

**3-11-14-10. Installation of ballot labels.** — Each county election board shall, before election day, have the proper ballot labels put on each electronic voting system with the device named and the list of candidates of each political party or independent candidate or ticket in the same order as on the sample ballot. [P.L.3-1987, § 327; P.L.3-1993, § 173.]

**3-11-14-11. Alphabetical rotation of candidates on ballot in primary election.** — A county election board may require that the names of candidates for nomination at a primary election be ro-

tated alphabetically on electronic voting systems. If the board does so, the names shall be rotated by precincts in regular serial sequence, so that each name of a list or group of candidates for an office appears upon the systems an equal number of times, as nearly as practicable, at the top, at the bottom, and in each intermediate place under the title of the office sought. [P.L.3-1987, § 327.]

**3-11-14-12. Alphabetical order of candidates in school district elections.**

— In school district elections, the county election board shall arrange the names of candidates in alphabetical order on an electronic voting system in such a way that the name of each candidate appears in the same column of each system used in each precinct. [P.L.3-1987, § 327.]

**3-11-14-13. Preparation of system.**

— Before an electronic voting system is delivered to a precinct, the county election board shall have the system put in order, set and adjusted, and ready for use in voting. The board may employ one (1) or more competent persons to prepare systems in accordance with this section. [P.L.3-1987, § 327.]

**3-11-14-14. Delivery of system.** —

Each county election board shall have each electronic voting system, along with all necessary furniture and appliances that go with the system at the polls, delivered to the appropriate precinct not later than 6 P.M. of the day before election day. The county executive shall provide transportation for the system if requested to do so by the county election board. [P.L.3-1987, § 327.]

**3-11-14-15. Examination and adjustment of system prior to election day.** —

After the delivery of an electronic voting system to a precinct, the precinct election board may meet at the polls on the same day, open the package containing the sample ballots, and, if necessary, examine the ballot label, to determine whether the system is ready for use in accordance with section 11 [IC 3-11-14-11] of this chapter. If a system is not in compliance with that section, the board shall immediately label, set and adjust, and place the system in order or have it done. [P.L.3-1987, § 327.]

**3-11-14-16. Preparation of polls on election day.** —

On the morning of election day, the precinct election officers shall meet at the polls at least one (1) hour before the time for opening the polls. The inspector then shall have:

- (1) The chute erected;
- (2) The sample ballots and instruction cards posted; and
- (3) Everything put in readiness for the commencement of voting at the opening of the polls. [P.L.3-1987, § 327.]

**3-11-14-17. Inspection of polls.** — (a) Before the opening of the polls, each precinct election board shall:

- (1) Compare the ballot label on each electronic voting system with the sample ballot to see that it is correct;
- (2) See that the system records zero (0) votes for each candidate and on each public question; and
- (3) See that the system is otherwise in perfect order.

(b) After the system is in perfect order for voting, the precinct election board may not permit the counters to be operated except by voters in voting. The board then shall certify that the ballot labels and the sample ballots are in agreement. Forms shall be provided for certification, and the certification shall be filed with the election returns. [P.L.3-1987, § 327.]

**3-11-14-18. Posting of sample ballots.** — The inspector of each precinct, or a person under the direction of the inspector, shall post sample ballots near the entrance of the chute for the precinct. The ballots must be available for public inspection throughout election day. [P.L.3-1987, § 327.]

**3-11-14-19. Responsibilities of election board on election day.** — Each county election board shall be at its office from 5 A.M. until 6 P.M. on election day. Upon notice that an electronic voting system is out of order or fails to work, the board shall be ready between those hours to deliver to any precinct in the county:

- (1) Necessary paper ballots;
- (2) Election booths with an adequate number of stalls;
- (3) Ballot boxes; and
- (4) All necessary supplies and equipment as required by law. [P.L.3-1987, § 327.]

**3-11-14-20. Poll booth in plain sight — Privacy for voter.** — The exterior of an electronic voting system and each area of the polls must be in plain view of the precinct election board. Each system shall be placed so that a person voting on the opposite side of the railing or a person on the outside of the polls cannot see or determine how a voter votes. The inspector, judges, and poll clerks may not remain

or allow any other person to remain in a position or near a position that would permit them to see or ascertain how a voter votes. [P.L.3-1987, § 327.]

**3-11-14-21. Access to electronic voting system restricted.** — After the opening of the polls, the inspector, judges, and poll clerks may not allow any person to pass within the railing to the part of the room where an electronic voting system is situated, except for the purpose of voting. Except as provided in IC 3-11-9, they may not permit more than one (1) voter at a time to be in the part of the room where an electronic voting system is situated. [P.L.3-1987, § 327.]

**3-11-14-22. Explanation of voting procedures.** — After a voter has signed the poll list, both judges, on request, shall give an explanation of the manner of voting. [P.L.3-1987, § 327.]

**3-11-14-23. Voting procedures.** — (a) If a voter is not challenged by a member of the precinct election board, the voter may pass the railing to the side where an electronic voting system is and into the voting booth. There the voter shall register the voter's vote in secret by indicating:

- (1) The candidates for whom the voter desires to vote by touching a device on or in the squares immediately above the candidates' names;
- (2) If the voter intends to cast a write-in vote, a write-in vote by touching a device on or in the square immediately below the candidates' names and printing the name of the candidate in the window provided for write-in voting; and
- (3) The voter's preference on each public question by touching a device above the word "yes" or "no" under the question.

(b) If an election is a general or municipal election and a voter desires to vote for all the candidates of one (1) political party or group of petitioners, the voter may cast a straight party ticket by touching that party's device. The voter's vote shall then be counted for all the candidates under that name. However, if the voter casts a vote by touching the circle of an independent ticket comprised of two (2) candidates, the vote shall not be counted for any other independent candidate on the ballot. [P.L.3-1987, § 327; P.L.4-1991, § 109; P.L.3-1993, § 174.]

**3-11-14-24. One voter allowed in booth — Voting assistance.** — (a) Only one (1) voter may occupy a booth at one

time. Booths shall be constructed and arranged so that all members of the precinct election board can see whether more than one (1) voter enters a booth at any one time.

(b) If a voter needs additional instruction after entering the voting booth, the voter may request assistance from the two (2) judges. The two (2) judges shall then approach but not enter the booth and call out additional instructions to the voter. [P.L.3-1987, § 327.]

**3-11-14-25. Recording vote by poll clerks.** — After voting, the voter shall immediately leave the booth and announce to the poll clerks that the voter has voted. The poll clerks shall write a voting mark after the voter's name, and the voter shall leave the room. [P.L.3-1987, § 327.]

**3-11-14-26. Voting time limit — Primary election.** — At a primary election, a voter may not remain in the voting booth longer than three (3) minutes. [P.L.3-1987, § 327.]

**3-11-14-27. Voting time limit — General, municipal or special election.** — At a general, municipal, or special election, a voter may not remain in the voting booth longer than two (2) minutes. [P.L.3-1987, § 327.]

**3-11-14-28. Enforcement of time limits.** — If a voter refuses to leave a voting booth after the lapse of time prescribed by section 26 or 27 [IC 3-11-14-26 or 3-11-14-27] of this chapter, the precinct election board, or the election sheriff or sheriffs upon the order of the board, shall immediately remove the voter from the booth. [P.L.3-1987, § 327.]

**3-11-14-29. Disclosure of vote prior to registration — Disqualification of voter.** — If a voter shows or discloses to another person the candidates voted for or how the voter voted on a public question before the vote is registered, the vote may not be registered on the electronic voting system. A record of the occurrence shall be made on the poll list, and the voter may not vote again at the election. [P.L.3-1987, § 327; P.L.10-1988, § 122.]

**3-11-14-30. Procedures for closing polls — Vote totals.** — Subject to IC 3-12-2-5, as soon as the polls are closed, the inspector, in the presence of the judges and poll clerks, immediately shall secure each electronic voting system against voting and obtain at least one (1) paper

printout of the total votes cast for each candidate and on each public question in that precinct. [P.L.3-1987, § 327.]

**3-11-14-31. Procedures for closing polls — Removal and transport of memory packs.** — As soon as the paper printouts of the vote count are obtained, the inspector shall close the system and remove the computer memory pack from the system. The inspector and the judge of the opposite political party shall then transport the computer memory packs and each electronic voting system to the county election board. [P.L.3-1987, § 327; P.L.3-1993, § 175.]

**3-11-14-32. Certificates of number of votes.** — The certificates of the number of votes cast for each person shall be made and signed as required by IC 3-12, and the precinct election officers shall make and sign all statements of the number of votes required by law in duplicate, triplicate, or otherwise. The certificates and other papers shall be returned to the circuit court clerk in the same manner and with the same penalties that are prescribed in IC 3-12 for election returns from precincts in which electronic voting systems are not used. [P.L.3-1987, § 327.]

**3-11-14-33. Use of electronic voting systems in municipal elections.** — If a county has procured electronic voting systems for use, the systems may be used at a municipal election. If there are not sufficient systems on hand for each precinct of the municipality, the county election board shall determine in what precincts systems will be used at the election. [P.L.3-1987, § 327.]

**3-11-14-34. Implementation of electronic voting system.** — (a) If electronic voting systems are used in a municipal election, the county election board shall furnish to the municipality:

- (1) The requisite number of systems; and
- (2) All the furniture and appliances that go with the systems.

(b) However, the municipality shall pay the expenses of moving the systems and furniture to and from the polls and also for any damage or loss to the systems or furniture. [P.L.3-1987, § 327.]

## ARTICLE 11.5

### COUNTING ABSENTEE BALLOTS AT A CENTRAL LOCATION

[Expires December 1, 1995]

#### CHAPTER.

1. PILOT PROJECT FOR COUNTING ABSENTEE BALLOTS AT A CENTRAL LOCATION, 3-11.5-1-1 — 3-11.5-1-4.
2. DEFINITIONS, 3-11.5-2-1 — 3-11.5-2-4.
3. WATCHERS FOR POLITICAL PARTIES, CANDIDATES, AND THE MEDIA, 3-11.5-3-1 — 3-11.5-3-4.
4. PROCEDURES FOR PILOT COUNTIES, 3-11.5-4-1 — 3-11.5-4-28.
5. COUNTING OF ABSENTEE BALLOTS CAST ON PAPER BALLOTS, 3-11.5-5-1 — 3-11.5-5-29.
6. COUNTING OF ABSENTEE BALLOTS CAST ON BALLOT CARDS, 3-11.5-6-1 — 3-11.5-6-33.
7. ADDITIONAL PROVISIONS RELATING TO COUNTING ABSENTEE BALLOTS AT A CENTRAL LOCATION, 3-11.5-7-1 — 3-11.5-7-4.

#### CHAPTER 1

##### PILOT PROJECT FOR COUNTING ABSENTEE BALLOTS AT A CENTRAL LOCATION

[Expires December 1, 1995]

#### SECTION.

- 3-11.5-1-1. Applicability.  
 3-11.5-1-2. Pilot project established — Application to participate — Rules.  
 3-11.5-1-3. Resolution required.  
 3-11.5-1-4. Conflicting statutes.

**3-11.5-1-1. Applicability.** — This article applies to the counties designated as pilot counties under section 2 [IC 3-11.5-1-2] of this chapter for which a central location for counting absentee ballots has been established. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**Compiler's Notes.** Pursuant to IC 3-11.5-7-4, this article expires December 1, 1995.

#### **3-11.5-1-2. Pilot project established — Application to participate — Rules.**

— (a) The pilot project for counting ballots at a central location is established.

(b) A county may submit an application to participate in the pilot project established under this section by unanimous vote of the county election board.

(c) Of the counties that submit an application under subsection (b), the state election board may, by unanimous vote, select not more than five (5) counties to participate.

(d) The state election board may establish rules under [IC] 4-22-2 governing the procedure for submitting applications under this section. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-1-3. Resolution required.** — A county that is designated a pilot county under section 2 [IC 3-11.5-1-2] of this chapter must adopt a resolution under IC 3-11.5-5-1 or IC 3-11.5-6-1. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-1-4. Conflicting statutes.** — To the extent that they are in conflict with this article, the following statutes do not apply to a county that is designated a pilot county under section 2 [IC 3-11.5-1-2] of this chapter:

- (1) IC 3-11-4-22.
- (2) IC 3-11-10-1.5.
- (3) IC 3-11-10-3.
- (4) IC 3-11-10-5.
- (5) IC 3-11-10-6.
- (6) IC 3-11-10-7.
- (7) IC 3-11-10-8.
- (8) IC 3-11-10-9.
- (9) IC 3-11-10-11.
- (10) IC 3-11-10-12.
- (11) IC 3-11-10-13.
- (12) IC 3-11-10-14.
- (13) IC 3-11-10-15.
- (14) IC 3-11-10-16.
- (15) IC 3-11-10-17.
- (16) IC 3-11-10-18.
- (17) IC 3-11-10-20.
- (18) IC 3-11-10-21.
- (19) IC 3-11-10-22.
- (20) IC 3-11-10-23.
- (21) IC 3-11-10-31.
- (22) IC 3-11-10-32.
- (23) IC 3-11-10-33.
- (24) IC 3-11-10-34.
- (25) IC 3-11-10-35.
- (26) IC 3-11-10-36.
- (27) IC 3-11-10-37.
- (28) IC 3-12-2.
- (29) IC 3-12-3-12.

[P.L.3-1993, § 176; P.L.19-1993, § 2.]

#### CHAPTER 2

##### DEFINITIONS

[Expires December 1, 1995]

#### SECTION.

- 3-11.5-2-1. Absentee ballot counter.  
 3-11.5-2-2. Central location for counting absentee ballots.  
 3-11.5-2-3. Pilot county.  
 3-11.5-2-4. Pilot project.

**3-11.5-2-1. Absentee ballot counter.** — As used in this article, "absentee ballot counter" refers to a person designated under IC 3-11.5-4-22. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**Compiler's Notes.** Pursuant to IC 3-11.5-7-4, this article expires December 1, 1995.

**3-11.5-2-2. Central location for counting absentee ballots.** — As used in this article, "central location for counting absentee ballots" refers to a location for counting absentee ballots that a county election board in a pilot county must establish under IC 3-11.5-1-3. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-2-3. Pilot county.** — As used in this article, "pilot county" refers to a county designated by the state election board under IC 3-11.5-1-2(c) to participate in the pilot project. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-2-4. Pilot project.** — As used in this article, "pilot project" refers to the pilot project for counting ballots at a central location established under IC 3-11.5-1-2. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

### CHAPTER 3

#### WATCHERS FOR POLITICAL PARTIES, CANDIDATES, AND THE MEDIA

[Expires December 1, 1995]

##### SECTION.

- 3-11.5-3-1. Counting absentee ballots — Absentee ballot counter.
- 3-11.5-3-2. Appointment of watchers by political parties.
- 3-11.5-3-3. Appointment of watchers by candidate.
- 3-11.5-3-4. Appointment of watchers by media.

**3-11.5-3-1. Counting absentee ballots — Absentee ballot counter.** — The following apply for the purposes of IC 3-6-8, IC 3-6-9, and IC 3-6-10:

- (1) A central location for counting absentee ballots shall be treated the same as a precinct poll.
- (2) An absentee ballot counter shall be treated the same as a precinct election official. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**Compiler's Notes.** Pursuant to IC 3-11.5-7-4, this article expires December 1, 1995.

**3-11.5-3-2. Appointment of watchers by political parties.** — (a) Political parties described in IC 3-6-8-1 may appoint watchers at a central location for counting absentee ballots.

(b) A watcher appointed under this section:

- (1) Has the rights; and
- (2) Must follow the requirements; set forth in IC 3-6-8. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-3-3. Appointment of watchers by candidate.** — (a) A candidate entitled to appoint a watcher under IC 3-6-9 may appoint a watcher at a central location for counting absentee ballots.

(b) A watcher appointed under this section:

- (1) Has the rights; and
- (2) Must follow the requirements; set forth in IC 3-6-9. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-3-4. Appointment of watchers by media.** — (a) Media entitled to appoint a watcher under IC 3-6-10 may appoint a watcher at a central location for counting absentee ballots.

(b) A watcher appointed under this section:

- (1) Has the rights; and
- (2) Must follow the requirements; set forth in IC 3-6-10. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

### CHAPTER 4

#### PROCEDURES FOR PILOT COUNTIES

[Expires December 1, 1995]

##### SECTION.

- 3-11.5-4-1. Duties of circuit court clerk.
- 3-11.5-4-2. Absentee voter — New set of ballot.
- 3-11.5-4-3. Absentee ballot — Time of receipt.
- 3-11.5-4-4. Signature not genuine.
- 3-11.5-4-5. Signature found genuine.
- 3-11.5-4-6. Retention of accepted ballot envelopes.
- 3-11.5-4-7. Post office delivery on election day.
- 3-11.5-4-8. Certification of names of voters.
- 3-11.5-4-9. Delivery of certificates to precinct election board — Marking poll list — Delivery of certificates to county election board.
- 3-11.5-4-10. Late absentee ballots.
- 3-11.5-4-11. Comparison of signatures by absentee ballot counters.
- 3-11.5-4-12. Verification of affidavit — Division of ballots among precincts.
- 3-11.5-4-13. Grounds for rejection of ballot.
- 3-11.5-4-14. Marking of rejected ballots — Preservation.
- 3-11.5-4-15. Challenge to vote of absentee voter.
- 3-11.5-4-16. Challenge procedure.
- 3-11.5-4-17. Death of absentee voter.
- 3-11.5-4-18. Failure to return absentee ballot — Right to vote in person.
- 3-11.5-4-19. Ability to vote in person if poll list does not indicate that absentee ballot has been cast.
- 3-11.5-4-20. Inability to vote in person.
- 3-11.5-4-21. Ability to vote in person if absentee ballot rejected.
- 3-11.5-4-22. Appointment of absentee voter board — Absentee ballot counters — Couriers.
- 3-11.5-4-23. Recommendation for absentee voter boards, absentee ballot counters and couriers.



## SECTION.

- 3-11.5-4-24. Marking of poll list.
- 3-11.5-4-25. Marking of poll list.
- 3-11.5-4-26. Marking of poll list.
- 3-11.5-4-27. Marking of poll list.
- 3-11.5-4-28. Report of total vote cast.

**3-11.5-4-1. Duties of circuit court clerk.** — Each circuit court clerk shall do the following:

- (1) Keep a separate absentee ballot record for each precinct in the county.
- (2) Certify to each inspector or the inspector's representative, at the time that the ballots and supplies are delivered under IC 3-11-3, the names of the voters:

(A) To whom absentee ballots were delivered or mailed or who marked ballots in person; and

(B) Whose ballots have been received by the county election board under IC 3-11-10. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**Compiler's Notes.** Pursuant to IC 3-11.5-7-4, this article expires December 1, 1995.

**3-11.5-4-2. Absentee voter — New set of ballot.** — (a) This section applies to a voter voting by an absentee ballot that includes a candidate for election to office who:

- (1) Ceases to be a candidate; and
- (2) Is succeeded by a candidate selected under IC 3-13-1 or IC 3-13-2.

(b) The absentee voter may recast the ballot during the period specified by IC 3-11-10-26. To obtain another set of ballots, the absentee voter must present a written request for another set of ballots from the circuit court clerk.

(c) Upon receiving a written request under subsection (b), the circuit court clerk shall do the following:

- (1) Place the written request with the absentee voter's original ballots.
- (2) Mark "canceled" on the original set of ballots.
- (3) Preserve the original ballots with other defective ballots.
- (4) Deliver a new set of ballots to the absentee voter.

[P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-4-3. Absentee ballot — Time of receipt.** — A county election board must receive an absentee ballot before noon on election day. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-4-4. Signature not genuine.** — If a county election board finds that the signature on a ballot envelope is not

genuine, the board shall write upon the ballot envelope the words "The county election board has rejected this ballot because the signature of this voter is not genuine." [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-4-5. Signature found genuine.** — If a county election board unanimously finds that the signature on a ballot envelope is genuine, the board shall enclose immediately the accepted and unopened ballot envelope, together with the voter's application for the absentee ballot, in a large or carrier envelope. The envelope shall be securely sealed and endorsed with the name and official title of the circuit court clerk and the following words: "This envelope contains an absentee ballot and must be opened only on election day under IC 3-11.5." [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-4-6. Retention of accepted ballot envelopes.** — Each circuit court clerk shall keep all accepted ballot envelopes securely in the clerk's office until the ballot envelopes are opened by absentee ballot counters in accordance with this chapter. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-4-7. Post office delivery on election day.** — Not later than noon on election day each circuit court clerk, or an agent of the clerk, shall visit the appropriate post office to accept delivery of absentee envelopes. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-4-8. Certification of names of voters.** — (a) Each county election board shall certify the names of voters:

- (1) To whom absentee ballots were delivered or mailed or who marked ballots in person; and
- (2) Whose ballots have been received by the board under this chapter;

after the certification under section 1 [IC 3-11.5-4-1] of this chapter and not later than noon on election day.

(b) The county election board shall have the certificates described in subsection (a) delivered to the precinct election boards at their respective polls on election day by couriers appointed under section 22 [IC 3-11.5-4-22] of this chapter.

(c) The certificates shall be delivered not later than 3 p.m. on election day. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-4-9. Delivery of certificates to precinct election board — Marking poll list — Delivery of certificates to**

**county election board.** — (a) Upon delivery of the certificate under section 8 [IC 3-11.5-4-8] of this chapter to a precinct election board, the inspector shall mark the poll list in the presence of the poll clerks. The poll clerks shall sign the statement printed on the certificate indicating that the inspector marked the poll list under this section in the presence of both poll clerks to indicate that the absentee ballot of the voter has been received by the county election board.

(b) If a person listed in the certificate has voted in person at the polls before the delivery of the certificate, the inspector shall initial the voter's name on the certificate in the presence of both poll clerks. The poll clerks shall sign the statement printed on the certificate indicating that the inspector initialed the names of voters under this subsection in the presence of both poll clerks.

(c) The inspector shall then deposit:

- (1) The certificate prepared under section 1 [IC 3-11.5-4-1] of this chapter;
- (2) The certificate prepared under section 8 [IC 3-11.5-4-8] of this chapter; and
- (3) Any challenge affidavit executed by a qualified person under section 16 [IC 3-11.5-4-16] of this chapter;

in an envelope in the presence of both poll clerks.

(d) The inspector shall seal the envelope. The inspector and each poll clerk shall then sign a statement printed on the envelope indicating that the inspector or poll clerk has complied with the requirements of this chapter governing the marking of the poll list and certificates.

(e) The couriers shall immediately return the envelope described in subsection (c) to the county election board. Upon delivering the envelope to the county election board, each courier shall sign a statement printed on the envelope indicating that the courier has not opened or tampered with the envelope since the envelope was delivered to the courier. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-4-10. Late absentee ballots.** — Subject to section 7 [IC 3-11.5-4-7] of this chapter, absentee ballots received by mail after noon on election day are considered as arriving too late and may not be counted. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-4-11. Comparison of signatures by absentee ballot counters.** — At any time after the couriers return the certificate under section 9 [IC 3-11.5-4-9] of this chapter, absentee ballot counters

appointed under section 22 [IC 3-11.5-4-22] of this chapter, in the presence of the county election board, shall, except for a ballot rejected under section 13 [IC 3-11.5-4-13] of this chapter:

- (1) Open the outer or carrier envelope containing an absentee ballot envelope and application;
- (2) Announce the absentee voter's name; and
- (3) Compare the signature upon the application with the signature upon the affidavit on the ballot envelope. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-4-12. Verification of affidavit — Division of ballots among precincts.** — (a) If the absentee ballot counters find under section 11 [IC 3-11.5-4-11] of this chapter that:

- (1) The affidavit is properly executed;
- (2) The signatures correspond;
- (3) The absentee voter is a qualified voter of the precinct;
- (4) The absentee voter is registered;
- (5) The absentee voter has not voted in person at the election; and
- (6) In case of a primary election, if the absentee voter has not previously voted, the absentee voter has executed the proper declaration relative to age and qualifications and the political party with which the absentee voter intends to affiliate;

the absentee ballot counters shall open the envelope containing the absentee ballots so as not to deface or destroy the affidavit and take out each ballot enclosed without unfolding or permitting a ballot to be unfolded or examined.

(b) The absentee ballot counters shall then deposit the ballots in a secure envelope with the name of the precinct set forth on the outside of the envelope. After the absentee ballot counters or the county election board has made the findings described in subsection (a) or section 13 [IC 3-11.5-4-13] of this chapter for all absentee ballots of the precinct, the absentee ballot counters shall remove all the ballots deposited in the envelope under this section for counting under IC 3-11.5-5 or IC 3-11.5-6. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-4-13. Grounds for rejection of ballot.** — (a) If the absentee ballot counters find under section 11 [IC 3-11.5-4-11] of this chapter that:

- (1) The affidavit is insufficient;
- (2) The signatures do not correspond or there is no signature;
- (3) The absentee voter is not a qualified voter in the precinct;

- (4) The absentee voter has voted in person at the election;
- (5) The absentee voter has not registered;
- (6) The ballot is open, or has been opened and resealed;
- (7) The ballot envelope contains more than one (1) ballot of any kind;
- (8) In case of a primary election, if the absentee voter has not previously voted, the voter failed to execute the proper declaration relative to age and qualifications and the political party with which the voter intends to affiliate; or
- (9) The ballot has been challenged and not supported;

the ballots shall be rejected.

(b) If the absentee ballot counters are unable to agree on a finding described under this section or section 12 [IC 3-11.5-4-12] of this chapter, the county election board shall make the finding.

(c) The absentee ballot counters or county election board shall issue a certificate to a voter whose ballot has been rejected under this section if the voter appears in person before the board not later than 5 p.m. on election day. The certificate must state that the voter's absentee ballot has been rejected and that the voter may vote in person under section 21 [IC 3-11.5-4-21] of this chapter if otherwise qualified to vote. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-4-14. Marking of rejected ballots — Preservation.** — (a) Each ballot rejected for any of the reasons prescribed by section 13 [IC 3-11.5-4-13] of this chapter shall, without being unfolded to disclose how the ballot is marked, be endorsed with the words: "Rejected (giving the reason or reasons for the rejection)."

(b) All rejected absentee ballots shall be enclosed and securely sealed in an envelope on which the absentee ballot counters shall write the words: "Rejected absentee ballots". The absentee ballot counters shall also identify the precinct and the date of the election on the envelope containing the rejected ballots.

(c) The rejected absentee ballots shall be returned to the same officer and in the same manner as prescribed by this title for the return and preservation of official ballots cast and uncast at the election. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-4-15. Challenge to vote of absentee voter.** — (a) The vote of an absentee voter may be challenged at the polls for the reason that the absentee voter is not a

legal voter of the precinct where the ballot is being cast.

(b) Before the inspector prepares to mark the poll list to indicate that an absentee ballot cast by the voter has been received by the county election board according to a certificate delivered to the polls under section 1 [IC 3-11.5-4-1] or section 8 [IC 3-11.5-4-8] of this chapter, the inspector shall notify the challengers and the pollbook holders that the inspector is about to mark the poll list under this section. The inspector shall provide the challengers and pollbook holders with the name and address of each voter listed in the certificate so that the voter may be challenged under this article.

(c) The precinct election board may hear and determine a challenge under this section as though the ballot was cast by the voter in person. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-4-16. Challenge procedure.** —

(a) If an absentee ballot is challenged under section 15 [IC 3-11.5-4-15] of this chapter, the absentee voter's application for an absentee ballot shall be considered as the affidavit required to be made by a voter when challenged at the polls while voting in person. In all other respects, the challenge procedure is the same as though the ballot was cast by the voter in person.

(b) If a proper affidavit by a qualified person in the form required by IC 3-11-8-22 is made that would entitle the absentee voter to vote if the absentee voter had personally appeared, the couriers shall return the affidavit to the county election board in the same envelope as the certificate returned under section 9 [IC 3-11.5-4-9] of this chapter.

(c) The absentee ballot cast by the challenged voter shall be counted if the county election board makes the findings required under section 11 [IC 3-11.5-4-11] of this chapter. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-4-17. Death of absentee voter.** —

(a) If proof is given to the absentee ballot counters that an absentee voter marked and forwarded an absentee ballot but died before election day, the ballot of the deceased voter shall be rejected under section 13 [IC 3-11.5-4-13] of this chapter and retained with the other rejected ballots under section 14 [IC 3-11.5-4-14] of this chapter.

(b) The casting of an absentee ballot by a deceased voter does not invalidate an election. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-4-18. Failure to return absentee ballot — Right to vote in person. —**

If a voter has not returned an absentee ballot, the voter may vote in person. However, before the voter may vote, the voter must return the ballot to the county election board. The absentee ballot shall be marked "canceled" and preserved with the rejected ballots. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-4-19. Ability to vote in person if poll list does not indicate that absentee ballot has been cast. —**

If a voter has marked and returned an absentee ballot but appears in person at the precinct before the inspector has marked the poll list to indicate that an absentee ballot cast by the voter has been received by the county election board according to a certificate issued under section 9 [IC 3-11.5-4-9] of this chapter or section 1 [IC 3-11.5-4-1] of this chapter, then the voter may request a new ballot, which the voter may vote as any other voter voting in person. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-4-20. Inability to vote in person. —**

If the inspector has marked the poll list to indicate that the absentee ballot cast by the voter has been received by the county election board, the voter may not vote in person except as provided in section 21 [IC 3-11.5-4-21] of this chapter. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-4-21. Ability to vote in person if absentee ballot rejected. —**

If an envelope containing an absentee ballot has been marked "Rejected" and the voter appears in person at the precinct before the polls close, the voter may vote as any other voter voting in person if the voter presents the precinct election board with the certificate issued under section 13(c) [IC 3-11.5-4-13(c)] of this chapter. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-4-22. Appointment of absentee voter board — Absentee ballot counters — Couriers. —**

(a) Each county election board shall appoint:

- (1) Absentee voter boards;
- (2) Teams of absentee ballot counters; and
- (3) Teams of couriers;

consisting of two (2) voters of the county, one (1) from each of the two (2) political parties that have appointed members on the county election board.

(b) A person is not eligible to serve on an absentee voter board or as an absentee ballot counter or a courier if the person:

(1) Is unable to read, write, and speak the English language;

(2) Has any property bet or wagered on the result of the election;

(3) Is a candidate to be voted for at the election, except as an unopposed candidate for precinct committeeman or state convention delegate; or

(4) Is the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, niece, or first cousin of a candidate or declared write-in candidate to be voted for at the election except as an unopposed candidate. This subdivision disqualifies a person whose relationship to the candidate is the result of birth, marriage, or adoption. This subdivision does not disqualify a person who is a spouse of a first cousin of the candidate. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-4-23. Recommendation for absentee voter boards, absentee ballot counters and couriers. —**

(a) Each county election board shall notify the county chairmen of the two (2) political parties that have appointed members on the county election board of the number of:

- (1) Absentee voter boards;
- (2) Teams of absentee ballot counters; and
- (3) Teams of couriers;

to be appointed under section 22 [IC 3-11.5-4-22] of this chapter.

(b) The county chairmen shall make written recommendations for the appointments within ten (10) days, and the county election board shall make the appointments as recommended.

(c) If a county chairman fails to make any recommendations, then the county election board may appoint any voters of the county. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-4-24. Marking of poll list. —**

In addition to the preparations described in IC 3-11-11-2, the inspector shall mark the poll list in the presence of the poll clerks to indicate the voters of the precinct whose absentee ballots have been received by the county election board according to the certificate supplied under section 1 [IC 3-11.5-4-1] of this chapter. The poll clerks shall sign the statement printed on the certificate indicating that the inspector marked the poll list under this section in the presence of both poll clerks. The inspector shall retain custody of the certificate until the certificate is returned under

section 9 [IC 3-11.5-4-9] of this chapter. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-4-25. Marking of poll list.** — In addition to the preparations described in IC 3-11-12-24, the inspector shall mark the poll list in the presence of the poll clerks to indicate the voters of the precinct whose absentee ballots have been received by the county election board according to the certificate supplied under section 1 [IC 3-11.5-4-1] of this chapter. The poll clerks shall sign the statement printed on the certificate indicating that the inspector marked the poll list under this section in the presence of both poll clerks. The inspector shall retain custody of the certificate until the certificate is returned under section 9 [IC 3-11.5-4-9] of this chapter. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-4-26. Marking of poll list.** — In addition to the preparations described in IC 3-11-13-27, the inspector shall mark the poll list in the presence of the poll clerks to indicate the voters of the precinct whose absentee ballots have been received by the county election board according to the certificate supplied under section 1 [IC 3-11.5-4-1] of this chapter. The poll clerks shall sign the statement printed on the certificate indicating that the inspector marked the poll list under this section in the presence of both poll clerks. The inspector shall retain custody of the certificate until the certificate is returned under section 9 [IC 3-11.5-4-9] of this chapter. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-4-27. Marking of poll list.** — In addition to the preparations described in IC 3-11-14-16, the inspector shall mark the poll list in the presence of the poll clerks to indicate the voters of the precinct whose absentee ballots have been received by the county election board according to the certificate supplied under section 1 [IC 3-11.5-4-1] of this chapter. The poll clerks shall sign the statement printed on the certificate indicating that the inspector marked the poll list under this section in the presence of both poll clerks. The inspector shall retain custody of the certificate until the certificate is returned under section 9 [IC 3-11.5-4-9] of this chapter. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-4-28. Report of total vote cast.** — When all votes have been counted, the precinct election board shall prepare a certificate stating the number of votes that each candidate received for each office and the number of votes cast on each public question. The number of votes that each

candidate and public question received shall be written in words and numbers. The board shall also prepare a memorandum of the total vote cast for each candidate and ensure that each member of the board receives a copy of the memorandum. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

## CHAPTER 5

### COUNTING OF ABSENTEE BALLOTS CAST ON PAPER BALLOTS

[Expires December 1, 1995]

#### SECTION.

- 3-11.5-5-1. Applicability.
- 3-11.5-5-2. Applicability to absentee ballots.
- 3-11.5-5-3. Count of absentee ballot votes.
- 3-11.5-5-4. Count of absentee ballots printed by state election board before county election board.
- 3-11.5-5-5. Count without interruption.
- 3-11.5-5-6. Method of count.
- 3-11.5-5-7. Procedure for counting.
- 3-11.5-5-8. Protest during counting.
- 3-11.5-5-9. Protested ballots.
- 3-11.5-5-10. Disagreement on protest ballot.
- 3-11.5-5-11. Signature of protested ballot.
- 3-11.5-5-12. Count of one precinct at a time.
- 3-11.5-5-13. Count of different precincts by different counter sets.
- 3-11.5-5-14. Write-in absentee ballots.
- 3-11.5-5-15. Preparation of certificate on total votes cast.
- 3-11.5-5-16. Preparation of memorandum of total votes cast.
- 3-11.5-5-17. Delivery of certificates and tally papers to county election board.
- 3-11.5-5-18. Preservation of ballots.
- 3-11.5-5-19. Absentee ballot counter oath.
- 3-11.5-5-20. Filing of oath.
- 3-11.5-5-21. Maintenance of preserved ballots.
- 3-11.5-5-22. Locking receptacle containing ballots.
- 3-11.5-5-23. Preservation of receptacle.
- 3-11.5-5-24. Receptacle to be opened only by order of court.
- 3-11.5-5-25. Destruction of ballots.
- 3-11.5-5-26. Contract for disposal of ballots.
- 3-11.5-5-27. Certificate for absentee ballots.
- 3-11.5-5-28. Delivery of certificate.
- 3-11.5-5-29. Disclosure of information prohibited.

**3-11.5-5-1. Applicability.** — (a) This chapter applies in a county only if:

- (1) The state election board has designated the county as a pilot county; and
- (2) The county election board adopts a resolution making this chapter applicable in the county.

(b) A copy of a resolution adopted under this section shall be sent to the state election board. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**Compiler's Notes.** Pursuant to IC 3-11.5-7-4, this article expires December 1, 1995.

**3-11.5-5-2. Applicability to absentee ballots.** — This chapter applies to the counting of absentee ballots cast on paper ballots. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-5-3. Count of absentee ballot votes.** — Immediately after:

(1) The couriers have returned the certificate from a precinct under IC 3-11.5-4-9; and

(2) The absentee ballot counters or the county election board have made the findings required under IC 3-11-10 and IC 3-11.5-4 for the absentee ballots cast by voters of the precinct and deposited the accepted absentee ballots in the envelope required under IC 3-11.5-4-12;

the absentee ballot counters shall, in a central counting location designated by the county election board, count the absentee ballot votes for each candidate for each office and on each public question in the precinct. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-5-4. Count of absentee ballots printed by state election board before county election board.** — The absentee ballot counters shall begin by counting the votes on absentee ballots printed by the state election board and shall complete the count of these ballots before counting the votes on absentee ballots printed by the county election board. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-5-5. Count without interruption.** — To minimize delay, the absentee ballot counters shall continue the count without interruption until all absentee ballots for the precinct are canvassed and the certificates required by this chapter are prepared and delivered to the person entitled to receive the certificates. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-5-6. Method of count.** — The ballots shall be counted by laying each ballot upon a table in the order in which the ballot was opened under IC 3-11.5-4-12. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-5-7. Procedure for counting.** — During the counting of the votes, one (1) of the absentee ballot counters shall read the name of the candidates voted for from the ballots. A:

(1) Member of the county election board who is not a member of the same political party as the absentee ballot counter; or

(2) Representative designated by the member;  
reading the names shall view the ballots as the names are read. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-5-8. Protest during counting.** — During the counting of the votes:

(1) An absentee ballot counter performing the counting;

(2) A member of the county election board; or

(3) A representative designated by the members;

may protest the counting of any ballot or any part of a ballot. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-5-9. Protested ballots.** — If a ballot or any part of a ballot is protested, an absentee ballot counter immediately shall write on the back of the protested ballot the word "counted" or "not counted," as appropriate. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-5-10. Disagreement on protest ballot.** — If the absentee ballot counters cannot agree whether to count a ballot following a protest under section 8 [IC 3-11.5-5-8] of this chapter, the question shall be referred to the county election board for a decision. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-5-11. Signature of protested ballot.** — Following a decision by the absentee ballot counters or the county election board, the absentee ballot counters shall officially sign each protested ballot. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-5-12. Count of one precinct at a time.** — An absentee ballot counter may not count absentee ballots for a precinct under this chapter while counting absentee ballots for any other precinct. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-5-13. Count of different precincts by different counter sets.** — (a) This section applies if at least two (2) sets of absentee ballot counters in a county are counting absentee ballots under this chapter.

(b) A set of absentee ballot counters may count absentee ballots from a precinct while another set of absentee ballot counters is counting absentee ballots from another precinct in the county if each set of counters counts the ballots in compliance with section 7 [IC 3-11.5-5-7] of this

chapter. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-5-14. Write-in absentee ballots.** — (a) This section applies to the counting of write-in absentee ballots for:

(1) A federal office received under 42 U.S.C. 1973ff; and

(2) A federal office, state office, or public question under IC 3-11-4-12(d).

(b) If a voter writes an abbreviation, a misspelling, or other minor variation instead of the correct name of a candidate or political party, that vote shall be counted if the intent of the voter can be determined.

(c) If a voter casts a ballot under this section for President or Vice President and writes in the name of a candidate or political party that has not certified a list of electors under IC 3-10-4-5, the vote for President or Vice President is void. The remaining votes on the ballot may be counted.

(d) IC 3-12-1-7 applies to a ballot subject to this section.

(e) A ballot subject to this section may not be counted if:

(1) The ballot was submitted from within the United States;

(2) The voter's application for a regular absentee ballot was received by the circuit court clerk or board of registration less than thirty (30) days before the election;

(3) The voter's completed regular state absentee ballot was received by the circuit court clerk or board of registration by the deadline for receiving absentee ballots under IC 3-11.5-4-7; or

(4) The ballot subject to this section was not received by the circuit court clerk or board of registration by the deadline for receiving absentee ballots under IC 3-11.5-4-7. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-5-15. Preparation of certificate on total votes cast.** — When all the votes have been counted, the absentee ballot counters shall prepare a certificate stating the number of votes that each candidate received for each office and the number of votes cast on each public question. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-5-16. Preparation of memorandum of total votes cast.** — The number of votes that each candidate and public question received shall be written in words and numbers. The absentee ballot counters shall prepare a memorandum of the total votes cast for each candidate and

on each public question and ensure that each member of the county election board receives a copy of the memorandum. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-5-17. Delivery of certificates and tally papers to county election board.** — The absentee ballot counters shall deliver the certificates prepared under section 15 [IC 3-11.5-5-15] of this chapter and the tally papers to the county election board immediately upon the tabulation of the vote in each precinct. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-5-18. Preservation of ballots.** — As soon as the ballots have been counted, the absentee ballot counters shall in the presence of the county election board do the following:

(1) Place in a strong paper envelope or bag the following:

(A) All ballots, voted and not voted, together with all protested and uncounted ballots.

(B) One (1) copy of each of the certificates prepared under IC 3-11.5-4-1 and IC 3-11.5-4-8.

(C) The tally papers.

(2) Securely seal the envelope or bag.

(3) Have both absentee ballot counters initial the envelope or bag.

(4) Plainly mark on the outside of the envelope or bag, in ink, the precinct for which the absentee ballots were cast.

(5) Deliver the envelope or bag to the circuit court clerk.

(6) Notify the circuit court clerk of the number of ballots placed in the envelope or bag. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-5-19. Absentee ballot counter oath.** — Upon delivery of the envelope or bag to the circuit court clerk, each absentee ballot counter shall take and subscribe an oath before the clerk stating that the counter:

(1) Securely kept the ballots and papers in the envelope or bag;

(2) Did not permit any person to open the envelope or bag or to otherwise touch or tamper with the ballots; and

(3) Had no knowledge of any other person opening the envelope or bag. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-5-20. Filing of oath.** — The circuit court clerk shall file the oath taken under section 19 [IC 3-11.5-5-19] of this chapter with the clerk's other election documents. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-5-21. Maintenance of preserved ballots.** — The circuit court clerk shall place the envelope or bag in a receptacle provided by the county executive with two (2) different locks. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-5-22. Locking receptacle containing ballots.** — The circuit court clerk shall do the following:

- (1) Lock the receptacle provided under section 21 [IC 3-11.5-5-21] of this chapter.
- (2) Retain one (1) key to one (1) lock of the receptacle.
- (3) Give one (1) key to the other lock of the receptacle to the member of the county election board who is not a member of the same political party as the clerk. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-5-23. Preservation of receptacle.** — The circuit court clerk shall preserve the receptacle containing the envelope or bag in the clerk's office for the period required under IC 3-10-1-31. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-5-24. Receptacle to be opened only by order of court.** — If the election is contested, the clerk shall preserve the receptacle containing the envelope or bag as long as the contest is undetermined. During those periods the clerk shall keep the receptacle securely locked, subject only to an order of the court trying a contest. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-5-25. Destruction of ballots.** — When permitted under IC 3-10-1-31, the clerk and a county election board member of the opposite political party shall remove the envelope or bag from the receptacle and destroy the envelope or bag. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-5-26. Contract for disposal of ballots.** — A county election board may contract with a state educational institution (as defined in IC 20-12-0.5-1) to dispose of the ballots. The contract must provide that:

- (1) The ballots will be used by the state educational institution to conduct election research; and
- (2) The state educational institution may not receive any ballots under this subsection until the period for retention under IC 3-10-1-31 has expired. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-5-27. Certificate for absentee ballots.** — Immediately upon completion of the vote count, the absentee ballot counters shall make and sign a certificate for the news media showing the total number of absentee ballot votes received by each candidate and on each public question in the precinct. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-5-28. Delivery of certificate.** — The absentee ballot counters shall deliver the certificate to the circuit court clerk as soon as the certificate is completed. The circuit court clerk shall deliver the certificate made for the news media to any person designated to receive the certificate by the editors of the newspapers published in the county or by the managers of the radio and television stations operating in the county immediately upon the completion of the certificate, but not before the closing of the polls. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-5-29. Disclosure of information prohibited.** — (a) This section applies to a person who observes or performs any of the following under this chapter:

- (1) The counting of absentee ballots.
- (2) The proceedings of absentee ballot counters or the county election board regarding a protested ballot.
- (3) The preparation of a certificate by absentee ballot counters.
- (4) The delivery of a certificate to the circuit court clerk or county election board.

(b) Except as prescribed by this chapter, a person shall not provide any other person with information concerning the number of votes:

- (1) A candidate received for an office; or
- (2) Cast to approve or reject a public question;

on absentee ballots counted under this chapter before the closing of the polls. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

## CHAPTER 6

### COUNTING OF ABSENTEE BALLOTS CAST ON BALLOT CARDS

[Expires December 1, 1995]

#### SECTION.

- 3-11.5-6-1. Applicability.
- 3-11.5-6-2. Applicability to absentee ballots.
- 3-11.5-6-3. Counting of ballots.
- 3-11.5-6-4. Count without interruption.
- 3-11.5-6-5. Verification of proper grouping of ballots.
- 3-11.5-6-6. Protest.



## SECTION.

- 3-11.5-6-7. Disagreement over protest.
- 3-11.5-6-8. Protest procedure.
- 3-11.5-6-9. Damaged or defective ballot.
- 3-11.5-6-10. Duplicate copy of damaged ballot.
- 3-11.5-6-11. Duplicate copy of defective ballot.
- 3-11.5-6-12. Label on duplicate cards.
- 3-11.5-6-13. Count of duplicates.
- 3-11.5-6-14. Test of automatic tabulating machines.
- 3-11.5-6-15. Manual count.
- 3-11.5-6-16. Manual count — Standards.
- 3-11.5-6-17. Counting of write-in ballots.
- 3-11.5-6-18. Certificate of total votes cast.
- 3-11.5-6-19. Memorandum on total votes cast.
- 3-11.5-6-20. Delivery to county election board.
- 3-11.5-6-21. Preservation of ballots.
- 3-11.5-6-22. Absentee ballot counter oath.
- 3-11.5-6-23. Filing of oath.
- 3-11.5-6-24. Preservation in receptacle.
- 3-11.5-6-25. Locking of receptacle.
- 3-11.5-6-26. Period of preservation.
- 3-11.5-6-27. Receptacle opened only by order of court.
- 3-11.5-6-28. Destruction of ballots.
- 3-11.5-6-29. Contract for destruction.
- 3-11.5-6-30. Certificate for news media.
- 3-11.5-6-31. Delivery of certificate.
- 3-11.5-6-32. Disclosure of information prohibited.
- 3-11.5-6-33. Recount.

**3-11.5-6-1. Applicability.** — (a) This chapter applies in a county only if:

- (1) The state election board has designated the county a pilot county; and
- (2) The county election board adopts a resolution making this chapter applicable in the county.

(b) A copy of a resolution adopted under this section shall be sent to the state election board. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**Compiler's Notes.** Pursuant to IC 3-11.5-7-4, this article expires December 1, 1995.

**3-11.5-6-2. Applicability to absentee ballots.** — This chapter applies to the counting of absentee ballots cast on ballot cards. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-6-3. Counting of ballots.** — Immediately after:

- (1) The couriers have returned the certificate from a precinct under IC 3-11.5-4-9; and
- (2) The absentee ballot counters or the county election board has made the findings required under IC 3-11-10 and IC 3-11.5-4 for the absentee ballots cast by voters of the precinct and deposited the accepted absentee ballots in the envelope required under IC 3-11.5-4-12;

the absentee ballot counters shall, in a central counting location designated by the county election board, count the absentee ballot votes for each candidate for each

office and on each public question in the precinct with the assistance of any persons required for the operation of the automatic tabulating machine. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-6-4. Count without interruption.** — To minimize delay, the absentee ballot counters shall continue to count without interruption until all absentee ballots for the precinct are canvassed and the certificates required by this chapter are prepared and delivered to the person entitled to receive the certificates. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-6-5. Verification of proper grouping of ballots.** — The absentee ballot counters shall determine if the ballot cards are properly grouped and arranged so that all similar cards from a precinct are together before the ballots are counted on an automatic tabulating machine. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-6-6. Protest.** — During the tabulation of votes at a central counting location, an absentee ballot counter performing the count, a member of the county election board, or a representative designated by the member of the board may protest the counting of a ballot or part of a ballot cast by a voter of a precinct. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-6-7. Disagreement over protest.** — If the absentee ballot counters cannot agree whether to count a ballot following a protest under section 6 [IC 3-11.5-6-6] of this chapter, the question shall be referred to the county election board for a decision. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-6-8. Protest procedure.** — Following a decision by the absentee ballot counters or the county election board:

- (1) The absentee ballot counters immediately shall write on the back of the protested ballot card the word "counted" or "not counted," as appropriate; and
- (2) The person protesting the ballot under section 6 [IC 3-11.5-6-6] of this chapter shall officially sign the protested ballot card. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-6-9. Damaged or defective ballot.** — If an absentee ballot is damaged or defective so that the ballot cannot properly be counted by an automatic tabu-

lating machine, a remake team composed of one (1) person from each of the major political parties of the county shall have the card prepared for processing so as to record accurately the intent of the voter insofar as the intent can be ascertained. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-6-10. Duplicate copy of damaged ballot.** — If necessary, a true duplicate copy shall be made of the damaged ballot card in the presence of witnesses and substituted for the damaged card. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-6-11. Duplicate copy of defective ballot.** — A duplicate ballot card shall be made of a defective card, not including the uncounted votes. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-6-12. Label on duplicate cards.** — All duplicate cards must:  
 (1) Be clearly labeled "duplicate"; and  
 (2) Bear a serial number that shall be recorded on the damaged or defective card. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-6-13. Count of duplicates.** — Each duplicate ballot card shall be counted instead of the damaged or defective card. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-6-14. Test of automatic tabulating machines.** — If a test of automatic tabulating machines required by IC 3-11-13-22 or IC 3-11-13-26 is not conducted for a particular office or public question, the absentee ballot votes for that office shall be counted manually. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-6-15. Manual count.** — If for any reason the county election board determines that it is impracticable to count all or some of the absentee ballots under this chapter with an automatic tabulating machine, the board may direct that the ballot cards be counted manually. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-6-16. Manual count — Standards.** — If ballot cards are counted manually, the tabulation of votes must comply with the standards prescribed by IC 3-11-7. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-6-17. Counting of write-in ballots.** — IC 3-11.5-5-14 applies to the counting of write-in absentee ballots for a federal office cast on a ballot card received

under 42 U.S.C. 1973ff. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-6-18. Certificate of total votes cast.** — When all the votes have been counted, the absentee ballot counters shall prepare a certificate stating the number of votes that each candidate received for each office and the number of votes cast on each public question. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-6-19. Memorandum on total votes cast.** — The number of votes that each candidate and each public question received shall be written in words and numbers. The absentee ballot counters shall prepare a memorandum of the total votes cast for each candidate and on each public question and ensure that each member of the county election board receives a copy of the memorandum. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-6-20. Delivery to county election board.** — The absentee ballot counters shall deliver the certificates prepared under section 18 [IC 3-11.5-6-18] of this chapter and the return printed by the automatic tabulating machine to the county election board immediately upon the tabulation of the vote in each precinct. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-6-21. Preservation of ballots.** — As soon as the ballots have been counted, the absentee ballot counters shall in the presence of the county election board do the following:

- (1) Place in a strong paper envelope or bag the following:
  - (A) All ballots, voted and not voted, together with all protested and uncounted ballots.
  - (B) One (1) copy of each of the certificates prepared under IC 3-11.5-4-1 and IC 3-11.5-4-8.
  - (C) The tally papers.
- (2) Securely seal the envelope or bag.
- (3) Have both absentee ballot counters initial the envelope or bag.
- (4) Plainly mark on the outside of the envelope or bag, in ink, the precinct for which the absentee ballots were cast.
- (5) Deliver the envelope or bag to the circuit court clerk.
- (6) Notify the circuit court clerk of the number of ballots placed in the envelope or bag. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-6-22. Absentee ballot counter oath.** — Upon delivery of the envelope or

bag to the circuit court clerk, each absentee ballot counter shall take and subscribe an oath before the clerk stating that the counter:

- (1) Securely kept the ballots and papers in the envelope or bag;
- (2) Did not permit any person to open the envelope or bag or to otherwise touch or tamper with the ballots; and
- (3) Had no knowledge of any other person opening the envelope or bag. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-6-23. Filing of oath.** — The circuit court clerk shall file the oath taken under section 22 [IC 3-11.5-6-22] of this chapter with the clerk's other election documents. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-6-24. Preservation in receptacle.** — The circuit court clerk shall place the envelope or bag in a receptacle provided by the county executive with two (2) different locks. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-6-25. Locking of receptacle.** — The circuit court clerk shall do the following:

- (1) Lock the receptacle provided under section 24 [IC 3-11.5-6-24] of this chapter.
- (2) Retain one (1) key to one (1) lock of the receptacle.
- (3) Give one (1) key to the other lock of the receptacle to the member of the county election board who is not a member of the same political party as the clerk. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-6-26. Period of preservation.** — The circuit court clerk shall preserve the receptacle containing the envelope or bag in the clerk's office for the period required under IC 3-10-1-31. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-6-27. Receptacle opened only by order of court.** — If the election is contested, the clerk shall preserve the receptacle containing the envelope or bag as long as the contest is undetermined. During those periods the clerk shall keep the receptacle securely locked, subject only to an order of the court trying a contest. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-6-28. Destruction of ballots.** — When permitted under IC 3-10-1-31, the clerk and a county election board member of the opposite political party shall remove

the envelope or bag from the receptacle and destroy the envelope or bag. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-6-29. Contract for destruction.** — A county election board may contract with a state educational institution (as defined in IC 20-12-0.5-1) to dispose of the ballots. The contract must provide that:

- (1) The ballots will be used by the state educational institution to conduct election research; and
- (2) The state educational institution may not receive any ballots under this subsection until the period for retention under IC 3-10-1-31 has expired. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-6-30. Certificate for news media.** — Immediately upon completion of the vote count, the absentee ballot counters shall make and sign a certificate for the news media showing the total number of absentee ballot votes received by each candidate and on each public question in the precinct. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-6-31. Delivery of certificate.** — The absentee ballot counters shall deliver the certificate to the circuit court clerk as soon as the certificate is completed. The circuit court clerk shall deliver the certificate made for the news media to any person designated to receive the certificate by the editors of the newspapers published in the county or by the managers of the radio and television stations operating in the county immediately upon the completion of the certificate, but not before the closing of the polls. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-6-32. Disclosure of information prohibited.** — (a) This section applies to a person who observes or performs any of the following under this chapter:

- (1) The counting of absentee ballots.
- (2) The proceedings of absentee ballot counters or the county election board regarding a protested ballot.
- (3) The preparation of a certificate by absentee ballot counters.
- (4) The delivery of a certificate to the circuit court clerk or county election board.

(b) Except as prescribed by this chapter, a person shall not provide any other person with information concerning the number of votes:

- (1) A candidate received for an office; or

(2) Cast to approve or reject a public question;  
on absentee ballots counted under this chapter before the closing of the polls. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-6-33. Recount.** — In case of a recount, all ballot cards shall be recounted in the manner prescribed by this chapter unless:

- (1) The court ordering the recount or the state recount commission directs that the ballots be counted manually; or
- (2) A request for a manual recount is made under IC 3-12-6 or IC 3-12-11. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

## CHAPTER 7

### ADDITIONAL PROVISIONS RELATING TO COUNTING ABSENTEE BALLOTS AT A CENTRAL LOCATION

[Expires December 1, 1995]

#### SECTION.

- 3-11.5-7-1. Applicable law.  
3-11.5-7-2. Compensation.  
3-11.5-7-3. Place where ballot cast.  
3-11.5-7-4. Expiration of article on December 1, 1995.

**3-11.5-7-1. Applicable law.** — (a) Absentee ballot counters shall conduct the activities conducted by precinct election officials under IC 3-12-4.

(b) The returns of absentee ballot counters shall be treated the same as the returns of a precinct election board under IC 3-12-4. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**Compiler's Notes.** Pursuant to IC 3-11.5-7-4, this article expires December 1, 1995.

**3-11.5-7-2. Compensation.** — The voters appointed as couriers or absentee ballot counters under this chapter shall be compensated in the following manner:

(1) Couriers assigned to deliver absentee ballots certifications to the precincts on election day under IC 3-11.5-4-8, are entitled to a per diem not to exceed fifty dollars (\$50) and a sum for mileage equal in rate to that rate paid to state officers and employees.

(2) The absentee ballot counters who are assigned to perform duties regarding absentee ballots on election day are entitled to a per diem not to exceed fifty dollars (\$50). [P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-7-3. Place where ballot cast.** — An absentee ballot is considered to be cast in the precinct in which the voter who cast the ballot resides for the purpose of the following chapters:

- (1) IC 3-12-6.
- (2) IC 3-12-11.
- (3) IC 3-12-12.

[P.L.3-1993, § 176; P.L.19-1993, § 2.]

**3-11.5-7-4. Expiration of article on December 1, 1995.** — This article expires December 1, 1995. [P.L.3-1993, § 176; P.L.19-1993, § 2.]

## ARTICLE 12

### ASCERTAINING RESULTS OF ELECTIONS

#### CHAPTER.

1. RULES FOR COUNTING BALLOTS, 3-12-1-1 — 3-12-1-15.
2. COUNTING OF VOTES BY PRECINCT ELECTION BOARDS, 3-12-2-1 — 3-12-2-16.
- 2.5. COUNTING OF VOTING MACHINE VOTES, 3-12-2.5-1 — 3-12-2.5-8.
3. COUNTING OF BALLOT CARD VOTING SYSTEM VOTES, 3-12-3-1 — 3-12-3-13.
- 3.5. COUNTING OF ELECTRONIC VOTING SYSTEM VOTES, 3-12-3.5-1 — 3-12-3.5-6.
4. CANVASSING OF RETURNS BY COUNTY ELECTION BOARD, 3-12-4-1 — 3-12-4-23.
5. CERTIFICATES OF ELECTION, 3-12-5-1 — 3-12-5-17.
6. RECOUNT PROCEDURES FOR NOMINATION OR ELECTION TO LOCAL OR SCHOOL BOARD OFFICE, 3-12-6-1 — 3-12-6-33.
7. [REPEALED.]
8. CONTEST OF NOMINATION FOR OR ELECTION TO LOCAL OR SCHOOL BOARD OFFICE, 3-12-8-1 — 3-12-8-22.
9. RESOLVING TIE VOTES, 3-12-9-1 — 3-12-9-7.
10. STATE RECOUNT COMMISSION, 3-12-10-1 — 3-12-10-18.
11. RECOUNT PROCEDURES FOR FEDERAL, STATE, AND LEGISLATIVE OFFICES, 3-12-11-1 — 3-12-11-25.
12. RECOUNT PROCEDURES FOR PUBLIC QUESTIONS, 3-12-12-1 — 3-12-12-26.

## CHAPTER 1

### RULES FOR COUNTING BALLOTS

#### SECTION.

- 3-12-1-1. Voter's intent paramount.  
3-12-1-1.5. "Election officer" defined.  
3-12-1-1.7. General provisions governing write-in votes.  
3-12-1-2. Ballots without election officials' initials void.  
3-12-1-3. Ballots with distinguishing marks or mutilations void.  
3-12-1-4. Acts extrinsic to ballot to establish identity of voter — Erasures.  
3-12-1-5. Voting marks in voting square of candidate.

## SECTION.

- 3-12-1-6. Voting marks in voting square on public question.
- 3-12-1-7. Determining which votes for individual candidates are to be counted — With or without voting straight party ticket.
- 3-12-1-7.5. Counting write-in votes against votes for straight party ticket and individual candidates.
- 3-12-1-8. Voting mark in party device circle.
- 3-12-1-9. Voting mark touching circle or box — Void marks.
- 3-12-1-9.5. Counting votes cast on ballot cards.
- 3-12-1-10. Ballots containing voter's name or initials, number or symbol void.
- 3-12-1-11. Voting space to left of candidate part of voting square.
- 3-12-1-12. Counting of vote otherwise invalid upon evidence of mistake or inadvertence by election officer.
- 3-12-1-13. Absentee ballots.
- 3-12-1-14. Vote for withdrawn candidate not vote for successor.
- 3-12-1-15. Vote for party ticket considered vote for successor nominee.

**3-12-1-1. Voter's intent paramount.**

— Subject to sections 5, 6, 8, 9, 9.5, and 13 [IC 3-12-1-5, 3-12-1-6, 3-12-1-8, 3-12-1-9, 3-12-1-9.5, and 3-12-1-13] of this chapter, the primary factor to be considered in determining a voter's choice on a ballot is the intent of the voter. If the voter's intent can be determined on the ballot or on part of the ballot, the vote shall be counted for the affected candidate or candidates or on the public question. However, if it is impossible to determine a voter's choice of candidates on a part of a ballot or vote on a public question, then the voter's vote concerning those candidates or public questions may not be counted. [P.L.5-1986, § 8; P.L.3-1987, § 328.]

**3-12-1-1.5. "Election officer" defined.** — As used in this chapter, "election officer" means a person employed or appointed by the state, a political subdivision, or a political party to perform a duty under this title. [P.L.3-1987, § 329.]

**3-12-1-1.7. General provisions governing write-in votes.** — (a) The following provisions govern the counting of write-in votes:

(1) Except as provided in subsection (b), only votes cast for declared write-in candidates shall be counted and certified.

(2) The name of a candidate, written on the space reserved for write-in voting, is not considered a distinguishing mark that would invalidate a ballot under section 3 [IC 3-12-1-3] of this chapter. However, the name or office of a candidate written in a place

on the ballot other than the place reserved for write-in voting may not be counted for that office.

(3) A write-in vote for an office is void if the voter attempts to cast the vote by a means other than printing the name of the candidate in ink or lead pencil. The use of stickers, labels, rubber stamps, or other similar device is not permitted.

(4) An abbreviation, a misspelling, or other minor variation in the form of the name of a candidate or an office shall be disregarded in determining the validity of the ballot if the intention of the voter can be ascertained.

(5) Write-in votes for each write-in candidate shall be counted separately using the tally sheets provided by the county election board.

(b) A write-in vote cast for an individual whose name appears on the ballot as a candidate for that office shall be counted as a vote for the candidate. [P.L.4-1991, § 110; P.L.3-1993, § 177.]

**3-12-1-2. Ballots without election officials' initials void.** — (a) This section does not apply to absentee ballots.

(b) The whole ballot may not be counted, subject to section 12 [IC 3-12-1-12] of this chapter, if the ballot is not endorsed with the initials of the poll clerks. [P.L.5-1986, § 8; P.L.3-1987, § 330.]

**3-12-1-3. Ballots with distinguishing marks or mutilations void.** — The whole ballot is void if the ballot bears any distinguishing mark (other than a voting mark) or a mutilation made by the voter or an election officer with the intent to enable a person to determine who cast the marked or mutilated ballot. [P.L.5-1986, § 8; P.L.3-1987, § 331.]

**3-12-1-4. Acts extrinsic to ballot to establish identity of voter — Erasures.**

(a) The whole ballot is void if a voter does any act extrinsic to the ballot, such as enclosing any paper or other article in the folded ballot, with the intent to enable a person to determine that the voter cast the ballot.

(b) An erasure by a voter does not make the whole ballot void unless made with the intent to enable a person to determine who cast the ballot, but it does not register a vote for the elected office, political party office, or public question for which it is made. [P.L.5-1986, § 8; P.L.6-1986, § 34; P.L.3-1987, § 332.]

**3-12-1-5. Voting marks in voting square of candidate.** — A voting mark made by a voter on or in a voting square at the left of a candidate's name shall be counted as a vote for the candidate. [P.L.5-1986, § 8; P.L.6-1986, § 35.]

**3-12-1-6. Voting marks in voting square on public question.** — A voting mark made by a voter on or in a voting square following the word "Yes" or the word "No" before a public question shall be counted as indicated. [P.L.5-1986, § 8; P.L.6-1986, § 36.]

**3-12-1-7. Determining which votes for individual candidates are to be counted — With or without voting straight party ticket.** — (a) If a voter votes a straight party ticket and also votes for one (1) or more individual candidates who are all of the same political party as the straight ticket vote, the straight ticket vote shall be counted and the individual candidate votes may not be counted.

(b) The vote for an office on a ballot shall be counted in accordance with this subsection whenever:

- (1) A voter has voted a straight party ticket for the candidates of one (1) political party;
- (2) Only one (1) person may be elected to that office; and
- (3) The voter has voted for one (1) or more individual candidates for the office described in subdivision (2) who are in a political party other than the party for which the voter voted a straight ticket.

If the voter has voted for one (1) individual candidate for the office described in subdivision (2), the individual candidate vote for that office shall be counted, the straight party ticket vote for that office may not be counted, and the straight party ticket votes for other offices on the ballot shall be counted. If the voter has voted for more than one (1) individual candidate for the office described in subdivision (2), the individual candidate votes for that office may not be counted, the straight party ticket vote for that office may not be counted, and the straight party ticket votes for other offices on the ballot shall be counted.

(c) If there is an office to which more than one (1) person can be elected, and a voter votes a straight party ticket and then votes both for individual candidates in the same political party as the straight ticket vote and in a different party for that office, or votes for only individuals in a different party for that office, the individual candidate votes shall be counted and

the straight ticket votes for that office may not be counted. However, if the number of individual candidate votes for that office exceeds the number of openings for that office, none of the votes concerning that office may be counted.

(d) If a voter votes a straight party ticket for more than one (1) political party, the whole ballot is void.

(e) If a voter does not vote a straight party ticket and the number of votes cast by that voter for the candidates for an office are less than or equal to the number of openings for that office, the individual candidates votes shall be counted.

(f) If a voter does not vote a straight party ticket and the number of votes cast by that voter for an office exceeds the number of openings for that office, none of the votes concerning that office may be counted. [P.L.5-1986, § 8; P.L.6-1986, § 37; P.L.3-1993, § 178.]

**3-12-1-7.5. Counting write-in votes against votes for straight party ticket and individual candidates.** — (a) If a voter votes a straight party ticket for at least one (1) office for which only one (1) person may be elected and writes in the name of a candidate, the straight party ticket vote shall be counted for all offices except the offices for which a write-in vote was cast. The write-in vote shall be counted if the voter's intent can be determined.

(b) If a voter votes a straight party ticket for an office for which at least two (2) people may be elected and writes in the name of a candidate, the straight party vote for that office may not be counted unless:

- (1) Fewer candidates appear on the party's ticket than may be elected; and
- (2) The voter has not written in a number of names that, when added to the straight party candidate's name, would be greater than the number of seats available for that office.

(c) If a voter votes for one (1) individual candidate for an office for which only one (1) person may be elected and also writes in the name of another candidate for the same office, neither vote may be counted.

(d) If a voter votes for at least one (1) individual candidate for an office for which at least two (2) people may be elected and also writes in the name of at least one (1) candidate, the vote for that office may not be counted unless the number of individual votes cast for the office, when added to the number of write-in votes cast for that office, is less than or equal to the number of seats available for that office.

(e) If a voter votes an individual or a straight party vote for a candidate for an office and also writes in the name of the same candidate for the same office, only one (1) vote for that candidate may be counted. [P.L.4-1991, § 111.]

**3-12-1-8. Voting mark in party device circle.** — A voting mark made by a voter on or in a circle containing a political party device shall be counted as a vote for each candidate of that political party on that ballot. [P.L.5-1986, § 8; P.L.6-1986, § 38; P.L.3-1987, § 333.]

**3-12-1-9. Voting mark touching circle or box — Void marks.** — (a) A voting mark that touches a circle or a square shall be counted as if it were on or in the circle or square.

(b) A voting mark that:

- (1) Does not touch a circle or square; and
- (2) Is not on or in the circle or square; may not be counted. [P.L.5-1986, § 8; P.L.6-1986, § 39; P.L.3-1987, § 334.]

**3-12-1-9.5. Counting votes cast on ballot cards.** — (a) This section applies to counting votes cast on ballot cards.

(b) As used in this section, "chad" means the part of a ballot card that indicates a vote on the card when entirely punched out by the voter.

(c) A chad that has been pierced, but not entirely punched out of the card, shall be counted as a vote for the indicated candidate or for the indicated response to a public question.

(d) A chad that has been indented, but not in any way separated from the remainder of the card, may not be counted as a vote for a candidate or on a public question.

(e) Whenever:

- (1) A ballot card contains a numbered box indicating which chad should be punched out by the voter to cast a vote for a candidate or on a public question;
- (2) The indicated chad has not been punched out; and
- (3) A hole has been made in the card that touches any part of the numbered box;

the hole shall be counted as a vote for the candidate or on the public question as if the indicated chad had been punched out. However, if a hole has been made in the ballot that does not touch a numbered box or punch out a chad, the hole may not be counted as a vote for a candidate or on a public question.

(f) Whenever:

- (1) A chad has been punched out of a ballot card;
- (2) A numbered box indicates that another chad may be punched out to cast a vote for:

(A) A different candidate for the same office as the candidate for whom a vote was cast under subdivision (1); or

(B) A different response to the same public question on which a vote was cast under subdivision (1); and

- (3) A hole has been punched in the card that touches the numbered box described in subdivision (2);

neither the chad described in subdivision (1) nor the hole described in subdivision (3) may be counted as a vote for a candidate or on a public question.

(g) This subsection applies to a ballot card that:

- (1) Has been cast in a precinct whose votes are begin recounted by a local recount commission or the state recount commission;
- (2) Is damaged or defective so that it cannot properly be counted by automated tabulating machines; and
- (3) Cannot be counted for the office subject to the recount due to the damage or defect.

The ballot card shall be remade only if the conditions in subdivisions (1) through (3) exist. [P.L.3-1987, § 335.]

**3-12-1-10. Ballots containing voter's name or initials, number or symbol void.** — A ballot on which a voter writes:

- (1) The voter's name;
- (2) The voter's initials;
- (3) A number; or
- (4) A symbol (such as a star, circle, parallel lines, dots, or any combination of such symbols), if written with the intent to enable a person to determine who cast the ballot;

is void. [P.L.5-1986, § 8; P.L.3-1987, § 336.]

**3-12-1-11. Voting space to left of candidate part of voting square.** — In applying this chapter to a primary election, the voting square includes the voting space at the left of the name of a candidate on the primary ballot. [P.L.5-1986, § 8.]

**3-12-1-12. Counting of vote otherwise invalid upon evidence of mistake or inadvertence by election officer.** —

(a) This section applies to votes cast by any method.

(b) Except as provided in section 13 [IC 3-12-1-13] of this chapter, a ballot that has been marked and cast by a voter in compli-

ance with this title but may otherwise not be counted solely as the result of the act or failure to act of an election officer may nevertheless be counted in a proceeding under IC 3-12-6, IC 3-12-8, or IC 3-12-11 unless evidence of fraud, tampering, or misconduct affecting the integrity of the ballot is presented by a party to the proceeding.

(c) The act or failure to act by an election officer is not by itself evidence of fraud, tampering, or misconduct affecting the integrity of the ballot. [P.L.7-1986, § 3; P.L.3-1987, § 337; P.L.8-1992, § 29.]

**3-12-1-13. Absentee ballots.** — (a) This section applies only to absentee ballots.

(b) The whole ballot may not be counted unless the ballot is endorsed with the initials of:

(1) The two (2) members of the absentee voter board in the office of the circuit court clerk under IC 3-11-4-19 or IC 3-11-10-26; or

(2) The two (2) appointed members of the county election board (or their designated representatives) under IC 3-11-4-19. [P.L.3-1987, § 338.]

**3-12-1-14. Vote for withdrawn candidate not vote for successor.** — (a) This section does not apply to a vote:

(1) Cast for president or vice president of the United States under IC 3-10-4-6; or

(2) Described by section 15 [IC 3-12-1-15] of this chapter.

(b) A vote cast for a candidate who ceases to be a candidate may not be counted as a vote for a successor candidate selected under IC 3-13-1 or IC 3-13-2. [P.L.5-1989, § 63.]

**3-12-1-15. Vote for party ticket considered vote for successor nominee.** — (a) This section applies to a vote cast for one (1) straight party ticket that includes a candidate for election to office who:

(1) Ceases to be a candidate; and

(2) Is succeeded by a candidate selected under IC 3-13-1 or IC 3-13-2.

(b) A vote cast in the election for the original nominee is considered a vote cast for the successor. [P.L.5-1989, § 64.]

## CHAPTER 2

### COUNTING OF VOTES BY PRECINCT ELECTION BOARDS

#### SECTION.

3-12-2-1. Order of ballot counting.

3-12-2-2. Inspector and judge to view ballots.

3-12-2-3. Ballot protests.

#### SECTION.

3-12-2-4. Disposition of contested ballots.

3-12-2-5. Multiple precincts in one voting room — Beginning of vote counts.

3-12-2-6. Certification and memorandum of count.

3-12-2-7. Delivery of certificates and tally papers to county election board.

3-12-2-7.5. Write-in absentee ballots for federal office.

3-12-2-8. Sealing of ballots following count.

3-12-2-9. Delivery of sealed ballots to circuit court clerk.

3-12-2-10. Inspector's oath as to sealing of ballots.

3-12-2-11. Storage of sealed ballots.

3-12-2-12. Stored and sealed ballots — Retention period — Contested election — Destruction.

3-12-2-13, 3-12-2-14. [Repealed.]

3-12-2-15. Certification of vote to media.

3-12-2-16. Canvassing office hours.

### 3-12-2-1. Order of ballot counting.

— (a) This chapter applies to each precinct where voting is by paper ballot.

(b) After the polls have closed, each precinct election board shall count the paper ballot votes for each candidate for each office and on each public question. The board shall begin by counting the state paper ballots and shall complete the count of the state paper ballots before counting the local paper ballots. The ballots shall be counted by laying each ballot upon a table in the order in which it is taken from the ballot box. [P.L.5-1986, § 8; P.L.3-1987, § 339; P.L.10-1988, § 123.]

**3-12-2-2. Inspector and judge to view ballots.** — During the counting of the votes, the inspector and the judge of the opposite political party from the inspector shall view the ballots as the names of the candidates voted for are read from the ballots. [P.L.5-1986, § 8.]

**3-12-2-3. Ballot protests.** — During the counting of the votes, any member of the precinct election board may protest the counting of any ballot or any part of a ballot. [P.L.5-1986, § 8.]

**3-12-2-4. Disposition of contested ballots.** — If a ballot or any part of a ballot is protested, the poll clerks immediately shall write on the back of each protested ballot the word "counted" or the words "not counted," as appropriate. The clerks then shall officially sign each protested ballot. [P.L.5-1986, § 8.]

**3-12-2-5. Multiple precincts in one voting room — Beginning of vote counts.** — If the polls for more than one (1) precinct are located in the same room, the inspector of a precinct using the room



may not begin the vote count procedure until all the polls in the room are officially closed and no more persons are waiting in line to vote. [P.L.5-1986, § 8; P.L.3-1987, § 340.]

**3-12-2-6. Certification and memorandum of count.** — (a) When all votes have been counted, the precinct election board shall prepare a certificate stating the number of votes that each candidate received for each office and the number of votes cast on each public question. The number of votes that each candidate and public question received shall be written in words and numbers. The board shall also prepare a memorandum of the total vote cast for each candidate and ensure that each member of the board receives a copy of the memorandum.

(b) If:

- (1) An absentee ballot has been cast in the precinct; and
- (2) The precinct used voting machines;

the certificates and memoranda prepared under this section must comply with IC 3-11-10-16(c). [P.L.6-1986, § 8; P.L.3-1987, § 341.]

**3-12-2-7. Delivery of certificates and tally papers to county election board.** — The inspector and the judge of the opposite political party shall deliver the certificates prepared under section 6 [IC 3-12-2-6] of this chapter, the list of voters, and the tally papers to the county election board immediately upon the tabulation of the vote. [P.L.5-1986, § 8; P.L.3-1987, § 342; P.L.3-1993, § 179.]

**3-12-2-7.5. Write-in absentee ballots for federal office.** — (a) This section applies to the counting of write-in absentee ballots for:

- (1) A federal office received under 42 U.S.C. 1973ff; and
- (2) A federal office, state office, or public question under IC 3-11-4-12(d).

(b) If a voter writes an abbreviation, misspelling, or other minor variation instead of the correct name of a candidate or political party, that vote shall be counted if the intent of the voter can be determined.

(c) If a voter casts a ballot under this section for President or Vice President of the United States and writes in the name of a candidate or political party that has not:

- (1) Certified a list of electors under IC 3-10-4-5; or

(2) Included a list of electors on the declaration for candidacy filed by a write-in candidate under IC 3-8-2-2.5; the vote for President or Vice President is void. The remaining votes on the ballot may be counted.

(d) IC 3-12-1-7 applies to a ballot subject to this section.

(e) A ballot subject to this section may not be counted if:

- (1) The ballot was submitted from within the United States;
- (2) The voter's application for a regular absentee ballot was received by the circuit court clerk or board of registration less than thirty (30) days before the election;
- (3) The voter's completed regular state absentee ballot was received by the circuit court clerk or board of registration by the deadline for receiving absentee ballots under IC 3-11-10-11; or
- (4) The ballot subject to this section was not received by the circuit court clerk or board of registration by the deadline for receiving absentee ballots under IC 3-11-10-11. [P.L.3-1987, § 343; P.L.10-1992, § 23; P.L.3-1993, § 180.]

**3-12-2-8. Sealing of ballots following count.** — As soon as the ballots have been counted, the inspector shall, in the presence of the judges and poll clerks:

- (1) Place in a strong and stout paper envelope or bag:
  - (A) All ballots, voted and not voted, together with all protested, disputed, and uncounted ballots;
  - (B) The seals of the ballot packages; and
  - (C) One (1) copy of each of the certificates, list of voters, and tally papers;
- (2) Securely seal the envelope or bag;
- (3) Have both clerks initial the envelope or bag; and
- (4) Plainly mark on the outside of the envelope or bag, in ink, the precinct where the ballots were cast. [P.L.5-1986, § 8.]

**3-12-2-9. Delivery of sealed ballots to circuit court clerk.** — The inspector and the judge of the opposite political party shall deliver the envelope or bag prepared under section 8 [IC 3-12-2-8] of this chapter to the circuit court clerk immediately upon tabulation of the votes. The inspector shall notify the clerk of the number of ballots placed in the envelope or bag and the condition of the seals of the

ballot packages. [P.L.5-1986, § 8; P.L.3-1987, § 344.]

**3-12-2-10. Inspector's oath as to sealing of ballots.** — Upon delivery of the envelope or bag to the circuit court clerk under section 9 [IC 3-12-2-9] of this chapter, the inspector shall take and subscribe an oath before the clerk stating that the inspector:

- (1) Closed and sealed the envelope or bag in the presence of the judges and poll clerks;
- (2) Securely kept the ballots and papers in the envelope or bag;
- (3) Did not permit any person to open the envelope or bag or to otherwise touch or tamper with the ballots; and
- (4) Has no knowledge of any other person opening the envelope or bag.

The oath shall be filed in the circuit court clerk's office with other election papers. [P.L.5-1986, § 8.]

**3-12-2-11. Storage of sealed ballots.** — Upon receipt of the envelope or bag under section 9 [IC 3-12-2-9] of this chapter, the envelope or bag shall be placed in a receptacle having two (2) different locks provided by the county executive. The receptacle shall be locked, and one (1) key shall be given to the circuit court clerk and the other key shall be given to the county election board member of the other political party. [P.L.5-1986, § 8; P.L.3-1993, § 181.]

**3-12-2-12. Stored and sealed ballots — Retention period — Contested election — Destruction.** — (a) The circuit court clerk shall preserve the receptacle containing the envelope or bag in the clerk's office for the period required under IC 3-10-1-31. However, if the election is contested, then the clerk shall preserve the receptacle containing the envelope or bag as long as the contest is undetermined. During those periods the clerk shall keep the receptacle securely locked, subject only to an order of the court trying a contest.

(b) When permitted under IC 3-10-1-31, the clerk and county election board member of the opposite political party shall remove the envelope or bag from the receptacle and destroy the envelope or bag.

(c) A county election board may contract with a state educational institution (as defined in IC 20-12-0.5-1) to dispose of ballots. The contract must provide that:

- (1) The ballots will be used by the state educational institution to conduct election research; and
- (2) The state educational institution may not receive any ballots under this

subsection until the period for retention under IC 3-10-1-31 has expired. [P.L.5-1986, § 8; P.L.7-1986, § 4; P.L.3-1987, § 345; P.L.3-1993, § 182.]

**3-12-2-13, 3-12-2-14. [Repealed.]**

**3-12-2-15. Certification of vote to media.** — Immediately upon completion of the vote count, each precinct election board shall make and sign a certificate for the news media showing the total number of votes received by each candidate and on each public question in the precinct. The inspector and judge of the opposite political party shall deliver the certificate to the circuit court clerk at the same time that the certificates, lists of voters, and tally papers are delivered under section 7 [IC 3-12-2-7] of this chapter. The circuit court clerk immediately shall deliver the certificate made for the news media to any person designated to receive the certificate by the editors of the newspapers published in the county or by the managers of the radio and television stations operating in the county. The county election board shall furnish each precinct election board with the forms on which the certificates are to be prepared. [P.L.5-1986, § 8; P.L.3-1987, § 346.]

**3-12-2-16. Canvassing office hours.** — To minimize the delay in the counting of the vote, canvassing must begin immediately upon the closing of the polls and continue without interruption until all votes are canvassed and all certificates of the vote required by section 6 [IC 3-12-2-6] of this chapter are completed and delivered to the persons entitled to receive the certificates. [P.L.5-1986, § 8; P.L.3-1987, § 347; P.L.3-1989, § 11.]

## CHAPTER 2.5

### COUNTING OF VOTING MACHINE VOTES

#### SECTION.

3-12-2.5-1. Applicability.

3-12-2.5-1.5. Commencement of count — More than one precinct in same room.

3-12-2.5-2. Announcement of vote totals.

3-12-2.5-3. Recording of vote totals.

3-12-2.5-4. Certificates.

3-12-2.5-5. Delivery of certificates — Failure of system or handling paper ballots.

3-12-2.5-6. Sealing voting machine.

3-12-2.5-7. Certificate for news media — Distribution.

3-12-2.5-8. Canvassing to begin immediately and continue until completed.

**3-12-2.5-1. Applicability.** — This chapter applies to each precinct where

voting is by voting machine. [P.L.3-1987, § 348.]

**3-12-2.5-1.5. Commencement of count — More than one precinct in same room.** — If the polls for more than one (1) precinct are located in the same room, the inspector of a precinct using the room may not begin the vote counting procedure until all the polls in the room are officially closed and no more persons are waiting in line to vote. [P.L.10-1988, § 124.]

**3-12-2.5-2. Announcement of vote totals.** — After each voting machine has been locked and each counting compartment opened, the inspector shall announce in a distinct tone of voice the result of the vote as shown by the counter numbers for:

(1) Each candidate in the order as their offices are arranged on each machine; and

(2) Each public question.

[P.L.3-1987, § 348.]

**3-12-2.5-3. Recording of vote totals.** — Each of the poll clerks shall take down the result of the vote announced by the inspector under section 2 [IC 3-12-2.5-2] of this chapter and record it on books or papers prepared for that purpose. [P.L.3-1987, § 348.]

**3-12-2.5-4. Certificates.** — When all votes have been counted, the precinct election board shall prepare certificates on forms supplied for this purpose stating the number of votes that each candidate received for each office and on each public question. The number of votes that each candidate and public question received shall be written in words and numbers. The board shall also prepare a memorandum of the total vote cast for each candidate and ensure that each member of the board receives a copy of the memorandum. [P.L.3-1987, § 348.]

**3-12-2.5-5. Delivery of certificates — Failure of system or handling paper ballots.** — The inspector and judge of the opposite political party shall deliver the certificates prepared under section 4 [IC 3-12-2.5-4] of this chapter, the list of voters, and the tally papers to the county election board by midnight on election day. However, if:

- (1) A voting machine failed;
- (2) The failure of the machine was reported as required by this title;
- (3) Paper ballots were used in place of the machine or system; and

(4) The use of the paper ballots caused a substantial delay in the vote counting process;

then the certificates, the list of voters, and the tally papers shall be delivered as soon as possible. [P.L.3-1987, § 348; P.L.3-1993, § 183.]

**3-12-2.5-6. Sealing voting machine.** — After the voting machine vote totals have been taken and certified by a precinct election board under section 4 [IC 3-12-2.5-4] of this chapter, the inspector shall seal each voting machine in the presence of the board. A voting machine may not be moved from the polls after sealing until it is collected. [P.L.3-1987, § 348.]

**3-12-2.5-7. Certificate for news media — Distribution.** — Immediately upon completion of the vote count, each precinct election board shall make and sign a certificate for the news media showing the total number of votes received by each candidate and upon each public question in the precinct. The inspector and judge of the opposite political party shall deliver the certificate to the circuit court clerk at the same time that the certificates, the list of voters, and the tally papers are delivered under section 5 [IC 3-12-2.5-5] of this chapter. The circuit court clerk immediately shall deliver the certificate made for the news media to any person designated to receive the certificate by the editors of the newspapers published in the county or by the managers of the radio and television stations operating in the county. The county election board shall furnish each precinct election board with the forms on which the certificates are to be prepared. [P.L.3-1987, § 348.]

**3-12-2.5-8. Canvassing to begin immediately and continue until completed.** — To minimize the delay in the counting of the vote, canvassing must begin immediately upon the closing of the polls and continue without interruption until all the votes are canvassed and all certificates of the vote required by section 7 [IC 3-12-2.5-7] of this chapter are completed and delivered to the persons entitled to receive the certificates. [P.L.3-1987, § 348.]

## CHAPTER 3

### COUNTING OF BALLOT CARD VOTING SYSTEM VOTES

#### SECTION.

3-12-3-1. Count of ballot cards cast — Reconciliation of count with number of voters —

## SECTION.

- Restriction on removal of ballot cards from secrecy envelopes.
- 3-12-3-1.2. Commencement of count — More than one precinct in same room.
- 3-12-3-1.5. Protest of ballot count — Notation by clerk or county election board member.
- 3-12-3-2. Sealing of ballot cards — Delivery to central counting location.
- 3-12-3-3. Central counting location — Supervising officials — Public attendance.
- 3-12-3-4. Opening of ballot card container — Arrangement of ballot cards.
- 3-12-3-5. Damaged or defective ballot cards.
- 3-12-3-6. Duplicate ballot cards — Labeling — Serial numbers.
- 3-12-3-7. Counting of duplicate ballot cards.
- 3-12-3-8. Manual counting — When required and allowed.
- 3-12-3-9. Manual counting — Tabulation.
- 3-12-3-10. Sealing of machine and containers — Delivery of vote totals — Arrangement, storage and disposition of ballot cards following count.
- 3-12-3-11. Official precinct return — Contents — Public inspection — Media information.
- 3-12-3-12. Absentee ballots.
- 3-12-3-12.5. Count to begin immediately and continue until completed.
- 3-12-3-13. Recounts.

**3-12-3-1. Count of ballot cards cast — Reconciliation of count with number of voters — Restriction on removal of ballot cards from secrecy envelopes.** — (a) Subject to IC 3-12-2-5, after the marking devices have been secured against further voting under IC 3-11-13-36, the inspector shall open the ballot box and count the number of ballot cards or envelopes containing ballot cards that have been cast to determine whether the number of cards cast exceeds the number of voters shown on the poll lists. If the number of ballot cards cast exceeds the total number of voters, this fact shall be reported in writing to the appropriate election officer together with the reasons for the discrepancy, if known. The total number of voters shall be entered on the tally sheets.

(b) A ballot card may not be removed from a secrecy envelope containing a write-in vote under this section. [P.L.5-1986, § 8; P.L.4-1991, § 112.]

**3-12-3-1.2. Commencement of count — More than one precinct in same room.** — This section applies to a precinct where votes have been cast on a ballot card system that is designed to allow the counting and tabulation of votes by the precinct election board. If the polls for more than one (1) precinct are located in the same

room, the inspector of a precinct using the room may not begin the vote counting procedure until all the polls in the room are officially closed and no more persons are waiting in line to vote. [P.L.10-1988, § 125; P.L.1-1993, § 8.]

**3-12-3-1.5. Protest of ballot count — Notation by clerk or county election board member.** — (a) During the tabulation of the votes, any member of the precinct election board in a precinct where votes have been cast on a ballot card system that is designed to allow the counting and tabulation of votes by the precinct election board may protest the counting of any ballot or any part of a ballot cast in that precinct.

(b) During the tabulation of votes at a central counting location under section 3 [IC 3-12-3-3] of this chapter:

- (1) A member of the precinct election board in a precinct where votes were cast on a ballot card system; or
- (2) A member of the county election board, if a member of the precinct election board is not present during the tabulation of the votes of the precinct;

may protest the counting of any ballot or part of a ballot cast in that precinct.

(c) If a ballot or any part of a ballot is protested, the poll clerks in the precinct where votes have been cast or the member of the county election board, if the poll clerks are not present during the tabulation of votes at a central counting location, immediately shall write on the back of the protested ballot card the word "counted" or "not counted" as appropriate. The clerks or county election board member then shall officially sign each protested ballot card. [P.L.10-1988, § 126; P.L.5-1989, § 65; P.L.1-1993, § 9; P.L.3-1993, § 184.]

**3-12-3-2. Sealing of ballot cards — Delivery to central counting location.** — (a) After the ballot cards have been counted under section 1 [IC 3-12-3-1] of this chapter, the precinct election board shall comply with this section.

(b) This subsection applies if the votes have been cast on a ballot card voting system that is not designed to allow the counting and tabulation of votes by the precinct election board. The inspector shall place all cards that have been cast in the container provided for that purpose and the container shall be sealed by the inspector in the presence of the precinct election board. The inspector and the judge of the opposite political party shall immediately deliver the container, together with the unused, uncounted, and defective cards

and returns, to the central counting location or other designated place.

(c) This subsection applies if the votes have been cast on a ballot card voting system that is designed to allow the counting and tabulation of votes by the precinct election board. The precinct election board shall:

- (1) Process the ballot cards with the automatic tabulating machine provided to the precinct, if the vote is not automatically registered by the ballot card voting system;
- (2) Take the vote as tabulated under subdivision (1) or as automatically registered by the ballot card voting system; and
- (3) Certify the totals and the ballot count as required under section 1 of this chapter on forms supplied to the precinct for that purpose.

Copies of the totals shall be delivered to each member of the precinct election board. One (1) copy of the vote totals shall be prepared and signed for the news media on the form furnished by the county election board. [P.L.5-1986, § 8; P.L.6-1986, § 40; P.L.3-1987, § 349; P.L.1-1993, § 10.]

**3-12-3-3. Central counting location — Supervising officials — Public attendance.** — All proceedings at a central counting location shall be directed by the appropriate election officers under the observation of at least two (2) precinct judges or other appropriate election officers who are not of the same political party. The proceedings must be open to the public, but no persons except those employed and authorized for that purpose may touch a ballot card, ballot container, or return. [P.L.5-1986, § 8.]

**3-12-3-4. Opening of ballot card container — Arrangement of ballot cards.** — At a central counting location each container of ballot cards shall be opened and its contents removed. The ballot cards shall be:

- (1) Checked to determine if the cards are properly grouped; and
- (2) Arranged so that all similar cards from a precinct are together. [P.L.5-1986, § 8.]

**3-12-3-5. Damaged or defective ballot cards.** — If a ballot card is damaged or defective so that it cannot properly be counted by the automatic tabulating machines, then a remake team composed of one (1) person from each of the major political parties of the county shall have the card prepared for processing so as to record accurately the intention of the voter

insofar as it can be ascertained. If the ballot card voting system is designed to allow the counting and tabulation of votes by the precinct election board, the members of the remake team be members of the precinct election board in which the ballot was cast. If necessary, a true, duplicate copy shall be made of the damaged ballot card in the presence of witnesses and substituted for the damaged card. Similarly, a duplicate ballot card shall be made of a defective card, not including the uncounted votes. [P.L.5-1986, § 8; P.L.6-1986, § 41; P.L.3-1987, § 350; P.L.1-1993, § 11.]

**3-12-3-6. Duplicate ballot cards — Labeling — Serial numbers.** — All duplicate ballot cards must:

- (1) Be clearly labeled "duplicate"; and
- (2) Bear a serial number, which shall be recorded on the damaged or defective card. [P.L.5-1986, § 8.]

**3-12-3-7. Counting of duplicate ballot cards.** — Each duplicate ballot card shall be counted instead of the damaged or defective card. [P.L.5-1986, § 8.]

**3-12-3-8. Manual counting — When required and allowed.** — If either test of automatic tabulating machines required by IC 3-11-13-22 and IC 3-11-13-26 is not conducted for a particular office or public question, the votes for that office or question shall be counted manually. If for any reason it becomes impracticable to count all or some of the ballot cards with automatic tabulating machines:

- (1) The precinct election board in which the machine is located, if the ballot card voting system is designed to allow the counting and tabulation of votes by the precinct election board; or
- (2) The county election board, if the ballot card voting system is not designed to allow the counting and tabulation of votes by the precinct election board;

may direct that they be counted manually. [P.L.5-1986, § 8; P.L.6-1986, § 42; P.L.3-1987, § 351; P.L.1-1993, § 12.]

**3-12-3-9. Manual counting — Tabulation.** — If ballot cards are counted manually, the tabulation of votes must comply with the standards prescribed by IC 3-11-7. [P.L.5-1986, § 8.]

**3-12-3-10. Sealing of machines and containers — Delivery of vote totals — Arrangement, storage and disposition of ballot cards following count.** — (a) After the voting totals have been taken

and certified by a precinct election board under section 2(c) [IC 3-12-3-2(c)] of this chapter, the inspector shall:

- (1) Seal each automatic tabulating machine used in the precinct;
- (2) Place all ballot cards that have been counted in the container provided for that purpose; and
- (3) Seal the container into which the ballot cards have been placed;

in the presence of the precinct election board. The automatic tabulating machine may not be moved from the polls after the polls are closed until collected.

(b) The inspector and judge of the opposite political party shall deliver:

- (1) The certification of the vote totals and one (1) copy of the certificate prepared under section 2(c) of this chapter for the circuit court clerk;
- (2) The certificate of the vote totals prepared under section 2(c) of this chapter for the news media;
- (3) The container in which ballot cards have been placed under subsection (a); and
- (4) The unused, uncounted, and defective ballot cards and returns;

to the circuit court clerk.

(c) The inspector and judge of the opposite political party shall deliver the certificates and the list of voters to the county election board by midnight on election day. However, if:

- (1) A ballot card voting system failed;
- (2) The failure of the system was reported as required by this title;
- (3) Paper ballots were used in place of the system; and
- (4) The use of the paper ballots caused a substantial delay in the vote counting process;

then the certificates, the list of voters, and the tally papers shall be delivered as soon as possible.

(d) Upon delivery of the container to the circuit court clerk under subsection (c), the inspector shall take and subscribe an oath before the clerk stating that the inspector:

- (1) Closed and sealed the container in the presence of the judges and poll clerks;
- (2) Securely kept the ballot cards in the container;
- (3) Did not permit any person to open the container or to otherwise touch or tamper with the ballot cards; and
- (4) Has no knowledge of any other person opening the container.

(e) Each oath taken under subsection (d) shall be filed in the circuit court clerk's office with other election papers.

(f) Upon completion of the counting of the votes by a precinct election board under section 2(c) of this chapter or at a

central location, all ballot cards shall be arranged by precincts and kept by the circuit court clerk for the period required by IC 3-10-1-31. The clerk shall determine the final disposition of all voted ballot cards. [P.L.5-1986, § 8; P.L.6-1986, § 43; P.L.3-1987, § 352; P.L.3-1993, § 185.]

### **3-12-3-11. Official precinct return — Contents — Public inspection — Media information.**

(a) The return printed by the automatic tabulating machines, along with the return of votes by absentee voters, constitutes the official return of each precinct. Upon completion of the count, the return is open to the public.

(b) This subsection applies if the votes have been cast on a ballot card voting system that is not designed to allow the counting and tabulation of votes by the precinct election board. The circuit court clerk shall, upon request, furnish to the media in the area the results of the tabulation.

(c) This subsection applies if the votes have been cast on a ballot card voting system that is designed to allow the counting and tabulation of votes by the precinct election board. Upon receiving the certificate for the media prepared under section 2(c) [IC 3-12-3-2(c)] of this chapter, the circuit court clerk shall deliver the certificate to any person designated to receive the certificate by the editors of the newspapers published in the county or by the managers of the radio and television stations operating in the county. [P.L.5-1986, § 8; P.L.6-1986, § 44; P.L.3-1987, § 353; P.L.1-1993, § 13.]

### **3-12-3-12. Absentee ballots.**

— Votes by absentee voters may be cast on paper ballots or ballot cards, or both methods may be used. The ballots may be counted by an automatic tabulating machine or by special canvassing boards appointed by and under the direction of the county election board. A true copy of each paper absentee ballot may be made on a ballot card, which, after being verified in the presence of witnesses, shall be counted in the same manner as other ballot cards. [P.L.5-1986, § 8; P.L.6-1986, § 45.]

### **3-12-3-12.5. Count to begin immediately and continue until completed.**

— To minimize the delay in the counting of the vote, the count must begin immediately upon delivery of the cards to the central counting location under section 2(b) [IC 3-12-3-2(b)] of this chapter or upon the closing of the polls under section 2(c) [IC 3-12-3-2(c)] of this chapter. The tabulation must continue without interruption

until all votes are canvassed and all certificates of the vote totals required under section 10(b) [IC 3-12-3-10(b)] of this chapter or totals required under section 11(b) [IC 3-12-3-11(b)] of this chapter are completed and delivered to the persons entitled to receive the certificates or totals. [P.L.3-1987, § 354.]

**3-12-3-13. Recounts.** — In case of a recount, all ballot cards shall be recounted in the manner prescribed by this chapter unless:

- (1) The court ordering the recount or the state recount commission directs that they be counted manually; or
- (2) A request for a manual recount is made under IC 3-12-6 or IC 3-12-11. [P.L.5-1986, § 8; P.L.3-1987, § 355.]

CHAPTER 3.5

COUNTING OF ELECTRONIC VOTING SYSTEM VOTES

SECTION.

- 3-12-3.5-1. Applicability.
- 3-12-3.5-1.5. Commencement of count — More than one precinct in same room.
- 3-12-3.5-2. Announcement of vote totals.
- 3-12-3.5-3. Certificates.
- 3-12-3.5-4. Delivery of certificates — Failure of system or handling paper ballots.
- 3-12-3.5-5. Certificates for news media — Distribution.
- 3-12-3.5-6. Canvassing to begin immediately and continue without interruption.

**3-12-3.5-1. Applicability.** — This chapter applies to each precinct where voting is by electronic voting system. [P.L.3-1987, § 356.]

**3-12-3.5-1.5. Commencement of count — More than one precinct in same room.** — If the polls for more than one (1) precinct are located in the same room, the inspector of a precinct using the room may not begin the vote counting procedure until all the polls in the room are officially closed and no more persons are waiting in line to vote. [P.L.10-1988, § 127.]

**3-12-3.5-2. Announcement of vote totals.** — After each electronic voting system has been secured and the paper vote total printouts obtained, the inspector shall announce in a distinct tone of voice the result of the vote as shown by the printouts for:

- (1) Each candidate in the order as their offices are arranged on each system; and
- (2) Each public question.

[P.L.3-1987, § 356.]

**3-12-3.5-3. Certificates.** — When paper vote total printouts have been obtained, the precinct election board shall prepare certificates stating the number of votes that each candidate received for each office and the votes on each public question by attaching the paper vote total printouts to certificate forms supplied by the county election board. Each member of the board shall be given a copy of the certificate. [P.L.3-1987, § 356.]

**3-12-3.5-4. Delivery of certificates — Failure of system or handling paper ballots.** — The inspector and judge of the opposite political party shall deliver the certificates prepared under section 3 [IC 3-12-3.5-3] of this chapter and the list of voters to the county election board by midnight on election day. However, if:

- (1) An electronic voting system failed;
- (2) The failure of the system was reported as required by this title;
- (3) Paper ballots were used in place of the system; and
- (4) The use of the paper ballots caused a substantial delay in the vote counting process;

then the certificates, the list of voters, and the tally papers shall be delivered as soon as possible. [P.L.3-1987, § 356; P.L.3-1993, § 186.]

**3-12-3.5-5. Certificate for news media — Distribution.** — Immediately upon completion of the vote count, each precinct election board shall make and sign a certificate for the news media showing the total number of votes received by each candidate in the precinct. The inspector and judge of the opposite political party shall deliver the certificate of the circuit court clerk at the same time that the certificates, the list of voters, and the tally papers are delivered under section 4 [IC 3-12-3.5-4] of this chapter. The circuit court clerk immediately shall deliver the certificate made for the news media to any person designated to receive the certificate by the editors of the newspapers published in the county or by the managers of the radio and television stations operating in the county. The county election board shall furnish each precinct election board with the forms on which the certificates are to be prepared. [P.L.3-1987, § 356.]

**3-12-3.5-6. Canvassing to begin immediately and continue without interruption.** — To minimize the delay in the counting of the vote, canvassing must begin immediately upon the closing of the

polls and continue without interruption until all the votes are canvassed and all certificates of the vote required under section 3 [IC 3-12-3.5-3] of this chapter are completed and delivered to the persons entitled to receive the certificates. [P.L.3-1987, § 356.]

## CHAPTER 4

### CANVASSING OF RETURNS BY COUNTY ELECTION BOARD

#### SECTION.

- 3-12-4-1. County election boards — Members.
- 3-12-4-2. [Repealed.]
- 3-12-4-3. County election boards — Compensation of members.
- 3-12-4-4. Employment of clerical assistants and write-in teams.
- 3-12-4-5. County election boards — Compensation of clerical assistants.
- 3-12-4-6. Assembly of county election county board on election day — Meeting room.
- 3-12-4-7. County election board meeting room.
- 3-12-4-8. Examination of election certificates, poll lists and tally sheets — Tabulation of election returns.
- 3-12-4-9. Election certification.
- 3-12-4-10. Election certification statement — Content.
- 3-12-4-11. Election certification statement — Signing by county election board members.
- 3-12-4-12. Election certification statement — Delivery to county political party chairmen.
- 3-12-4-13. Disposition of canvass sheets, election certificates, etc., following vote tabulation.
- 3-12-4-14. Tie votes.
- 3-12-4-15. Substantial compliance by precinct election board.
- 3-12-4-16. County election board vote counting disputes — Submission to circuit court judge.
- 3-12-4-17. County election board vote counting disputes — Determination.
- 3-12-4-18. Inspection of voting machine or electronic voting system counters — Authority — Time.
- 3-12-4-19. Inspection of voting machine or electronic voting system counters — Location — Political party observers.
- 3-12-4-20. Inspection of voting machine or electronic voting system counters — Comparison with precinct returns.
- 3-12-4-21. Discrepancy between returns and voting machine or electronic voting system.
- 3-12-4-22. Returns as prima facie evidence of vote cast.
- 3-12-4-23. Tallying papers.

**3-12-4-1. County election boards — Members.** — The members of each county election board shall canvass the votes cast in the county. [P.L.5-1986 § 8; P.L.3-1993, § 187.]

### 3-12-4-2. [Repealed.]

**3-12-4-3. County election boards — Compensation of members.** — The members of a county election board shall be compensated for their services as canvassers in an amount to be fixed by the county executive. [P.L.5-1986, § 8; P.L.3-1993, § 188.]

**3-12-4-4. Employment of clerical assistants and write-in teams.** — (a) Each county election board may employ clerical assistants if necessary for the proper canvassing and tabulating of the vote. However, no more than one-half ( $1/2$ ) of the assistants employed by the board may be members of the same political party.

(b) The county election board shall appoint the number of two (2) member write-in teams that are necessary to examine and count write-in votes cast on ballot card voting systems on election night. The county chairmen of the two (2) major political parties of a county shall each designate one (1) member of each write-in team. The write-in teams are considered employees of the county canvassing board and must meet the qualifications of canvassing board employees.

(c) A county election board may not employ a person to assist with canvassing unless the person would be eligible to serve as a precinct election officer under IC 3-6-6-7. [P.L.5-1986, § 8; P.L.4-1991, § 113; P.L.1-1992, § 5; P.L.3-1993, § 189.]

**3-12-4-5. County election boards — Compensation of clerical assistants.** — A county election board shall pay an assistant hired under section 4 [IC 3-12-4-4] of this chapter a reasonable rate of compensation for the assistant's services. [P.L.5-1986, § 8; P.L.3-1987, § 357; P.L.3-1993, § 190.]

**3-12-4-6. Assembly of county election board on election day — Meeting room.** — (a) At 6 p.m. on each election day, the county election board shall assemble in a room to canvass the certificates, poll lists, and tally papers returned by each inspector in the county and to declare the results of the election as provided in this chapter.

(b) The canvassing must be performed in public under IC 5-14-1.5. However, the board may restrict access to parts of the room where election material is being handled or transported to safeguard the material.

(c) Except as provided in section 7 [IC 3-12-4-7] of this chapter, the county executive shall provide a room in the courthouse



that contains adequate space to permit members of the public to witness the canvassing of votes. [P.L.5-1986, § 8; P.L.3-1993, § 191.]

**3-12-4-7. County election board meeting room.** — In each county having a population of more than three hundred thousand (300,000), the county executive shall, upon the written request and order of the judge of the circuit court of the county and at least ten (10) days before the election, provide a suitable assembly room for the county election board other than a room in the courthouse. [P.L.5-1986, § 8; P.L.12-1992, § 12; P.L.3-1993, § 192.]

**3-12-4-8. Examination of election certificates, poll lists and tally sheets — Tabulation of election returns.** — The county election board shall:

- (1) Carefully examine and compare the certificates, poll lists, and tally sheets; and
- (2) Aggregate and tabulate from the papers entrusted to it the vote for the county and each political subdivision, as appropriate. [P.L.5-1986, § 8; P.L.3-1993, § 193.]

**3-12-4-9. Election certification.** — (a) This subsection applies to a local or school board office with an election district located entirely within one (1) county, except for judge of a circuit court and prosecuting attorney. After the county election board has tabulated the vote, the board shall declare the candidate receiving the highest number of votes for each office to be elected.

(b) The county election board shall tabulate the votes cast for and against each local public question placed on the ballot by the county election board under IC 3-10-9-2 and, if the local public question is placed on the ballot only in that county, declare the public question approved or rejected.

(c) The county election board shall tabulate the votes cast for and against each public question voted on by the electorate of the whole state.

(d) The board shall certify the election results in a statement prepared by the circuit court clerk. [P.L.5-1986, § 8; P.L.3-1987, § 358; P.L.10-1988, § 128; P.L.10-1992, § 24; P.L.3-1993, § 194.]

**3-12-4-10. Election certification statement — Content.** — (a) The statement prepared under section 9 [IC 3-12-4-9] of this chapter must contain:

- (1) The name of each candidate;
- (2) The elected offices;

(3) The total number of votes received by each candidate;

(4) The total number of votes received by each candidate and cast for and against each public question in each precinct; and

(5) The total number of votes cast at the election.

(b) Notwithstanding IC 33-19-6-1, upon request by a candidate, the circuit court clerk shall prepare a copy of the statement for the candidate at a fee not to exceed twenty-five cents (\$0.25) per page. [P.L.5-1986, § 8; P.L.7-1990, § 50; P.L.8-1992, § 30.]

**3-12-4-11. Election certification statement — Signing by county election board members.** — Each member of the county election board shall sign the statement prepared by the circuit court clerk under section 9 [IC 3-12-4-9] of this chapter. [P.L.5-1986, § 8; P.L.3-1993, § 195.]

**3-12-4-12. Election certification statement — Delivery to county political party chairmen.** — Within ten (10) days after the county election board certifies the election results under section 9 [IC 3-12-4-9] of this chapter, the circuit court clerk shall furnish to the county chairman of each political party a copy of the statement. [P.L.5-1986, § 8; P.L.3-1993, § 196.]

**3-12-4-13. Disposition of canvass sheets, election certificates, etc., following vote tabulation.** — After the county election board has tabulated the vote:

(1) The canvass sheets used by the board; and

(2) The certificates, poll lists, and tally papers returned by each inspector in the county;

shall be delivered to the circuit court clerk. The clerk shall file and preserve all the material in the clerk's office open to inspection by any voter. [P.L.5-1986, § 8; P.L.3-1993, § 197.]

**3-12-4-14. Tie votes.** — If two (2) or more candidates receive the highest and an equal number of votes for a local office, the county election board shall:

(1) Declare that no person is elected to fill the office; and

(2) Certify the tie vote in the statement prepared by the circuit court clerk under section 9 [IC 3-12-4-9] of this chapter. [P.L.5-1986, § 8; P.L.3-1993, § 198.]

**3-12-4-15. Substantial compliance by precinct election board.** — A county election board may not reject the certificates, poll lists, or tally papers returned from a precinct election board:

(1) For lack of form or for not being strictly in accordance with the directions contained in this title if the certificates can be satisfactorily understood; or

(2) If the returns are certified by the precinct election board as required by IC 3-12-2-6, IC 3-12-2.5-6, IC 3-12-3-2, and IC 3-12-3.5-6 and returned by the inspector or one (1) of the judges of the board. [P.L.5-1986, § 8; P.L.3-1987, § 359; P.L.3-1993, § 199.]

**3-12-4-16. County election board vote counting disputes — Submission to circuit court judge.** — If there is a disagreement between the members of a county election board as to how the vote of a precinct should be counted, the board shall:

(1) Immediately report the matter in dispute to the judge of the circuit court; and

(2) Provide the judge with a written brief stating the grounds of the disagreement and all papers concerning the matter. [P.L.5-1986, § 8; P.L.3-1993, § 200.]

**3-12-4-17. County election board vote counting disputes — Determination.** — The judge of the circuit court shall summarily determine a dispute presented under section 16 [IC 3-12-4-16] of this chapter and direct the county election board how to count the vote. The judge's determination is final with respect to the action of the board. [P.L.5-1986, § 8; P.L.3-1993, § 201.]

**3-12-4-18. Inspection of voting machine or electronic voting system counters — Authority — Time.** — If voting machines or electronic voting systems are used in a precinct, the county election board may request authorization from the state recount commission to inspect the registering counter or other mechanical recording device on any voting machine or electronic voting system showing the number of votes cast for any candidate or public question. If authorized by the state recount commission, the board may conduct an inspection either before it proceeds to count and tabulate the vote or within one (1) day after the count and tabulation are finished. [P.L.5-1986, § 8; P.L.3-1987, § 360; P.L.3-1993, § 202.]

**3-12-4-19. Inspection of voting machine or electronic voting system counters — Location — Political party observers.** — To inspect a voting machine or electronic voting system under section 18 [IC 3-12-4-18] of this chapter, the county election board may proceed to any place in the county where the machine or system is located, kept, or stored. However, the board shall make the inspection in the presence of an accredited representative of each of the major political parties of the county. [P.L.5-1986, § 8; P.L.3-1987, § 361; P.L.3-1993, § 203.]

**3-12-4-20. Inspection of voting machine or electronic voting system counters — Comparison with precinct returns.** — When making an inspection under section 18 [IC 3-12-4-18] of this chapter, a county election board shall compare the number of votes registered on the counter or other mechanical recording device on the voting machines or electronic voting systems with the returns made by the precinct election board of the precinct in which the voting machine or electronic voting system was used. [P.L.5-1986, § 8; P.L.3-1987, § 362; P.L.3-1993, § 204.]

**3-12-4-21. Discrepancy between returns and voting machine or electronic voting system.** — If there is a discrepancy between the number of votes registered on a voting machine or electronic voting system and the returns made by the precinct election board, the county election board shall correct the returns made by the precinct election board so that the returns conform to the vote registered on the voting machine or electronic voting system. The corrected returns shall be considered the true and correct returns of the number of votes cast for each candidate or on each public question in the precinct. [P.L.5-1986, § 8; P.L.3-1987, § 363; P.L.3-1993, § 205.]

**3-12-4-22. Returns as prima facie evidence of vote cast.** — If a nomination or election is contested or a recount is conducted, the returns of each precinct election board, as corrected by the county election board under section 21 [IC 3-12-4-21] of this chapter, constitute prima facie evidence of the vote cast for each candidate and on each public question to the same extent as the tabulation and return of the vote in a precinct where voting machines or electronic voting systems are not used. [P.L.5-1986, § 8; P.L.3-1987, § 364; P.L.10-1988, § 129; P.L.3-1993, § 206.]

**3-12-4-23. Tallying papers.** — The county election board shall have tally papers printed for use in tabulating the vote at each election held under its jurisdiction. The tally papers must:

- (1) Contain the name of each office and candidate to be voted for at an election; and
- (2) Provide for tallying the votes on each public question submitted to the voters. [P.L.5-1986, § 8; P.L.3-1993, § 207.]

## CHAPTER 5

### CERTIFICATES OF ELECTION

#### SECTION.

- 3-12-5-1. Vote count certification for local offices commissioned by governor.
- 3-12-5-2. Certificates of election for local offices not commissioned by governor and other than in small towns.
- 3-12-5-3. Certificates of election — Unopposed local office candidates.
- 3-12-5-4. Defects in election returns.
- 3-12-5-5. Circuit court clerk's vote count certification — Governor and lieutenant governor.
- 3-12-5-6. Circuit court clerk's vote count certification — Federal, state and legislative offices — Circuit court judges — Prosecuting attorneys.
- 3-12-5-7. Secretary of state's certification to governor — Presidential electors — Certain state offices — Circuit court judges — Prosecuting attorneys.
- 3-12-5-8. Commissions — Presidential electors — Certain state offices — Circuit court judges — Prosecuting attorneys.
- 3-12-5-9. Secretary of state's certification to governor — United States Senators and Representatives.
- 3-12-5-10. Certificates of election — United States Senators and Representatives.
- 3-12-5-11. Circuit court clerk's vote count certification — State legislative offices.
- 3-12-5-12. State legislative offices — Certificates of election — Certification of tie votes to governor.
- 3-12-5-13. Secretary of state must accept and count circuit court clerk's vote count certifications.
- 3-12-5-14. Errors in vote count certifications — Correction by issuing official.
- 3-12-5-15. Errors in vote count certifications — Voter's civil suit to correct.
- 3-12-5-16. Certificates of election — Discovery and correction of errors period.
- 3-12-5-17. [Repealed.]

**3-12-5-1. Vote count certification for local offices commissioned by governor.** — (a) Whenever a candidate is elected to a local office (except for judge of a circuit court and prosecuting attorney) that is commissioned by the governor, the

circuit court clerk shall prepare a statement under the clerk's seal specifying the number of votes received by each candidate for that office and identifying the candidate who was declared elected under IC 3-12-4-9.

(b) The statement prepared under subsection (a) must also include the number of votes cast for and against the following:

(1) The ratification of a state constitutional amendment submitted to the electorate.

(2) The retention of a justice of the supreme court or a judge of the court of appeals or tax court.

(c) The clerk shall send or hand deliver the statement to the secretary of state not later than noon on the Monday following election day.

(d) The secretary of state shall tabulate the votes received under this section and, not later than the second Friday after the election, issue a certificate certifying the following:

(1) Each state constitutional amendment ratified or rejected.

(2) Each justice or judge retained or removed. [P.L.5-1986, § 8; P.L.3-1987, § 365; P.L.5-1988, § 10; P.L.4-1991, § 114; P.L.3-1993, § 208.]

**3-12-5-2. Certificates of election for local offices not commissioned by governor and other than in small towns.** —

(a) Whenever a candidate is elected to a local or school board office other than:

(1) One for which a town clerk-treasurer issues a certificate of election under IC 3-10-7-34; or

(2) One commissioned by the governor under IC 4-3-1-5;

the circuit court clerk shall, after the expiration of the period required under section 16 [IC 3-12-5-16] of this chapter, prepare and deliver to the candidate on demand a certificate of the candidate's election.

(b) This subsection applies to a local or school board office described in subsection (a) with an election district located in more than one (1) county or a local public question placed on the ballot in more than one (1) county. The circuit court clerk of the county that contains the greatest percentage of the population of the election district shall, upon demand of the candidate or a person entitled to request a recount of the votes cast on a public question under IC 3-12-12:

(1) Obtain the certified statement of the votes cast for that office or on that question that was prepared under IC 3-12-4-9 from the circuit court clerk in

each other county in which the election district is located;

(2) Tabulate the total votes cast for that office or on that question as shown on the certified statement of each county in the election district; and

(3) Issue a certificate of election to the candidate upon the expiration of the period required under section 16 of this chapter or a certificate declaring the local public question approved or rejected. [P.L.5-1986, § 8; P.L.3-1987, § 366; P.L.10-1988, § 130; P.L.3-1989, § 12; P.L.10-1992, § 25.]

**3-12-5-3. Certificates of election — Unopposed local office candidates. —**

Whenever a candidate for a local office described in section 2 [IC 3-12-5-2] of this chapter is unopposed, the circuit court clerk shall, upon demand of the candidate, certify the candidate in the same manner as if elected to the office. [P.L.5-1986, § 8; P.L.3-1987, § 367.]

**3-12-5-4. Defects in election returns. —**

The governor may not withhold a commission because of a defect or informality in an election return to the secretary of state if it can be determined with reasonable certainty from the return what office is intended and who is entitled to the commission. [P.L.5-1986, § 8.]

**3-12-5-5. Circuit court clerk's vote count certification — Governor and lieutenant governor. —**

(a) Not later than noon on the Monday following an election for governor and lieutenant governor, each circuit court clerk shall prepare two (2) certified statements under the clerk's seal showing the number of votes each candidate received. The clerk shall transmit the statements in the following manner:

(1) One (1) certified statement shall be delivered to the speaker of the house of representatives of the next general assembly by a member of the general assembly representing the county. The member shall deliver the statement to the speaker by the second day of the regular session.

(2) One (1) certified statement shall be hand delivered to the secretary of state or sent by certified mail in care of the secretary of state to the speaker of the house of representatives. The secretary of state shall deliver the statement to the speaker by the second day of the regular session.

(b) The house of representatives and the senate shall meet in joint convention not

later than the date specified in Article 5, Section 9 of the Constitution of the State of Indiana for the commencement of the term of the governor and the lieutenant governor to hear the canvass of votes cast for governor and lieutenant governor. The presiding officer of the joint convention shall certify to the convention that the individuals receiving the most votes according to the canvass have been elected governor and lieutenant governor. The joint convention shall also act to resolve any tie vote or contests in accordance with Article 5, Section 5 or 6 of the Constitution of the State of Indiana. [P.L.5-1986, § 8; P.L.3-1987, § 368; P.L.3-1993, § 209.]

**3-12-5-6. Circuit court clerk's vote count certification — Federal, state and legislative offices — Circuit court judges — Prosecuting attorneys. —**

(a) Not later than noon on the Monday following an election, each circuit court clerk shall prepare a certified statement under the clerk's seal, in words and numbers, of the number of votes received by each candidate for:

- (1) Federal office;
- (2) State office;
- (3) Legislative office;
- (4) Judge of a circuit court; and
- (5) Prosecuting attorney.

(b) The clerk shall send the statements by certified mail, return receipt requested, or hand deliver the statements to the secretary of state. [P.L.5-1986, § 8; P.L.3-1987, § 369; P.L.3-1993, § 210.]

**3-12-5-7. Secretary of state's certification to governor — Presidential electors — Certain state offices — Circuit court judges — Prosecuting attorneys. —**

Upon receipt of the certified statements from the circuit court clerks under section 6 [IC 3-12-5-6] of this chapter, the secretary of state shall compare and estimate the number of votes cast for each candidate for:

- (1) Presidential electors;
- (2) A state office other than governor and lieutenant governor;
- (3) Judge of a circuit court; and
- (4) Prosecuting attorney.

The secretary of state shall certify to the governor the candidate receiving the highest number of votes for each office. [P.L.5-1986, § 8; P.L.3-1993, § 211.]

**3-12-5-8. Commissions — Presidential electors — Certain state offices — Circuit court judges — Prosecuting attorneys. —**

If no errors are found at the expiration of the ten (10) day period allowed for the discovery and correction of

errors, the governor shall mail the candidate's commission to each candidate certified under section 7 [IC 3-12-5-7] of this chapter. [P.L.5-1986, § 8.]

**3-12-5-9. Secretary of state's certification to governor — United States Senators and Representatives.** — Upon receipt of the certified statements from the circuit court clerks under section 6 [IC 3-12-5-6] of this chapter, the secretary of state shall:

- (1) Compare and estimate the number of votes cast for each candidate for United States Senator and United States Representative; and
- (2) Certify to the governor the candidate receiving the highest number of votes for each office. [P.L.5-1986, § 8.]

**3-12-5-10. Certificates of election — United States Senators and Representatives.** — The governor shall transmit to each candidate certified under section 9 [IC 3-12-5-9] of this chapter a certificate of election. The secretary of state shall seal and attest the certificate of election. [P.L.5-1986, § 8.]

**3-12-5-11. Circuit court clerk's vote count certification — State legislative offices.** — As soon as practical, but no later than the noon on the Monday following an election for a legislative office, each circuit court clerk shall:

- (1) Prepare a separate certified statement under the clerk's seal specifying the number of votes received in the county by each candidate for legislative office; and
- (2) Send the statement by certified mail, return receipt requested, or hand deliver the statement to the secretary of state. [P.L.5-1986, § 8; P.L.10-1988, § 131; P.L.3-1993, § 212.]

**3-12-5-12. State legislative offices — Certificates of election — Certification of tie votes to governor.** — Upon receipt of the certified statements under section 11 [IC 3-12-5-11] of this chapter, the secretary of state shall:

- (1) Immediately total all certified statements from each senate and house district; and
- (2) Promptly prepare and transmit to the candidate receiving the highest number of votes for each legislative office a certificate of the candidate's election.

However, if two (2) or more candidates receive the highest and an equal number of votes, the secretary of state shall immediately certify the tie vote to the governor. [P.L.5-1986, § 8.]

diately certify the tie vote to the governor. [P.L.5-1986, § 8.]

**3-12-5-13. Secretary of state must accept and count circuit court clerk's vote count certifications.** — The secretary of state may not reject a certified statement received under seal from a circuit court clerk under section 6 or 11 [IC 3-12-5-6 or 3-12-5-11] of this chapter but shall estimate, aggregate, and tabulate the total number of votes as evidenced by the face of each certified statement. [P.L.5-1986, § 8.]

**3-12-5-14. Errors in vote count certifications — Correction by issuing official.** — The county election board or the secretary of state, as appropriate, shall correct an error in the certification of the vote for a candidate or on a public question if the error is discovered within ten (10) days after the certification is made. [P.L.5-1986, § 8; P.L.4-1991, § 115.]

**3-12-5-15. Errors in vote count certifications — Voter's civil suit to correct.** — If a circuit court clerk or the secretary of state fails or refuses to correct an error as required by section 14 [IC 3-12-5-14] of this chapter, then any voter may bring a civil action to enforce the duty to make the correction. A civil action under this section must be brought:

- (1) No later than noon five (5) days after the expiration of the ten (10) day period allowed for making corrections; and
- (2) In the circuit or superior court of the county where the public official making the erroneous certification resides. [P.L.5-1986, § 8; P.L.10-1988, § 132.]

**3-12-5-16. Certificates of election — Discovery and correction of errors period.** — A certificate of election may not be issued until the ten (10) day period allowed for the discovery and correction of errors has expired. [P.L.5-1986, § 8.]

**3-12-5-17. [Repealed.]**

## CHAPTER 6

### RECOUNT PROCEDURES FOR NOMINATION OR ELECTION TO LOCAL OR SCHOOL BOARD OFFICE

#### SECTION.

- 3-12-6-1. Right to recount.
- 3-12-6-2. Petitions for recount — Time — Filing.
- 3-12-6-3. Petitions for recount — Content.
- 3-12-6-4. Cross-petitions for recount — Time — Filing.

## SECTION.

- 3-12-6-5. Failure to file cross-petition or answer.  
 3-12-6-6. Cross-petitions for recount — Contents.  
 3-12-6-7. Amendment of petitions and cross-petitions for recounts.  
 3-12-6-8. Petitions for recount — Submission by two or more candidates jointly — Consolidation of different petitions.  
 3-12-6-9. Notice of petition for recount to opposing candidates.  
 3-12-6-9.5. Disqualification of interested judge — Certification to governor.  
 3-12-6-10. Bond or cash deposit of petitioner for recount — Costs.  
 3-12-6-11. Bonds and cash deposits where cross-petition filed.  
 3-12-6-12. Payment of recount costs.  
 3-12-6-13, 3-12-6-13.5. [Repealed.]  
 3-12-6-14. Ordering recount — Appointment of recount commission.  
 3-12-6-15. Ordering recount on consolidated petitions and cross-petitions.  
 3-12-6-16. Recount commission — Members.  
 3-12-6-17. Recount commission — Compensation of members.  
 3-12-6-18. Notice to candidates opposing petition of recount order.  
 3-12-6-19. Impounding of voting materials and equipment.  
 3-12-6-19.5. Use of authorized copy of election material.  
 3-12-6-20. Making voting materials and equipment available to recount and contest commissions.  
 3-12-6-21. Recount — Location — Watchers for candidates — Media.  
 3-12-6-21.5. Petition for manual count of ballot cards — Withdrawal of petition.  
 3-12-6-22. Certificates of recount — Preparation — Content.  
 3-12-6-22.5. Finality of determination of commission — Appeal.  
 3-12-6-23. Certificates of recount — Effect.  
 3-12-6-24 — 3-12-6-26. [Repealed.]  
 3-12-6-27. Circuit court clerk's vote count certificates — Local and school board offices in multiple counties.  
 3-12-6-28. IC 3-12-6-27 certificates — Transmittal to secretary of state.  
 3-12-6-29. Secretary of state's tabulation and retabulation of votes.  
 3-12-6-30. Circuit court clerk's vote count certificate — Local and school board offices in one county.  
 3-12-6-31. IC 3-12-6-30 certificate — Transmittal to election officials.  
 3-12-6-32. Issuance of certificates of election.  
 3-12-6-33. Vacation of office.

**3-12-6-1. Right to recount.** — (a) Any:

- (1) Candidate for nomination or election to a local or school board office; or
- (2) Voter who was entitled to vote for a candidate described in subdivision (1);

is entitled to have the votes cast for that office recounted under this chapter.

(b) The right of recount may be exercised for one (1) or more of the precincts in

which votes were cast for the office. [P.L.5-1986, § 8; P.L.7-1986, § 5; P.L.10-1988, § 133.]

**3-12-6-2. Petitions for recount — Time — Filing.** — A candidate who desires a recount of votes must file a verified petition no later than noon seven (7) days after election day. The petition must be filed in the circuit or superior court of each county in which is located a precinct in which the candidate desires a recount. [P.L.5-1986, § 8; P.L.3-1987, § 370; P.L.10-1988, § 134.]

**3-12-6-3. Petitions for recount — Content.** — Each petition filed under section 2 [IC 3-12-6-2] of this chapter must state the following:

- (1) The office for which the petitioner desires a recount.
- (2) The precincts within the county in which the petitioner desires a recount.
- (3) That the petitioner was a candidate for nomination or election to the office and that the nomination or office was voted upon in the precincts specified.
- (4) The name and address of the petitioner's opposing candidate or candidates.
- (5) That the petitioner in good faith believes that the votes cast for nomination or election to the office at the election in the precincts were not correctly counted and returned.
- (6) That the petitioner desires a recount of all of the votes cast for nomination or election to the office in the precincts specified. [P.L.5-1986, § 8; P.L.10-1988, § 135.]

**3-12-6-4. Cross-petitions for recount — Time — Filing.** — A candidate who is nominated or elected to an office at an election on the face of the election returns may file a verified cross-petition for a recount no later than noon ten (10) days after election day. If a petition for a recount is filed for an office for which voters in more than one (1) county vote, a cross-petition for a recount may be filed in a county other than the one in which the first petition was filed. [P.L.5-1986, § 8; P.L.3-1987, § 371; P.L.10-1988, § 136.]

**3-12-6-5. Failure to file cross-petition or answer.** — The failure to file either a cross-petition or an answer to a petition for a recount does not:

- (1) Constitute an admission of the truth of the allegations of the petition; or

(2) Imply a presumption in favor of the petition.  
[P.L.5-1986, § 8.]

**3-12-6-6. Cross-petitions for recount — Contents.** — Each cross-petition filed under section 4 [IC 3-12-6-4] of this chapter must state the following:

(1) The office for which the cross-petitioner desires a recount.

(2) The precincts within the county in which the cross-petitioner desires a recount.

(3) That the cross-petitioner was a candidate at the election for nomination or election to the office and that the nomination or office was voted upon in the precincts specified.

(4) The name and address of the cross-petitioner's opposing candidate or candidates.

(5) That the cross-petitioner in good faith believes that the votes cast for nomination or election to the office at the election in the precincts were not correctly counted and returned.

(6) That the cross-petitioner desires a recount of all of the votes cast for nomination or election to the office in the precincts specified. [P.L.5-1986, § 8; P.L.10-1988, § 137.]

**3-12-6-7. Amendment of petitions and cross-petitions for recounts.** — The court in which a petition or cross-petition is filed may allow the petition or cross-petition to be amended at any time upon the terms and conditions that the court orders. [P.L.5-1986, § 8.]

**3-12-6-8. Petitions for recount — Submission by two or more candidates jointly — Consolidation of petitions.** —

(a) Two (2) or more candidates for nomination or election to the same or a different office at the same election may join in a petition for a recount.

(b) Except as provided in subsection (d), if more than one (1) petition for a recount is filed in a county no later than noon seven (7) days after election day, whether in the same court of the county or not, the petitions shall be consolidated under the first petition filed. If a transfer of petitions from one (1) court of the county to another court of the county is necessary to effect the consolidation, then the court in which the subsequent petitions were filed shall order the transfer.

(c) If more than one (1) petition for a recount is filed for an office in more than one (1) county, the circuit court for the county casting, on the face of the election returns, the highest number of votes for

the office shall assume jurisdiction over all petitions and cross-petitions concerning the office. If a transfer of petitions or cross-petitions from one (1) court to another is necessary to effect the consolidation in the circuit court, then any other court in which a petition or cross-petition was filed shall order the transfer.

(d) A petition for a recount filed for an election in different municipalities, whether in the same court of the county or not, may not be consolidated. [P.L.5-1986, § 8; P.L.7-1986, § 6; P.L.3-1987, § 372; P.L.10-1988, § 138; P.L.8-1992, § 31.]

**3-12-6-9. Notice of petition for recount to opposing candidates.** — (a) Upon the filing of a petition for a recount, the clerk of the court shall notify the judge. The judge shall issue a notice of the filing and pendency of the petition to the opposing candidates and deliver the notice to the sheriff of each county in which an opposing candidate resides.

(b) Each sheriff shall immediately serve the notice upon the opposing candidate in person or by leaving a copy at the last and usual place of residence. The sheriff shall make immediate return of the service. [P.L.5-1986, § 8; P.L.10-1988, § 139.]

**3-12-6-9.5. Disqualification of interested judge — Certification to governor.** — If a recount involves the nomination or election of the judge of the court that assumes jurisdiction over the recount and the regular judge of the court is a party to the proceeding, then the regular judge is disqualified to act in any way in the proceeding except to transfer a petition or cross-petition under section 8 [IC 3-12-6-8] of this chapter. The judge shall, within three (3) days after the court assumes jurisdiction, certify the fact of disqualification to the governor, who shall then appoint a special judge for the proceeding. [P.L.10-1988, § 140.]

**3-12-6-10. Bond or cash deposit of petitioner for recount — Costs.** — (a) Each petitioner shall furnish a cash deposit or file a bond with corporate surety to the approval of the court for the payment of all costs of the recount. The minimum amount of the cash deposit or bond is one hundred dollars (\$100). If the number of precincts to be recounted exceeds ten (10), then the amount of the deposit or bond shall be increased by ten dollars (\$10) for each precinct in excess of ten (10). Any unexpended balance remaining in a deposit after payment of all costs of the recount shall be returned to the depositor.

If a petition is joint, a joint bond may be furnished.

(b) The costs of a recount may include the following:

- (1) Compensation of recount commissioners.
- (2) Compensation of additional employees required to conduct the recount, including overtime payments to regular employees who are eligible to receive such payments.
- (3) Postage and telephone charges directly related to the recount.

(c) The costs of a recount may not include the following:

- (1) General administrative costs.
- (2) Security.
- (3) Allowances for meals or lodging.

[P.L.5-1986, § 8; P.L.8-1992, § 32.]

**3-12-6-11. Bonds and cash deposits where cross-petition filed.** — If a cross-petition is filed, each petitioner and cross-petitioner shall either furnish a cash deposit or file a bond with corporate surety to the approval of the court for the payment of each party's proportionate share of cost of the recount. If a cross-petition is joint, a joint bond may be furnished. [P.L.5-1986, § 8.]

**3-12-6-12. Payment of recount costs.** — If a cash deposit was not made as required by section 10 or 11 [IC 3-12-6-10 or 3-12-6-11] of this chapter, the petitioners shall pay to the circuit court clerk within ten (10) days after the recount is completed all of the costs of the recount. However, if a cross-petition was filed, then each cross-petitioner shall pay to the circuit court clerk within ten (10) days after the recount is completed all of the costs of the recount in the precincts designated in the cross-petition. A petitioner is not liable for the costs of a recount allocated to a cross-petitioner. [P.L.5-1986, § 8.]

**3-12-6-13, 3-12-6-13.5. [Repealed.]**

**3-12-6-14. Ordering recount — Appointment of recount commission.** — The court shall grant the petitions and cross-petitions that have been filed and order the recount of the votes in the precincts by appointing a recount commission upon:

- (1) The filing of a petition and bound under this chapter;
- (2) The expiration of the petition under section 4 [IC 3-12-6-4] of this chapter for filing a cross-petition; and
- (3) Proof of service of all notices.

[P.L.5-1986, § 8; P.L.3-1987, § 374.]

**3-12-6-15. Ordering recount on consolidated petitions and cross-petitions.** — If there is a consolidation of petitions and cross-petitions, the court shall by consolidated order grant the consolidated recount of all votes in all precincts in the counties requested in the petitions and cross-petitions. [P.L.5-1986, § 8; P.L.7-1986, § 7.]

**3-12-6-16. Recount commission — Members.** — (a) A recount commission consists of three (3) persons.

(b) Two (2) members of the commission must be voters who:

- (1) Are members of different major political parties of the state; and
- (2) Were qualified to vote at the election in a county in which the election district for the office is located.

(c) This subsection applies to a recount commission conducting a recount of an election in which only paper ballots were used. The third member of the commission must be a person who:

- (1) Is a member of a major political party of the state; and
- (2) Was qualified to vote at the election in a county in which the election district for the office is located.

(d) This subsection applies to a recount of an election in which a voting method other than only paper ballots was used. The third member of the commission must be a competent mechanic who is familiar with the voting machines, ballot card voting systems, or electronic voting systems used in that election. The mechanic is not required to be qualified to vote at the election in a county in which the election district for the office is located. [P.L.5-1986, § 8; P.L.3-1987, § 375.]

**3-12-6-17. Recount commission — Compensation of members.** — Each member of a recount commission is entitled to a per diem not to exceed one hundred dollars (\$100) for each day actually engaged in making the recount. The judge of the court having jurisdiction over the recount shall fix the compensation paid under this section. [P.L.5-1986, § 8; P.L.4-1991, § 116.]

**3-12-6-18. Notice to candidates opposing petition of recount order.** — On the day when the order of a recount is made and entered by the court, the circuit court clerk shall send a certified copy of the order by certified mail to each opposing candidate named in the petition at the address stated in the petition. The clerk shall charge the cost of mailing the order



to the petitioner. [P.L.5-1986, § 8; P.L.3-1987, § 376.]

**3-12-6-19. Impounding of voting materials and equipment.** — (a) A court ordering a recount under this chapter shall by order impound and provide for the protection of the following:

(1) All ballots, voting machines, and electronic voting systems used at the election for casting votes in the precincts.

(2) All tally sheets relating to the votes cast for nomination or election to the office.

(3) All poll lists of persons registered by the poll clerks as having voted for nomination or election to the office.

(b) An order issued by the state recount commission under IC 3-12-10 supersedes an order issued by a court under this section to the extent that the orders conflict. The state recount commission shall assist a court acting under this section to the extent that the ability of the state recount commission to preserve the integrity of election records or equipment is not hindered.

(c) An impoundment order issued under subsection (a) may not prevent a circuit court clerk or board of registration from copying election material other than ballots if the clerk or board copies the material under the supervision of a person designated by the court. [P.L.5-1986, § 8; P.L.3-1987, § 377; P.L.10-1988, § 141.]

**3-12-6-19.5. Use of authorized copy of election material.** — A circuit court clerk or board of registration may use a copy made under section 19 [IC 3-12-6-19] of this chapter instead of an original subject to an impoundment order under that section until the court orders the release of the original. [P.L.3-1987, § 378.]

**3-12-6-20. Making voting materials and equipment available to recount and contest commissions.** — A court acting under section 19 [IC 3-12-6-19] of this chapter shall make the ballots, voting machines, electronic voting systems, tally sheets, and poll lists available to the recount commission appointed under this chapter. [P.L.5-1986, § 8; P.L.3-1987, § 379.]

**3-12-6-21. Recount — Location — Watchers for candidates — Media.** — (a) After a recount is ordered under section 14 [IC 3-12-6-14] of this chapter, the recount commission shall convene at a place fixed by order of the court and

expeditiously complete the recount of all votes ordered recounted.

(b) Each candidate affected by the recount may have a watcher present at the recount and may also be present in person. Representatives of the media may also attend the recount.

(c) An order issued by the state recount commission under IC 3-12-10 supersedes an order issued by the recount commission appointed under this chapter to the extent that the orders conflict. The state recount commission shall assist a recount commission appointed under this chapter to the extent that the ability of the state recount commission to preserve the integrity of election records or equipment is not hindered.

(d) During the period:

(1) Beginning when a recount is ordered under section 14 of this chapter; and

(2) Ending when the recount commission certifies the recount results under section 22 [IC 3-12-6-22] of this chapter;

the recount commission may petition the court that acquired jurisdiction over the recount under section 8 [IC 3-12-6-8] of this chapter to rule on questions raised by the recount commission. [P.L.5-1986, § 8; P.L.3-1987, § 380; P.L.3-1993, § 213.]

**3-12-6-21.5. Petition for manual count of ballot cards — Withdrawal of petition.** — (a) A petition or cross-petition filed under this chapter may request that ballot cards in specified precincts that used a ballot card voting system be counted manually. If a petition or cross-petition includes such a request, the recount commission may not use automatic tabulating machines to count ballot cards in the specified precincts. Ballot cards in those precincts shall be counted manually, and the tabulation of votes must comply with IC 3-11-7.

(b) A petitioner or cross-petitioner may withdraw a request for a manual recount of ballot cards at any time after the recount commission conducts a test of the automatic tabulating machines to ascertain that the machines will correctly count the votes cast for the office that is the subject of the recount. [P.L.3-1987, § 381; P.L.10-1988, § 142.]

**3-12-6-22. Certificates of recount — Preparation — Content.** — When a recount is completed by a commission appointed under this chapter, the commission shall:

(1) Make and sign a certificate showing the total number of votes received

in the precincts by each candidate for nomination or election to the office; (2) State in its certificate the candidate who received the highest number of votes in the precincts for nomination or election to the office and by what plurality; and (3) File its certificate with the circuit court clerk. The clerk shall enter the certificate in the order book of the court. [P.L.5-1986, § 8; P.L.10-1988, § 143.]

**3-12-6-22.5. Finality of determination of commission — Appeal.** — (a) The determination of a commission under section 22 [IC 3-12-6-22] of this chapter is final, although an appeal may be taken to the court that appointed the commission.

(b) An appeal under subsection (a) is limited to:

- (1) Questions of law arising out of the recount; and
- (2) Procedural defects by the recount commission that affected the outcome of the recount. [P.L.10-1988, § 144; P.L.3-1989, § 13; P.L.3-1993, § 214.]

**3-12-6-23. Certificates of recount — Effect.** — A recount certificate made under section 22 [IC 3-12-6-22] of this chapter supersedes all previous returns made in any form of the recounted votes. A certified copy of a recount certificate constitutes prima facie evidence of the votes cast for nomination or election to the office in the precincts in any contest or other proceeding in which there is an issue as to the votes cast at the election for nomination or election to the office. [P.L.5-1986, § 8; P.L.7-1986, § 8; P.L.10-1988, § 145.]

**3-12-6-24 — 3-12-6-26. [Repealed.]**

**3-12-6-27. Circuit court clerk's vote count certificates — Local and school board offices in multiple counties.** — If a recount is made under this chapter for nomination or election to an office for which votes were cast in more than one (1) county, each circuit court clerk where the recount was made shall determine whether the votes in the precincts shown by the recount certificate differ from the votes that were tabulated by the county election board. If a circuit court clerk finds that there is a difference between the votes shown by the recount certificate and the votes tabulated by the county election board, the clerk shall prepare a certificate showing the total vote in the county for each candidate for nomination or election to the office as corrected in accordance with the recount certificate. [P.L.5-1986,

§ 8; P.L.7-1986, § 9; P.L.10-1988, § 146; P.L.3-1993, § 215.]

**3-12-6-28. IC 3-12-6-27 certificates — Transmittal to secretary of state.** — A circuit court clerk shall immediately transmit a certificate prepared under section 27 [IC 3-12-6-27] of this chapter showing the votes cast for nomination or election to an office to the secretary of state. [P.L.5-1986, § 8; P.L.10-1988, § 147.]

**3-12-6-29. Secretary of state's tabulation and retabulation of vote.** — Upon receipt of a circuit court clerk's certificate under section 28 [IC 3-12-6-28] of this chapter, the secretary of state shall tabulate the vote from the county for the office in accordance with the certificate. If the secretary of state previously included in a tabulation the votes cast for the office as returned by the county election board, the secretary of state shall correct the tabulation in accordance with the certificate. [P.L.5-1986, § 8; P.L.3-1993, § 216.]

**3-12-6-30. Circuit court clerk's vote count certificate — Local and school board offices in one county.** — If a recount is made under this chapter for nomination or election to an office for which votes were cast only in a single county, the circuit court clerk shall determine whether the votes shown by the recount certificate differ from the votes that were tabulated by the county election board. If the circuit court clerk finds that there is a difference between the votes shown by the recount certificate and the votes tabulated by the county election board, the clerk shall prepare a certificate showing the total vote for each candidate for nomination or election to the office as corrected in accordance with the recount certificate. [P.L.5-1986, § 8; P.L.10-1988, § 148; P.L.3-1993, § 217.]

**3-12-6-31. IC 3-12-6-30 certificate — Transmittal to election officials.** — The circuit court clerk shall transmit the certificate prepared under section 30 [IC 3-12-6-30] of this chapter to the county election board or other public official authorized by this title to issue:

- (1) A certificate of nomination under IC 3-8-7;
- (2) A certificate of election under IC 3-10-7-34 or IC 3-12-5-2; or
- (3) A commission for the office under IC 4-3-1-5.

[P.L.5-1986, § 8; P.L.10-1988, § 149.]

**3-12-6-32. Issuance of certificates of election.** — The candidate shown by a corrected vote tabulation under section 29 or 30 [IC 3-12-6-29 or 3-12-6-30] of this chapter to have received the highest number of votes for nomination or election to an office is entitled to a certificate of nomination under IC 3-8-7 or a certificate of election or commission for the office, even though one may have been issued upon a previous tabulation. [P.L.5-1986, § 8; P.L.10-1988, § 150.]

**3-12-6-33. Vacation of office.** — On the demand of a person receiving a commission or certificate of election issued upon the filing of the certificate of a recount commission, a person in possession of the office in question shall vacate and deliver the office. If the person in possession refuses to do so, the court may compel the vacation of the office upon the petition of the person holding the commission or certificate. [P.L.10-1988, § 151.]

CHAPTER 7

CONTEST OF ELECTION TO STATE OR LEGISLATIVE OFFICE

3-12-7-1 — 3-12-7-20. [Repealed.]

CHAPTER 8

CONTEST OF NOMINATION FOR OR ELECTION TO LOCAL OR SCHOOL BOARD OFFICE

SECTION.

- 3-12-8-1. Persons entitled to contest nominations and elections.
- 3-12-8-2. Grounds for contest.
- 3-12-8-3, 3-12-8-4. [Repealed.]
- 3-12-8-5. Verified petition of contest — Filing.
- 3-12-8-6. Verified petition of contest — Contents.
- 3-12-8-7. [Repealed.]
- 3-12-8-8. Summoning contestee and candidates to answer contest petition.
- 3-12-8-9. Service of IC 3-12-8-8 summons.
- 3-12-8-10. Contestee's answer.
- 3-12-8-11. Answer, counterclaim, etc., of candidates.
- 3-12-8-12 — 3-12-8-14. [Repealed.]
- 3-12-8-15. Trial of contest — Location.
- 3-12-8-16. Trial of contest — Fixing date — Notice.
- 3-12-8-17. Trial of contest — Hearing and determination — Special election.
- 3-12-8-18. Trial of contest — Certification of result.
- 3-12-8-19. Trial of contest — Finality — Appeal.
- 3-12-8-20. Trial of contest — Disqualification of judge — Special judge.
- 3-12-8-21. Vacation of office.
- 3-12-8-22. Permissible and impermissible costs of contest.

**3-12-8-1. Persons entitled to contest nominations and elections.** — Any:

- (1) Candidate for nomination to a local or school board office;

- (2) Candidate for election to a local or school board office;
- (3) Voter who was entitled to vote for a candidate described in subdivision (1) or (2);

may contest the nomination or election of a candidate who is declared nominated or elected to the office. [P.L.5-1986, § 8; P.L.10-1988, § 152.]

**3-12-8-2. Grounds for contest.** — An election may be contested under section 1 [IC 3-12-8-1] of this chapter if a petitioner alleges that one (1) of the following circumstances existed:

- (1) The contestee was ineligible.
- (2) A mistake occurred in the printing or distribution of ballots used in the election that makes it impossible to determine which candidate received the highest number of votes.
- (3) A mistake occurred in the programming of a voting machine or an electronic voting system, making it impossible to determine the candidate who received the highest number of votes.
- (4) A voting machine or an electronic voting system malfunctioned, making it impossible to determine the candidate who received the highest number of votes. [P.L.5-1986, § 8; P.L.10-1988, § 153; P.L.10-1989, § 12; P.L.4-1991, § 117.]

3-12-8-3, 3-12-8-4. [Repealed.]

**3-12-8-5. Verified petition of contest — Filing.** — (a) A person who desires to contest an election under this chapter must file a verified petition with the circuit court clerk of the county that contains the greatest percentage of the population of the election district no later than noon seven (7) days after election day.

(b) A petition for a contest of an election in different municipalities, whether in the same court of the county or not, may not be consolidated. [P.L.5-1986, § 8; P.L.3-1987, § 382; P.L.10-1988, § 154; P.L.8-1992, § 33.]

**3-12-8-6. Verified petition of contest — Contents.** — (a) A petition filed under section 5 [IC 3-12-8-5] of this chapter must state the following:

- (1) That the petitioner desires to contest the nomination or election to an office.
- (2) The name and address of each candidate at the election for the office involved.

(3) That the petitioner in good faith believes that:

(A) The person declared nominated or elected does not comply with a constitutional or statutory requirement applicable to a candidate for the office;

(B) A mistake was made in the printing or distribution of ballots that makes it impossible to determine which candidate received the highest number of votes cast in the election;

(C) A mistake occurred in the programming of a voting machine or an electronic voting system, making it impossible to determine the candidate who received the highest number of votes; or

(D) A voting machine or an electronic voting system malfunctioned, making it impossible to determine the candidate who received the highest number of votes.

(b) A petition stating that the petitioner believes that it is impossible to determine the candidate that received the highest number of votes for one (1) of the reasons set forth in subsection (a) must identify each precinct in which:

(1) Ballots containing the printing mistake or distributed by mistake were cast;

(2) A mistake occurred in the programming of a voting machine or an electronic voting system; or

(3) A voting machine or an electronic voting system malfunctioned. [P.L.5-1986, § 8; P.L.10-1988, § 155; P.L.10-1989, § 13; P.L.4-1991, § 118.]

### 3-12-8-7. [Repealed.]

#### 3-12-8-8. Summoning contestee and candidates to answer contest petition.

— Upon the filing of a petition for a contest, the circuit court clerk shall notify the circuit court judge. The judge shall issue a notice to the county sheriff directing the sheriff to serve notice upon the contestee and all other persons named in the petition as candidates for nomination or election to the office to appear and answer the petition in the circuit court on a day to be fixed in the notice. [P.L.5-1986, § 8; P.L.5-1988, § 11; P.L.10-1988, § 156.]

**3-12-8-9. Service of IC 3-12-8-8 summons.** — The sheriff shall serve the notice required by section 8 [IC 3-12-8-8] of this chapter upon the contestee and all other persons named in the petition as candidates for nomination or election to the office in the same manner as a summons is

served in a civil action. [P.L.5-1986, § 8; P.L.5-1988, § 12.]

#### 3-12-8-10. Contestee's answer.

— The contestee shall appear and answer the petition by the day fixed in the notice issued under section 8 [IC 3-12-8-8] of this chapter unless the court extends the time for good cause. The contestee may:

(1) Present any defense or answer that the contestee has to the allegations of the petition under an answer of general denial;

(2) File a special answer; or

(3) Both.

[P.L.5-1986, § 8.]

#### 3-12-8-11. Answer, counterclaim, etc., of candidates.

— Any other person who was a candidate at the election for nomination or election to the office involved and upon whom notice was served under section 9 [IC 3-12-8-9] of this chapter is a party to the proceeding and may state any right or claim the person may have by an answer or counterclaim. [P.L.5-1986, § 8; P.L.5-1988, § 13.]

### 3-12-8-12 — 3-12-8-14. [Repealed.]

#### 3-12-8-15. Trial of contest — Location.

— A contest for an office for which the voters of only one (1) county cast votes shall be tried in that county. However, a change of venue from the judge is allowed under the Indiana rules of trial procedure. A contest for an office for which the voters of two (2) or more counties cast votes shall be tried in the county casting the highest number of votes for the office at the election. [P.L.5-1986, § 8.]

#### 3-12-8-16. Trial of contest — Fixing date — Notice.

— The court shall fix a date within twenty (20) days after the return day fixed in the notice to the contestee for the hearing of a contest. [P.L.5-1986, § 8; P.L.10-1988, § 157.]

#### 3-12-8-17. Trial of contest — Hearing and determination — Special election.

— (a) A contest shall be heard and determined by the court without a jury subject to the Indiana Rules of Trial Procedure.

(b) The court shall determine the issues raised by the petition and answer to the petition.

(c) After hearing and determining a petition alleging that a candidate is ineligible, the court shall declare as elected or nominated the qualified candidate who received the highest number of votes and render judgment accordingly.

(d) If the court finds that:

- (1) A mistake in the printing or distribution of the ballots;
  - (2) A mistake in the programming of a voting machine or an electronic voting system; or
  - (3) A malfunction of a voting machine or an electronic voting system;
- makes it impossible to determine which candidate received the highest number of votes, the court shall order that a special election be conducted under IC 3-10-8.

(e) The special election shall be conducted in the precincts identified in the petition in which the court determines that:

- (1) Ballots containing the printing mistake or distributed by mistake were cast;
  - (2) A mistake occurred in the programming of a voting machine or an electronic voting system; or
  - (3) A voting machine or an electronic voting system malfunctioned.
- [P.L.5-1986, § 8; P.L.10-1989, § 14; P.L.4-1991, § 119.]

**3-12-8-18. Trial of contest — Certification of result.** — A circuit court clerk shall certify the determination made under section 17 [IC 3-12-8-17] of this chapter to the appropriate public official. [P.L.5-1986, § 8.]

**3-12-8-19. Trial of contest — Finality — Appeal.** — The judgment and determination of a court under section 17 [IC 3-12-8-17] of this chapter are final, although an appeal may be taken. [P.L.5-1986, § 8.]

**3-12-8-20. Trial of contest — Disqualification of judge — Special judge.** — If a contest involves the nomination or election of the judge of the court in which the petition of contest is filed, and the regular judge of the court is a party to the case, then the regular judge is disqualified to act in any way in the case. The judge shall, within three (3) days after the filing of the petition of contest, certify the fact of disqualification to the governor, who shall then appoint a special judge to try the case. [P.L.5-1986, § 8; P.L.5-1988, § 14.]

**3-12-8-21. Vacation of office.** — On demand of a person receiving a commission or certificate of election issued following the certification under section 18 [IC 3-12-8-18] of this chapter, a person in possession of the office in question shall vacate the office. If the person in possession fails to do so, the court may compel the vacation of the office upon the petition

of the person holding the commission or certification. [P.L.10-1988, § 158.]

**3-12-8-22. Permissible and impermissible costs of contest.** — (a) The costs of a contest may include the following:

- (1) Compensation of additional employees required to conduct the contest, including overtime payments to regular employees who are eligible to receive such payments.
- (2) Postage and telephone charges directly related to the contest.

(b) The costs of a contest may not include the following:

- (1) General administrative costs.
- (2) Security.
- (3) Allowances for meals or lodging.

[P.L.8-1992, § 34.]

## CHAPTER 9

### RESOLVING TIE VOTES

#### SECTION.

- 3-12-9-1. Special election required except in primaries.
- 3-12-9-2. Governor — Lieutenant governor.
- 3-12-9-3. Notice to local fiscal body of tie in local office vote.
- 3-12-9-4. Fiscal body to resolve ties in local office votes.
- 3-12-9-5. Incumbent to retain office until successor elected.
- 3-12-9-6. Recount petitions — Election contests.
- 3-12-9-7. Tie vote on public question.

**3-12-9-1. Special election required except in primaries.** — (a) Whenever a tie vote at an election for:

- (1) A federal office;
- (2) A state office (other than governor and lieutenant governor);
- (3) A legislative office;
- (4) A circuit office; or
- (5) A school board office not covered under IC 20-4-1 or IC 20-4-8;

occurs, a special election shall be held.

(b) Whenever a tie vote occurs at a primary election for the nomination of a candidate to be voted for at the general or municipal election, IC 3-13-1-17 applies. [P.L.5-1986, § 8; P.L.3-1987, § 383.]

**3-12-9-2. Governor — Lieutenant governor.** — Whenever a tie vote at an election for the offices of governor and lieutenant governor occurs, a majority of the state senate and house of representatives meeting in joint session shall elect these officials from among the candidates receiving the tie vote in accordance with Article 5, Section 5 of the Constitution of the State of Indiana. [P.L.5-1986, § 8.]

**3-12-9-3. Notice to local fiscal body of tie in local office vote.** — Whenever a circuit court clerk receives certification that a tie vote at an election for a local office (other than a circuit office) occurred, the clerk shall immediately send a written notice of the tie vote to the fiscal body of the affected political subdivision. [P.L.5-1986, § 8.]

**3-12-9-4. Fiscal body to resolve ties in local office votes.** — (a) The fiscal body of a political subdivision that receives notice under section 3 [IC 3-12-9-3] of this chapter shall resolve the tie vote by electing a person to fill the office at its organizational meeting in January following the election at which the tie vote occurred. The fiscal body shall select one (1) of the candidates who was involved in the tie vote to fill the office. However, a member of a fiscal body who runs for reelection and is involved in a tie vote may not cast a vote under this section.

(b) The executive of the political subdivision (other than a town) may cast the deciding vote to break a tie vote in a fiscal body acting under this section. The clerk-treasurer of the town may cast the deciding vote to break a tie vote in a town fiscal body acting under this section. [P.L.5-1986, § 8; P.L.10-1988, § 159.]

**3-12-9-5. Incumbent to retain office until successor elected.** — Whenever a tie vote at an election for:

- (1) A state office;
- (2) A local office; or
- (3) A school board office;

occurs, the incumbent public official remains in office in accordance with Article 15, Section 3 of the Constitution of the State of Indiana until a successor is elected under this chapter and qualified. [P.L.5-1986, § 8.]

**3-12-9-6. Recount petitions — Election contests.** — This chapter does not prohibit:

- (1) A candidate from filing a recount petition under IC 3-12-6 or IC 3-12-11;
- (2) A candidate from contesting a nomination or election under IC 3-12-8 or IC 3-12-11; or
- (3) A petitioner from filing a recount petition under IC 3-12-12. [P.L.5-1986, § 8; P.L.3-1987, § 384; P.L.5-1988, § 15; P.L.10-1988, § 160.]

**3-12-9-7. Tie vote on public question.** — If a tie vote occurs on a public question, the question is defeated. [P.L.10-1988, § 161.]

## CHAPTER 10

### STATE RECOUNT COMMISSION

#### SECTION.

- 3-12-10-1. Commission established.
- 3-12-10-2. Members — Chairman.
- 3-12-10-2.5. Recount director.
- 3-12-10-3. Compensation.
- 3-12-10-4. Duties.
- 3-12-10-5. Powers — Applicability of rules — Copying election material.
- 3-12-10-5.5. Use of authorized copy of election material.
- 3-12-10-6. Powers of commission without filing of petition under IC 3-12-11.
- 3-12-10-7. Delegation of powers.
- 3-12-10-8. Conducting of proceedings by state board of accounts.
- 3-12-10-9. Duties of state police department.
- 3-12-10-10. Assignment of staff and facilities by secretary of state.
- 3-12-10-11. Reimbursement to agency or office for expenses incurred in carrying out responsibilities of commission.
- 3-12-10-12. Payment of recount or contest expenses.
- 3-12-10-13. Reimbursement of commission expenses by candidate filing petition under IC 3-12-11.
- 3-12-10-14. Reimbursement of commission expenses by candidate filing cross-petition or opposing party in action under IC 3-12-11.
- 3-12-10-15. Commission determination of chargeable expenses.
- 3-12-10-16. Inapplicability of IC 4-21.5 to commission.
- 3-12-10-17. Election-related court actions stayed.
- 3-12-10-18. Judicial review of final determinations of commission — Remedies.

#### **3-12-10-1. Commission established.**

— The state recount commission is established. [P.L.7-1986, § 18; P.L.11-1983, § 4.]

#### **3-12-10-2. Members — Chairman.** —

(a) Except as provided in subsection (c), the secretary of state and the designee of the state chairman of each of the major political parties of the state shall serve as members of the state recount commission.

(b) Except as provided in subsection (c), the secretary of state shall chair the commission.

(c) Whenever a recount is conducted in an election and the person serving as secretary of state was a candidate for election to office in that election, the secretary of state may not serve on the commission. The state chairman of the same major political party as the person serving as secretary of state shall appoint a person to serve as a member and the chairman of the commission. That person must have voted in the most recent primary election in the primary of the political party that elected the secretary of state

for the term in which the recount petition was filed. The appointed person serves until the commission issues its final determinations concerning all recount and contest petitions resulting from the election. The secretary of state shall then resume the position of a member and the chairman of the recount commission. [P.L.7-1986, § 18; P.L.3-1987, § 385; P.L.10-1988, § 162.]

**3-12-10-2.5. Recount director.** — The state recount commission shall employ and set the salary of a recount director. The recount director shall perform the task delegated to the director by the commission. [P.L.3-1987, § 386.]

**3-12-10-3. Compensation.** — (a) Each member of the state recount commission other than the secretary of state is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b).

(b) Each member of the state recount commission is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the state budget agency. [P.L.7-1986, § 18; P.L. 3-1987, § 387.]

**3-12-10-4. Duties.** — (a) The state recount commission shall conduct recount proceedings under IC 3-12-11 resulting from:

- (1) A presidential primary election;
- (2) The nomination of a candidate to a federal, state, or legislative office in a primary election; or
- (3) An election for a federal, state, or legislative office.

(b) The state recount commission shall conduct contest proceedings under IC 3-12-11 resulting from:

- (1) A presidential primary election;
- (2) The nomination of a candidate to a federal, state, or legislative office in a primary election; or
- (3) An election for a state office other than governor or lieutenant governor. [P.L.7-1986, § 18; P.L.3-1987, § 388; P.L.10-1988, § 163.]

**3-12-10-5. Powers — Applicability of rules — Copying election material.** — (a) The state recount commission may, to comply with section 4 [IC 3-12-10-4] of this chapter:

- (1) Impound, take possession of, transport, or otherwise protect any election records or equipment related to a recount or contest;

- (2) Issue subpoenas, discovery orders, and protective orders;
- (3) Conduct and regulate the course of hearings and other proceedings;
- (4) Manage its internal affairs;
- (5) Adopt rules under IC 4-22-2; or
- (6) Exercise any other necessary power to perform its functions under this article.

(b) Rules adopted by the state recount commission for the conduct of a recount or contest proceeding must uniformly apply throughout Indiana.

(c) An impoundment order issued under subsection (a)(1) may not prevent a circuit court clerk or board of registration from copying election material other than ballots if the clerk or board copies the material under the supervision of the state police department. [P.L.7-1986, § 18; P.L.3-1987, § 389.]

**3-12-10-5.5. Use of authorized copy of election material.** — A circuit court clerk or board of registration may use a copy of election material other than ballots made under section 5 [IC 3-12-10-5] of this chapter instead of an original subject to an impoundment order under that section until the commission orders the release of the original. [P.L.3-1987, § 390.]

**3-12-10-6. Powers of commission without filing of petition under IC 3-12-11.** — Without the filing of a petition under IC 3-12-11, the state recount commission may impound, take possession of, transport, or otherwise protect any election records or equipment that the commission determines may be the subject of:

- (1) A recount proceeding; or
- (2) A contest proceeding conducted by the state recount commission under IC 3-12-11. [P.L.7-1986, § 18; P.L.3-1987, § 391; P.L.10-1988, § 164.]

**3-12-10-7. Delegation of powers.** — (a) The state recount commission may designate one (1) or more members of the commission or one (1) or more other persons to exercise any of its powers, and other than the:

- (1) Final adoption of rules;
- (2) Final determination of a recount under IC 3-12-11; or
- (3) Final determination of a contest under IC 3-12-11.

(b) Each person designated by the commission under subsection (a) who is not a member of the commission must be an attorney (as defined in IC 23-1.5-1-4). [P.L.7-1986, § 18; P.L.3-1987, § 392.]

**3-12-10-8. Conducting of proceedings by state board of accounts.** — The state board of accounts shall conduct any recount or other contest proceeding ordered by the state recount commission. [P.L.7-1986, § 18.]

**3-12-10-9. Duties of state police department.** — The state police department shall:

- (1) Serve any notices or other papers;
- (2) Secure or transport any election records or equipment; and
- (3) Perform any other law enforcement duties;

ordered by the state recount commission. [P.L.7-1986, § 18.]

**3-12-10-10. Assignment of staff and facilities by secretary of state.** — The secretary of state may assign any of the officer's staff and facilities to the state recount commission to carry out the commission's responsibilities. [P.L.7-1986, § 18.]

**3-12-10-11. Reimbursement to agency or office for expenses incurred in carrying out responsibilities of commission.** — The state recount commission shall reimburse any agency or office described in sections 8, 9, and 10 [IC 3-12-10-8, 3-12-10-9, and 3-12-10-10] of this chapter that incurs any expense to carry out the responsibilities of the commission in conformity with the policies and procedures established by the state budget agency. [P.L.7-1986, § 18.]

**3-12-10-12. Payment of recount or contest expenses.** — The expenses of a recount or contest conducted by the state recount commission shall be paid from the state general fund. [P.L.7-1986, § 18; P.L.10-1988, § 165.]

**3-12-10-13. Reimbursement of commission expenses by candidate filing petition under IC 3-12-11.** — A candidate filing a petition under IC 3-12-11 shall reimburse the state for the expenses of the state recount commission in the amount of the cash deposit required for a recount under IC 3-12-11-10 or a contest under IC 3-12-11-11. However, the petitioner is not liable for the expenses chargeable to another party under section 14 [IC 3-12-11-14] of this chapter. [P.L.7-1986, § 18; P.L.3-1987, § 393.]

**3-12-10-14. Reimbursement of commission expenses by candidate filing cross-petition or opposing party in ac-**

**tion under IC 3-12-11.** — A candidate filing a cross-petition under IC 3-12-11 or an opposing party in a contest action under IC 3-12-11 shall reimburse the state for the expenses of the state recount commission in the amount of the cash deposit required under IC 3-12-11-11. [P.L.7-1986, § 18; P.L.3-1987, § 394.]

**3-12-10-15. Commission determination of chargeable expenses.** — The state recount commission shall determine the expenses chargeable to a person under sections 13 and 14 [IC 3-12-10-13 and 3-12-10-14] of this chapter. [P.L.7-1986, § 18.]

**3-12-10-16. Inapplicability of IC 4-21.5 to commission.** — IC 4-21.5 does not apply to the state recount commission. [P.L.7-1986, § 18; P.L.7-1987, § 2.]

**3-12-10-17. Election-related court actions stayed.** — Any court action related to the election for an office that is the subject of a:

- (1) Recount proceeding under IC 3-12-11; or
- (2) Contest proceeding under IC 3-12-11; is stayed until the state recount commission has rendered a final determination. [P.L.7-1986, § 18; P.L.3-1987, § 395.]

**3-12-10-18. Judicial review of final determinations of commission — Remedies.** — Any party to a final determination of the state recount commission concerning a nomination subject to IC 3-12-11 or election to a state office other than governor or lieutenant governor may file a petition with the Marion County circuit court for judicial review of the determination no later than noon thirty (30) days after notice of the determination is served on the party. If the court finds that a party has been substantially prejudiced by commission action that is:

- (1) Arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
- (2) Contrary to constitutional right, power, privilege, or immunity;
- (3) In excess of statutory jurisdiction, authority, or limitations, or short of statutory right; or
- (4) Without observance of procedure required by law;

the court may set aside the final determination of the commission. The court may remand the case to the commission for further proceedings and compel commission action that has been unreasonably delayed or unlawfully withheld.



[P.L.7-1986, § 18; P.L.3-1987, § 396; P.L.10-1988, § 166.]

## CHAPTER 11

### RECOUNT PROCEDURES FOR FEDERAL, STATE, AND LEGISLATIVE OFFICES

#### SECTION.

- 3-12-11-1. Candidate entitled to recount.
- 3-12-11-2. Verified petition required.
- 3-12-11-3. Contents of petition.
- 3-12-11-4. Cross-petition for recount.
- 3-12-11-5. Effect of failure to file cross-petition or answer to petition.
- 3-12-11-6. Cross-petition requirements.
- 3-12-11-7. Amendment of petition or cross-petition.
- 3-12-11-8. Joint petition for recount.
- 3-12-11-9. Issuance of notice by secretary of state — Service of notice — Return of service.
- 3-12-11-10. Cash deposit for payment of costs by petitioner.
- 3-12-11-11. Cash deposit by cross-petitioner or opposing candidate seeking to become party.
- 3-12-11-12. Granting of petitions and cross-petitions — Ordering recount.
- 3-12-11-13. Consolidated recount.
- 3-12-11-14. Precincts encompassed in recount.
- 3-12-11-15. Mailing of certified copy of order of recount or contest to opposing candidates — Charge to petitioner.
- 3-12-11-16. Impounding ballots, voting machines, voting systems and voting materials.
- 3-12-11-17. Hearing — Conduct of recount — Conduct of contest.
- 3-12-11-17.5. Petition for manual recount — Withdrawal of petition.
- 3-12-11-18. Certification of results — Filing — Eligibility of candidate — Special election.
- 3-12-11-19. Prevailing recount certificate — Evidentiary value of certified copy of recount certificate.
- 3-12-11-20. Recount for offices of governor and lieutenant governor — Transmission of certified statements of results.
- 3-12-11-21. Recount for legislative office — Transmission of certified statements of results.
- 3-12-11-22. Certified statements of results not determinative of eligibility of candidate for office.
- 3-12-11-23. Recount — Vote tabulation.
- 3-12-11-24. Entitlement to certificate of election or commission for office.
- 3-12-11-25. Certification of eligible candidate.

#### **3-12-11-1. Candidate entitled to recount. — Any candidate:**

- (1) In a presidential primary election;
- (2) For nomination to a federal, state, or legislative office in a primary election; or
- (3) For a federal, state, or legislative office;

is entitled to have the votes cast for that office recounted under this chapter. A recount may be conducted in one (1) or more of the precincts in which votes were cast for the office. [P.L.7-1986, § 19; P.L.10-1988, § 167.]

#### **3-12-11-2. Verified petition required. — A candidate who desires:**

- (1) A recount of votes cast for a nomination or election subject to this chapter; or
  - (2) To contest a nomination subject to this chapter or the election of a state office other than governor or lieutenant governor;
- must file a verified petition with the secretary of state no later than noon seven (7) days after election day. [P.L.7-1986, § 19; P.L.3-1987, § 397; P.L.10-1988, § 168.]

#### **3-12-11-3. Contents of petition. —**

(a) Each petition for a recount filed under section 2 [IC 3-12-11-2] of this chapter must state the following:

- (1) The office for which the petitioner desires a recount.
- (2) The precincts in which the petitioner desires a recount.
- (3) That the petitioner was a candidate for nomination or election to the office and that the nomination or election to office was voted upon in the precincts specified.
- (4) The name and address of the petitioner's opposing candidate or candidates.
- (5) That the petitioner in good faith believes that the votes cast for nomination or election to the office at the election in the precincts were not correctly counted and returned.
- (6) That the petitioner desires a recount of all of the votes cast for nomination or election to the office in the precincts specified.

(b) Each petition for a contest filed under section 2 of this chapter must state the following:

- (1) The nomination or election to office that the petitioner contests.
- (2) That the petitioner was a candidate at the election for the nomination or election to office.
- (3) The name and address of each of the petitioner's opposing candidates.
- (4) That the petitioner in good faith believes that:

- (A) The person declared nominated or elected does not comply with a constitutional or statutory requirement applicable to a candidate for the office; or

(B) A mistake was made in the printing or distribution of ballots that makes it impossible to determine which candidate received the highest number of votes cast in the election.

(c) A petition stating that the petitioner believes that a mistake in the printing or distribution of ballots has occurred must identify each precinct in which ballots:

- (1) Containing the printing mistake; or
- (2) Distributed by mistake; were cast. [P.L.7-1986, § 19; P.L.3-1987, § 398; P.L.10-1988, § 169; P.L.10-1989, § 15.]

**3-12-11-4. Cross-petition for recount.** — A candidate who is nominated or elected to an office at an election on the face of the election returns may file a verified cross-petition for a recount with the secretary of state no later than noon ten (10) days after election day. [P.L.7-1986, § 19; P.L.3-1987, § 399; P.L.10-1988, § 170.]

**3-12-11-5. Effect of failure to file cross-petition or answer to petition.** — The failure to file either a cross-petition or an answer to a petition for a recount or contest does not:

- (1) Constitute an admission of the truth of the allegations of the petition; or
  - (2) Imply a presumption in favor of the petition.
- [P.L.7-1986, § 19; P.L.3-1987, § 400.]

**3-12-11-6. Cross-petition requirements.** — Each cross-petition filed under section 4 [IC 3-12-11-4] of this chapter must state the following:

- (1) The office for which the cross-petitioner desires a recount.
- (2) The precincts in which the cross-petitioner desires a recount.
- (3) That the cross-petitioner was a candidate at the election for nomination or election to the office and that the nomination or election to office was voted upon in the precincts specified.
- (4) The name and address of the cross-petitioner's opposing candidate or candidates.
- (5) That the cross-petitioner in good faith believes that the votes cast for nomination or election to the office at the election in the precincts were not correctly counted and returned.
- (6) That the cross-petitioner desires a recount of all of the votes cast for nomination or election to the office in

the precincts specified. [P.L.7-1986, § 19; P.L.10-1988, § 171.]

**3-12-11-7. Amendment of petition or cross-petition.** — The state recount commission may allow a petition or cross-petition to be amended at any time upon the terms and conditions that the state recount commission orders. However, the commission may not allow a candidate who filed a petition or cross-petition to amend the petition or cross-petition by striking a precinct in which the candidate had desired a recount unless each opposing candidate consents to the amendment. [P.L.7-1986, § 19; P.L.3-1987, § 401.]

**3-12-11-8. Joint petition for recount.** — Two (2) or more candidates for the same or a different office nominated or elected at the same election may join in a petition for a recount or contest. [P.L.7-1986, § 19; P.L.10-1988, § 172.]

**3-12-11-9. Issuance of notice by secretary of state — Service of notice — Return of service.** — Upon the filing of a petition for a recount or contest, the secretary of state shall issue a notice of the filing and pendency of the petition to each opposing candidate and deliver the notice to the state police department. The state police department shall immediately serve the notice upon each opposing candidate in person or by leaving a copy at the last and usual place of residence. The state police department shall make immediate return of the service. [P.L.7-1986, § 19; P.L.3-1987, § 402.]

**3-12-11-10. Cash deposit for payment of costs by petitioner.** — Each petitioner shall furnish a cash deposit for the payment of costs of the recount chargeable to the petitioner. The minimum amount of the cash deposit is one hundred dollars (\$100). If the number of precincts to be recounted exceeds ten (10), the amount of the deposit shall be increased by ten dollars (\$10) for each precinct in excess of ten (10). Any unexpended balance remaining in a deposit after payment of the costs of the recount chargeable to the petitioner shall be returned to the depositor. [P.L.7-1986, § 19.]

**3-12-11-11. Cash deposit by cross-petitioner or opposing candidate seeking to become party.** — If a cross-petition is filed under this chapter, the cross-petitioner shall furnish a cash deposit equal to ten dollars (\$10) multiplied by the number of precincts that the cross-peti-

tioner seeks to have recounted. [P.L.7-1986, § 19; P.L.3-1987, § 403.]

**3-12-11-12. Granting of petitions and cross-petitions — Ordering recount.** — (a) The state recount commission shall grant the petitions and cross-petitions that have been filed and order the recount of the votes in the precincts upon:

- (1) The filing of a petition and cash deposit or bond under this chapter;
- (2) The expiration of the period under section 4 [IC 3-12-11-4] of this chapter for filing a cross-petition; and
- (3) Proof of service of all notices.

(b) Whenever a petition filed under section 2 [IC 3-12-11-2] of this chapter requests a recount in all precincts in the election district, the state recount commission may order a recount in the precincts upon:

- (1) The filing of a cash deposit or bond under this chapter; and
- (2) Proof of service of all notices.

(c) The state recount commission shall grant a petition for a contest that has been filed and order a contest proceeding upon:

- (1) The filing of a petition under this chapter; and
- (2) Proof of service of all notices.

[P.L.7-1986, § 19; P.L.3-1987, § 404.]

**3-12-11-13. Consolidated recount.** — If there is a consolidation of petitions and cross-petitions, the state recount commission shall by consolidated order grant the consolidated petitions and cross-petitions and order a consolidated recount of all votes in each precinct in the county requested in the petitions and cross-petitions. [P.L.7-1986, § 19.]

**3-12-11-14. Precincts encompassed in recount.** — The state recount commission shall conduct a recount in each precinct designated in a petition or cross-petition granted under this chapter. The commission may conduct a recount in any precinct that cast votes for an office that is the subject of a recount under this chapter. [P.L.7-1986, § 19; P.L.3-1987, § 405.]

**3-12-11-15. Mailing of certified copy of order of recount or contest to opposing candidates — Charge to petitioner.** — On the day when the order of a recount or contest proceeding is made and entered by the state recount commission, the secretary of state shall send a certified copy of the order by certified mail to each opposing candidate named in the petition at the address stated in the petition, if a petition was filed, at the candidate's last known

address. The secretary of state shall charge the cost of mailing the order to the petitioner. [P.L.7-1986, § 19; P.L.3-1987, § 406.]

**3-12-11-16. Impounding ballots, voting machines, voting systems and voting materials.** — The state recount commission may by order impound and provide for the protection of the following:

- (1) All ballots, voting machines, and electronic voting systems used at the election for casting votes in the precincts.
- (2) All tally sheets relating to the votes cast for the office.
- (3) All poll lists of persons registered by the poll clerks as having voted for the office. [P.L.7-1986, § 19; P.L.3-1987, § 407.]

**3-12-11-17. Hearing — Conduct of recount — Conduct of contest.** — (a) After a recount is ordered under section 12 [IC 3-12-11-12] of this chapter, the state recount commission or its designee shall convene at a place fixed by order of the state recount commission and expeditiously complete the recount of all votes ordered recounted. Each candidate affected by the recount may have a watcher present at the recount and may also be present in person. Representatives of the media may also attend the recount.

(b) At least two (2) days after a contest proceeding is ordered under section 12 of this chapter, the state recount commission or its designee shall convene at a place fixed by order of the state recount commission and conduct a hearing on the contest petition. Each candidate affected by the contest may be present in person. Representatives of the media may also attend the hearing. [P.L.7-1986, § 19; P.L.3-1987, § 408.]

**3-12-11-17.5. Petition for manual recount — Withdrawal of petition.** — (a) A petition or cross-petition filed under this chapter may request that ballot cards in specified precincts that used a ballot card voting system be counted manually. If a petition or cross-petition includes such a request, automatic tabulating machines may not be used to count ballot cards in the specified precincts. Ballot cards in those precincts shall be counted manually, and the tabulation of votes must comply with IC 3-11-7.

(b) A petitioner or cross-petitioner may withdraw a request for a manual recount of ballot cards at any time after the state board of accounts conducts a test of the automatic tabulating machines to ascer-

tain that the machines will correctly count the votes cast for the office that is the subject of the recount. [P.L.3-1987, § 409; P.L.10-1988, § 173.]

**3-12-11-18. Certification of results — Filing — Eligibility of candidate — Special election.** — (a) When a recount is completed by the state recount commission or its designee, the commission shall:

- (1) Make and sign a certificate showing the total number of votes received in the precincts by each candidate for nomination or election to the office;
- (2) State in its certificate the candidate who received the highest number of votes in the precincts for nomination or election to the office and by what plurality; and
- (3) File its certificate with the secretary of state.

(b) When a contest proceeding in which a candidate is alleged to be ineligible is completed by the state recount commission or its designee, the commission shall make a final determination concerning the eligibility of the candidate for nomination or election to the office.

(c) If the state recount commission or its designee determines that a mistake was made in the printing or distribution of ballots that makes it impossible to determine which candidate received the highest number of votes cast, the commission shall order that a special election be conducted under IC 3-10-8 in the precincts identified in the petition in which the court determines that ballots:

- (1) Containing the printing mistake; or
- (2) Distributed by mistake;

were cast. [P.L.7-1986, § 19; P.L.3-1987, § 410; P.L.10-1988, § 174; P.L.10-1989, § 16.]

**3-12-11-19. Prevailing recount certificate — Evidentiary value of certified copy of recount certificate.** — Except in recount proceedings for an election to the offices of governor and lieutenant governor and legislative offices, a recount certificate made under section 18 [IC 3-12-11-18] of this chapter supersedes all previous returns made in any form of the recounted votes. A certified copy of a recount certificate constitutes prima facie evidence of the votes cast for nomination or election to the office in the precincts in any proceeding in which there is an issue as to the votes cast at the election for the nomination or election to office. [P.L.7-1986, § 19; P.L.3-1987, § 411; P.L.10-1988, § 175.]

**3-12-11-20. Recount for offices of governor and lieutenant governor — Transmission of certified statements of results.** — On the day following the completion of a recount for the election to the offices of governor and lieutenant governor, the secretary of state shall prepare two (2) certified statements under the secretary of state's seal showing the total number of votes that each candidate received. The secretary of state shall transmit the statements to:

- (1) The speaker of the house of representatives; and
- (2) The president pro tempore of the senate;

on the first session day in January of the regular session of the general assembly. [P.L.7-1986, § 19; P.L.10-1988, § 176.]

**3-12-11-21. Recount for legislative office — Transmission of certified statements of results.** — (a) A recount for election to a legislative office shall be completed before December 20 after the election.

(b) Before December 20 after the election, the secretary of state shall prepare two (2) certified statements showing the total number of votes that each candidate received. The secretary of state shall transmit one (1) statement to the candidate receiving the highest number of votes for the office. Before December 20 after the election, the secretary of state shall deliver the other statement to the presiding officer of the house in which the successful candidate is to be seated.

(c) The statement shall be referred by the presiding officer for such action as that house considers appropriate. [P.L.7-1986, § 19; P.L.10-1988, § 177; P.L.3-1993, § 218.]

**3-12-11-22. Certified statements of results not determinative of eligibility of candidate for office.** — A statement of the secretary of state prepared under section 20 or 21 [IC 3-12-11-20 or 3-12-11-21] of this chapter does not determine the eligibility of a candidate for office but is prepared only for the purpose of referring the information to the proper authorities. [P.L.7-1986, § 19.]

**3-12-11-23. Recount — Vote tabulation.** — If a recount is made:

- (1) In a presidential primary election;
- (2) For nomination to a federal, state, or legislative office in a primary election;
- (3) In an election to a federal office; or

(4) In an election to a state office other than governor and lieutenant governor; the secretary of state shall determine whether the votes in the precincts shown by the recount certificate differ from the votes that were tabulated by any county election board. If the secretary of state previously included in a tabulation the votes cast for the office as returned by the county election board, the secretary of state shall correct the tabulation in accordance with the certificate. [P.L.7-1986, § 19; P.L.10-1988, § 178; P.L.3-1993, § 219.]

**3-12-11-24. Entitlement to certificate of election or commission for office.** — The candidate shown by a corrected vote tabulation under section 23 [IC 3-12-11-23] of this chapter to have received the highest number of votes for nomination or election to an office is entitled to a certificate of nomination, certificate of election, or commission for the office even though one may have been issued upon a previous tabulation. [P.L.7-1986, § 19; P.L.10-1988, § 179.]

**3-12-11-25. Certification of eligible candidate.** — Whenever the commission makes a final determination under section 18 [IC 3-12-11-18] of this chapter that the candidate who is subject to a contest proceeding is not eligible to serve in the office to which the candidate is nominated or elected, the candidate who received the second highest number of votes for the office is entitled to a certificate of nomination or certificate of election even though a certificate may have been issued to another candidate upon the tabulation of the votes. [P.L.3-1987, § 412; P.L.10-1988, § 180.]

## CHAPTER 12

### RECOUNT PROCEDURES FOR PUBLIC QUESTIONS

#### SECTION.

- 3-12-12-1. Voter entitlement to recount.
- 3-12-12-2. Petition filing procedures.
- 3-12-12-3. Petition contents.
- 3-12-12-4. Petition signatures.
- 3-12-12-5. Cash deposit or bond.
- 3-12-12-6. Failure to make cash deposit.
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- 3-12-12-8. Petitions from two or more counties.
- 3-12-12-9. Recount order — Recount commission.
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- 3-12-12-11. Recount commission members.
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- 3-12-12-13. Certified copy of recount order.

#### SECTION.

- 3-12-12-14. Court-ordered impoundment and protection — Superseding orders — Exception to impoundment.
- 3-12-12-15. Copies of election material.
- 3-12-12-16. Availability of election material to commission.
- 3-12-12-17. Location of recount — Watcher and media.
- 3-12-12-18. Manual counting request.
- 3-12-12-19. Recount certificate.
- 3-12-12-20. Certificate supersedes previous returns.
- 3-12-12-21. Appeal to circuit court.
- 3-12-12-22. Certificate of corrected votes in two or more counties.
- 3-12-12-23. Immediate transmittal of certificate to secretary of state — Issuance of certificate of approval or rejection.
- 3-12-12-24. [Repealed.]
- 3-12-12-25. Certificate of corrected votes in one county.
- 3-12-12-26. Transmittal of certificate to county election board — Issuance of certificate of approval or rejection.

**3-12-12-1. Voter entitlement to recount.** — Any voter in an election district is entitled to have the votes cast on a public question in that election district recounted under this chapter. A recount may be conducted in one (1) or more of the precincts in which votes were cast for the public question. [P.L.10-1988, § 181.]

**3-12-12-2. Petition filing procedures.** — A voter who desires a recount under this chapter must file a verified petition no later than noon seven (7) days after election day. The petition must be filed:

- (1) In the circuit court of each county in which is located a precinct in which the voter desires a recount; and
  - (2) With the secretary of state.
- [P.L.10-1988, § 181.]

**3-12-12-3. Petition contents.** — Each petition filed under section 2 [IC 3-12-12-2] of this chapter must state the following:

- (1) The public question for which the petitioner desires a recount.
  - (2) The precincts within the county in which the petitioner desires a recount.
  - (3) That the petitioner voted on the public question in the election.
  - (4) That the petitioner in good faith believes that the votes cast on the public question at the election in the precincts were not correctly counted and returned.
  - (5) That the petitioner desires a recount of all the votes cast on the public question in the precincts specified.
- [P.L.10-1988, § 181.]

**3-12-12-4. Petition signatures.** — The petition filed under section 2 [IC 3-12-12-2] of this chapter must also be signed by a number of voters within the election district that voted on the public question equal to at least ten percent (10%) of the voters who cast ballots on the public question in the election. [P.L.10-1988, § 181.]

**3-12-12-5. Cash deposit or bond.** — Each petition filed under section 2 [IC 3-12-12-2] of this chapter must be accompanied by a cash deposit or a bond with corporate surety to the approval of the court for the payment of all costs of the recount. The minimum amount of the cash deposit or bond is one hundred dollars (\$100). If the number of precincts to be recounted exceeds ten (10), then the amount of the deposit shall be increased by ten dollars (\$10) for each precinct in excess of ten (10). Any unexpended balance remaining in a deposit after payment of all costs of the recount shall be returned to the depositor. [P.L.10-1988, § 181.]

**3-12-12-6. Failure to make cash deposit.** — If a cash deposit was not made as required by section 5 [IC 3-12-12-5] of this chapter, the petitioners shall pay to the circuit court clerk within ten (10) days after the recount is completed all costs of the recount. [P.L.10-1988, § 181.]

**3-12-12-7. Two or more petitions in one county.** — If more than one (1) petition is filed under section 2 [IC 3-12-12-2] of this chapter in one (1) county requesting a recount of votes cast on a public question in a precinct in that county, the circuit court of the county shall consolidate all petitions under the first petition filed. [P.L.10-1988, § 181.]

**3-12-12-8. Petitions from two or more counties.** — If petitions are filed under section 2 [IC 3-12-12-2] of this chapter in more than one (1) county, the circuit court of the county casting, on the face of the election returns, the highest number of votes on the public question shall assume jurisdiction over all petitions concerning the public question. [P.L.10-1988, § 181.]

**3-12-12-9. Recount order — Recount commission.** — Upon the filing of a petition and bond under this chapter, the court shall grant the petitions that have been filed and order the recount of votes in the precincts by appointing a recount commission. [P.L.10-1988, § 181.]

**3-12-12-10. Consolidated recount order.** — If there is a consolidation of petitions, the court shall by consolidated order grant the consolidated petitions and order a consolidated recount of all votes on the public question in all precincts in the counties requested in the petitions. [P.L.10-1988, § 181.]

**3-12-12-11. Recount commission members.** — (a) A recount commission consists of three (3) persons.

(b) Two (2) members of the commission must be voters who:

- (1) Are members of different major political parties of the state; and
- (2) Were qualified to vote at the election in a county in which the election district that voted on the public question is located.

(c) This subsection applies to a recount commission conducting a recount of an election in which only paper ballots were used. The third member of the commission must be a person who:

- (1) Is a member of a major political party of the state; and
- (2) Was qualified to vote at the election in a county in which the election district that voted on the public question is located.

(d) This subsection applies to a recount of an election in which a voting method other than only paper ballots was used. The third member of the commission must be a competent mechanic who is familiar with the voting machines, ballots card voting systems, or electronic voting systems used in that election. The mechanic is not required to be qualified to vote at the election in a county in which the election district that voted on the public question is located. [P.L.10-1988, § 181.]

**3-12-12-12. Compensation of recount commission members.** — Each member of a recount commission is entitled to a per diem not to exceed one hundred dollars (\$100) for each day actually engaged in making the recount. The judge of the court having jurisdiction over the recount shall fix the compensation paid under this section. [P.L.10-1988, § 181; P.L.4-1991, § 120.]

**3-12-12-13. Certified copy of recount order.** — On the day when the order of a recount is made and entered by the court, the circuit court clerk shall send a certified copy of the order by certified mail to the first name on each petition filed under section 2 [IC 3-12-12-2] of this chapter at the address stated in the petition. The clerk shall charge the cost of

mailing the order to each petitioner. [P.L.10-1988, § 181.]

**3-12-12-14. Court-ordered impoundment and protection — Superseding orders — Exception to impoundment.**

— (a) A court ordering a recount under this chapter shall by order impound and provide for the protection of the following:

(1) All ballots, voting machines, and electronic voting systems used at the election for casting votes in the precincts.

(2) All tally sheets relating to the votes cast on the public question.

(3) All poll lists of persons registered by the poll clerks as having voted on the public question.

(b) An order issued by the state recount commission under IC 3-12-10 supersedes an order issued by a court under this section to the extent that the orders conflict. The state recount commission shall assist a court acting under this section to the extent that the ability of the state recount commission to preserve the integrity of election records or equipment is not hindered.

(c) An impoundment order issued under subsection (a) may not prevent a circuit court clerk or board of registration from copying election material other than ballots if the clerk or board copies the material under the supervision of a person designated by the court. [P.L.10-1988, § 181.]

**3-12-12-15. Copies of election material.** — A circuit court clerk or board of registration may use a copy made under section 14 [IC 3-12-12-14] of this chapter instead of an original subject to an impoundment order under that section until the court orders the release of the original. [P.L.10-1988, § 181.]

**3-12-12-16. Availability of election material to commission.** — A court acting under section 14 [IC 3-12-12-14] of this chapter shall make the ballots, voting machines, electronic voting systems, tally sheets, and poll lists available to the recount commission appointed under this chapter. [P.L.10-1988, § 181.]

**3-12-12-17. Location of recount — Watcher and media.** — (a) After a recount is ordered under section 9 [IC 3-12-12-9] of this chapter, the recount commission shall convene at a place fixed by order of the court and expeditiously complete the recount of all votes ordered recounted.

(b) The petitioners may designate a watcher to be present at the recount and may also be present in person. Representatives of the media may also attend the recount. [P.L.10-1988, § 181.]

**3-12-12-18. Manual counting request.** — (a) A petition filed under this chapter may request that ballot cards in specified precincts that used a ballot card voting system be counted manually. If a petition includes such a request, the recount commission may not use automatic tabulating machines to count ballot cards in the specified precincts. Ballot cards in those precincts shall be counted manually, and the tabulation of votes must comply with IC 3-11-7.

(b) A petitioner may withdraw a request for a manual recount of ballot cards at any time after the recount commission conducts a test of the automatic tabulating machines to ascertain that the machines will correctly count the votes cast on the public question that is the subject of the recount. [P.L.10-1988, § 181.]

**3-12-12-19. Recount certificate.** — When a recount is completed by a recount commission appointed under this chapter, the commission shall:

- (1) Make and sign a certificate showing the total number of votes received in the precincts on the public question;
- (2) State in its certificate whether affirmative or negative votes received the highest number of votes in the precincts on the public question and by what plurality; and
- (3) File its certificate with the circuit court clerk. The clerk shall enter the certificate in the order book of the court. [P.L.10-1988, § 181.]

**3-12-12-20. Certificate supersedes previous returns.** — A recount certificate made under section 19 [IC 3-12-12-19] of this chapter supersedes all previous returns made in any form of the recounted votes. A certified copy of a recount certificate constitutes prima facie evidence of the votes cast on the public question in the precincts in any contest or other proceeding in which there is an issue as to the votes cast at the election on the public question. [P.L.10-1988, § 181.]

**3-12-12-21. Appeal to circuit court.** — The determination of a recount commission under section 19 [IC 3-12-12-19] of this chapter is final, although an appeal may be taken to the circuit court that appointed the commission. [P.L.10-1988, § 181.]

**3-12-12-22. Certificate of corrected votes in two or more counties.** — If a recount is made for a public question for which votes were cast in more than one (1) county, each circuit court clerk where the recount was made shall determine whether the votes in the precincts shown by the recount certificate differ from the votes that were tabulated by the county election board. If a circuit court clerk finds that there is a difference between the votes shown by the recount certificate and the votes tabulated by the county election board, the clerk shall prepare a certificate showing the total vote in the county for and against the public question as corrected in accordance with the recount certificate. [P.L.10-1988, § 181; P.L.3-1993, § 220.]

**3-12-12-23. Immediate transmittal of certificate to secretary of state — Issuance of certificate of approval or rejection.** — (a) This section applies to a recount of:

(1) A public question concerning the ratification of a state constitutional amendment or the retention of a justice or judge; or

(2) Another public question voted on by the electorate of the entire state.

(b) A circuit court clerk shall immediately transmit a certificate prepared under section 22 [IC 3-12-12-22] of this chapter to the secretary of state.

(c) Upon tabulation of the returns under this section, the secretary of state shall issue a certificate declaring the public question approved or rejected. [P.L.10-1988, § 181; P.L.4-1991, § 121.]

**3-12-12-24. [Repealed.]**

**3-12-12-25. Certificate of corrected votes in one county.** — If a recount is made for a public question on which votes were cast only in a single county, the circuit court clerk shall determine whether the votes shown by the recount certificate differ from the votes that were tabulated by the county election board. If the circuit court clerk finds that there is a difference between the votes shown by the recount certificate and the votes tabulated by the county election board, the clerk shall prepare a certificate showing the total vote for and against the public question as corrected in accordance with the recount certificate. [P.L.10-1988, § 181; P.L.3-1993, § 221.]

**3-12-12-26. Transmittal of certificate to county election board — Issuance of certificate of approval or rejection.** — (a) This section applies to a recount of votes cast on a local public question.

(b) The circuit court clerk shall transmit the certificate prepared under section 22 or 25 [IC 3-12-12-22 or 3-12-12-25] of this chapter to the county election board of the county having the greatest percentage of population of the election district voting on the public question.

(c) Upon tabulation of the returns under this section, the county election board shall issue a certificate declaring the public question approved or rejected. [P.L.10-1988, § 181; P.L.4-1991, § 122.]

## ARTICLE 13 VACANCIES

### CHAPTER.

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### CHAPTER 1

#### EARLY CANDIDATE VACANCIES

##### SECTION.

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 3-13-1-18. Vacancies in certain offices in town.  
 3-13-1-19. Selection of defeated primary candidate to fill vacancies.

**3-13-1-1. Applicability.** — This chapter applies to the filling of a candidate vacancy that arises for any reason if the vacancy leaves a political party without a candidate for the office and occurs before the thirtieth day before a general, special, or municipal election. [P.L.5-1986, § 9; P.L.3-1987, § 413; P.L.4-1991, § 123.]

**3-13-1-2. Vacancies on primary ballot not to be filled — Filling of resulting vacancies on following general or municipal election ballot.** — A candidate vacancy that exists on a primary election ballot may not be filled for the primary election. The resulting vacancy on the following general or municipal election ballot may be filled in the manner prescribed by this chapter, but only if it is filled by noon August 1 before election day. [P.L.5-1986, § 9; P.L.3-1987, § 414; P.L.4-1991, § 124.]

**3-13-1-3. Filling of vacancies — United States Senate — State offices.** — Except as provided in IC 3-10-8-7, a candidate vacancy for United States Senator or a state office shall be filled by the state committee of the political party. [P.L.5-1986, § 9; P.L.10-1989, § 17.]

**3-13-1-4. Filling of vacancies — United States House of Representatives.** — A candidate vacancy for United States Representative shall be filled by a caucus comprised by the precinct committeemen of the political party whose precincts are within the congressional district. [P.L.5-1986, § 9.]

**3-13-1-5. Filling of vacancies — State legislative offices.** — A candidate vacancy for a legislative office shall be filled by a caucus comprised by the precinct committeemen and vice committeemen of the political party whose precincts are within the senate or house district. [P.L.5-1986, § 9.]

**3-13-1-6. Filling of vacancies — Local offices.** — (a) Except as provided in subsection (b), a candidate vacancy for a local office shall be filled by:

(1) A caucus comprised by the precinct committeemen and vice committeemen who are eligible to participate under section 10 [IC 3-13-1-10] of this chapter; or

(2) The county chairman of the political party or a caucus comprised by all of the officers elected under IC 3-6-1-6 for the county committee of the party, if:

(A) Authorized to fill vacancies under this chapter by majority vote of the county committee; and

(B) The election district for the local office is entirely within one (1) county.

(b) A candidate vacancy for the office of circuit court judge or prosecuting attorney in a circuit having more than one (1) county shall be filled by a caucus comprised by the precinct committeemen and vice committeemen who constitute the county committees of the political party for all of the circuit. [P.L.5-1986, § 9; P.L.3-1987, § 415; P.L.10-1988, § 182.]

**3-13-1-7. Filling of vacancies — Time.** — (a) Except as provided in subsection (b), action to fill a candidate vacancy under section 3, 4, 5, or 6 [IC 3-13-1-3, IC 3-13-1-4, IC 3-13-1-5, or IC 3-13-1-6] of this chapter must be taken:

(1) Before noon August 1, if the vacancy exists on a general or municipal election ballot; and

(2) Within thirty (30) days after the occurrence of the vacancy, if the vacancy exists on a special election ballot, subject to section 2 [IC 3-13-1-2] of this chapter.

(b) This subsection applies to a candidate vacancy that exists due to:

(1) The death of a candidate;

(2) The withdrawal of a candidate who has moved from the election district;

(3) The disqualification of a candidate under IC 3-8-1-5; or

(4) A court order issued under IC 3-8-7-29(d);

before the thirtieth day before a general, municipal, or special election.

Action to fill a candidate vacancy under section 3, 4, 5, or 6 of this chapter must be taken within thirty (30) days after the occurrence of the vacancy. [P.L.5-1986, § 9; P.L.3-1987, § 416; P.L.10-1988, § 183; P.L.4-1991, § 125; P.L.1-1993, § 14.]

**3-13-1-8. Meetings to fill vacancies — Chairman.** — A meeting under section 7 [IC 3-13-1-7] of this chapter shall be called and chaired by:

(1) The state chairman, or a person designated by the state chairman, for a caucus or committee acting under section 3, 4, 5, or 6(b) [IC 3-13-1-3, 3-13-1-4, 3-13-1-5, or 3-13-1-6(b)] of this chapter; or

(2) The county chairman of the county in which the greatest percentage of the population of the election district is located, for a caucus or committee acting under section 6(a) [IC 3-13-1-6(a)] of this chapter. [P.L.5-1986, § 9; P.L.10-1988, § 184; P.L.3-1989, § 14.]

**3-13-1-9. Meetings to fill vacancies — Call.** — The call for a meeting under section 7 [IC 3-13-1-7] of this chapter must:

- (1) Be in writing;
- (2) State the name of the chairman of the meeting;
- (3) State the purpose of the meeting;
- (4) State the date, time, and place of the meeting; and
- (5) Be sent by first class mail, at least ten (10) days before the meeting, to all persons eligible to participate in the meeting. [P.L.5-1986, § 9.]

**3-13-1-10. Meetings to fill vacancies — Eligibility of committeemen and vice committeemen to participate.** — (a) To be eligible to participate in a meeting called under section 7 [IC 3-13-1-7] of this chapter, a precinct committeeman or vice committeeman must:

- (1) Be entitled to vote for the office for which a candidate is to be selected; and
- (2) If an appointed precinct committeeman or vice committeeman, have been a committeeman or vice committeeman continuously for a period beginning thirty (30) days before the vacancy occurred.

(b) Subsection (a)(2) does not prohibit an appointed vice committeeman from participating in a meeting if:

- (1) The meeting to fill a vacancy is held within thirty-five (35) days after a primary election at which precinct committeemen are elected; and
- (2) The precinct committeeman representing the precinct of the appointed vice committeeman was elected precinct committeeman at the preceding primary election. [P.L.5-1986, § 9; P.L.3-1987, § 417; P.L.10-1988, § 185; P.L.5-1989, § 66.]

**3-13-1-10.5. Appointment for vacancy.** — A person who wishes to be a candidate for appointment to fill a candidate vacancy under this chapter must file a declaration of candidacy with the chairman of the caucus at least seventy-two (72) hours before the time fixed for the caucus. [P.L.3-1993, § 222.]

**3-13-1-11. Meetings to fill vacancies — Voting.** — (a) At a meeting called under section 7 [IC 3-13-1-7] of this chapter, the eligible participants shall:

(1) Establish the caucus rules of procedure, except as otherwise provided in this chapter; and

(2) Select, by a majority vote of those casting a vote for a candidate, a person to fill the candidate vacancy described in the call for the meeting.

(b) Voting by proxy is not allowed. If more than one (1) person seeks to fill the vacancy, the selection shall be conducted by secret ballot. [P.L.5-1986, § 9; P.L.8-1986, § 1; P.L.3-1993, § 223.]

**3-13-1-12. Meetings to fill vacancies — Tie votes.** — If a tie vote occurs among participants acting under section 3, 4, 5, or 6(b) [IC 3-13-1-3, 3-13-1-4, 3-13-1-5, or 3-13-1-6(b)] of this chapter, the chairman of the meeting may cast the tiebreaking vote. If a tie vote occurs among participants acting under section 6(a) [IC 3-13-1-6(a)] of this chapter, the county chairman may cast the tiebreaking vote. [P.L.5-1986, § 9.]

**3-13-1-13. Special selection process for town offices.** — If no person is eligible to participate in the filling of a candidate vacancy for a town office under section 6(a) [IC 3-13-1-6(a)] of this chapter, the county chairman entitled to call the meeting under section 8 [IC 3-13-1-8] of this chapter shall appoint a voter of the town who shall appoint a person to fill the vacancy. [P.L.5-1986, § 9; P.L.10-1988, § 186.]

**3-13-1-14. Consent to nomination — Qualification for candidacy.** — The selection of a person as a candidate under this chapter is not effective unless:

(1) The person's written consent is obtained and filed:

(A) In the office in which certificates and petitions of nomination must be filed; and

(B) When the certificate is filed; and

(2) The candidate has complied with any requirement under IC 3-8-1-33 to file a statement of economic interests. [P.L.5-1986, § 9; P.L.3-1987, § 418.]

**3-13-1-15. Chairman's certification of candidates selected.** — (a) A county chairman filling a candidate vacancy under section 6(a)(2) [IC 3-13-1-6(a)(2)] of this chapter or the chairman of a meeting filling a candidate vacancy under this chapter shall file a written certificate of candidate selection stating the name and address of each candidate selected to:

(1) The secretary of state for a committee acting under section 3, 4, 5, or 6(b) [IC 3-13-1-3, IC 3-13-1-4, IC 3-13-1-5, or IC 3-13-1-6(b)] of this chapter or for a committee acting under section 6(a) [IC 3-13-1-6(a)] of this chapter to fill a candidate vacancy for the office of judge of a circuit court or prosecuting attorney; or

(2) The circuit court clerk, for a committee acting under section 6(a) of this chapter to fill a candidate vacancy for a local office not described in subdivision (1).

(b) The certificate required by subsection (a) shall be filed not more than three (3) days (excluding Saturdays and Sundays) after selection of the candidates. [P.L.5-1986, § 9; P.L.3-1987, § 419; P.L.3-1993, § 224.]

**3-13-1-16. Certification of candidates.** — The secretary of state shall furnish the circuit court clerk with a certified list of the name and address of each candidate selected under section 15(1) [IC 3-13-1-15(1)] of this chapter. [P.L.5-1986, § 9; P.L.3-1987, § 420.]

**3-13-1-16.5. Questions concerning validity of certificate.** — (a) All questions concerning the validity of a certificate of candidate selection filed with the secretary of state shall be referred to and determined by the state election board.

(b) All questions concerning the validity of a certificate of candidate selection filed with a circuit court clerk shall be referred to and determined by the county election board.

(c) The state election board or a county election board shall rule on the validity of the certificate of candidate selection not later than noon October 1 following the filing of the certificate. [P.L.3-1993, § 225.]

**3-13-1-17. Vacancy caused by tie vote in primary.** — A candidate vacancy exists when a tie vote occurs for an office in a primary election. The candidate vacancy shall be filled under section 3, 4, 5, or 6 [IC 3-13-1-3, 3-13-1-4, 3-13-1-5, or 3-13-1-6] of this chapter. [P.L.5-1986, § 9; P.L.3-1987, § 421.]

**3-13-1-18. Vacancies in certain offices in town.** — If a candidate vacancy occurs in a town subject to IC 3-8-5 for any office on the ticket of a political party whose candidates were selected by petition of nomination, the vacancy may be filled only as prescribed by this section. To fill the vacancy, the town chairman of the party must file a petition of nomination together with the consent required by section 14 [IC 3-13-1-14] of this chapter with the official with whom petitions of nomination must be filed. The petition must be filed by noon August 1. [P.L.5-1986, § 9; P.L.3-1987, § 422; P.L.5-1988, § 16.]

**3-13-1-19. Selection of defeated primary candidate to fill vacancies.** — A person who was defeated in a primary election or in a town or state convention is eligible to be appointed by the political party that the person affiliated with by voting in the most recent primary election held by that party. The person selected may fill any vacancy on the party's ticket as a candidate in any general, municipal, or special election following that primary election or convention in which the vacancy occurred. However, a person is not disqualified from appointment under this section for not having voted in the most recent primary election if the appointee is certified as a member of that party by the county chairman for the county in which the appointee resides. [P.L.5-1986, § 9; P.L.3-1987, § 423; P.L.3-1993, § 226.]

## CHAPTER 2

### LATE CANDIDATE VACANCIES

#### SECTION.

- 3-13-2-1. Applicability.
- 3-13-2-2. Filling of vacancies — United States Senate — State offices.
- 3-13-2-3. Filling of vacancies — United States House of Representatives.
- 3-13-2-4. Filling of vacancies — State legislative offices.
- 3-13-2-5. Filling of vacancies — Local offices.
- 3-13-2-6. Filling of vacancies — Tie votes.
- 3-13-2-7. Consent to nomination — Qualification of candidate.
- 3-13-2-8. Certification of candidate selected.
- 3-13-2-9. Certification of candidates.
- 3-13-2-10. Selection of defeated primary candidates to fill vacancies.

**3-13-2-1. Applicability.** — This chapter applies to the filling of a candidate vacancy that exists due to the:

- (1) Death of a political party's candidate;
- (2) Withdrawal of a candidate who has moved from the election district;

(3) Disqualification of a candidate under IC 3-8-1-5; or

(4) Issuance of a court order under IC 3-8-7-29(d);

for nomination or election to an office at a general, municipal, or special election after the thirty-first day before a general, municipal, or special election. [P.L.5-1986, § 9; P.L.10-1988, § 187; P.L.4-1991, § 126.]

**3-13-2-2. Filling of vacancies — United States Senate — State offices.** — A candidate vacancy for United States Senator or a state office shall be filled by appointment by the state chairman of the political party. [P.L.5-1986, § 9.]

**3-13-2-3. Filling of vacancies — United States House of Representatives.** — A candidate vacancy for United States Representative shall be filled by appointment by the district chairman of the political party. [P.L.5-1986, § 9.]

**3-13-2-4. Filling of vacancies — State legislative offices.** — A candidate vacancy for a legislative office shall be filled by a majority vote of the county chairmen of the political party for all of the counties that have territory in the senate or house district. [P.L.5-1986, § 9.]

**3-13-2-5. Filling of vacancies — Local offices.** — (a) Except as provided in subsection (b), a candidate vacancy for a local office shall be filled by appointment by the county chairman of the political party of the county in which the greatest percentage of the population of the election district is located.

(b) A candidate vacancy for the office of circuit court judge or prosecuting attorney in a circuit having more than one (1) county shall be filled by a majority vote of the county chairmen of the political party for all of the counties in the circuit. [P.L.5-1986, § 9; P.L.10-1988, § 188.]

**3-13-2-6. Filling of vacancies — Tie votes.** — If a tie vote occurs among a group of chairmen acting under section 4 or 5(b) [IC 3-13-2-4 or 3-13-2-5(b)] of this chapter, the state chairman may cast the tiebreaking vote. [P.L.5-1986, § 9.]

**3-13-2-7. Consent to nomination — Qualification of candidate.** — The selection of a person as a candidate under this chapter is not effective unless:

(1) The person's written consent is obtained and filed;

(A) In the office in which certifies and petitions of nomination must be filed; and

(B) When the certificate is filed; and

(2) The candidate has complied with any requirement under IC 3-8-1-33 to file a statement of economic interests. [P.L.5-1986, § 9; P.L.3-1987, § 424.]

**3-13-2-8. Certification of candidate selected.** — The chairman or chairmen filling a candidate vacancy under this chapter shall immediately file a written certificate of candidate selection stating the name and address of each candidate selected to:

(1) The secretary of state for one (1) or more chairmen acting under section 2, 3, 4, or 5(b) [IC 3-13-2-2, 3-13-2-3, 3-13-2-4, or 3-13-2-5(b)] of this chapter or for a committee acting under section 5(a) [IC 3-13-2-5(a)] of this chapter to fill a candidate vacancy for the office of judge of a circuit court or prosecuting attorney; or

(2) The circuit court clerk of the county in which the greatest percentage of the population of the election district is located, for a chairman acting under section 5(a) of this chapter to fill a candidate vacancy for a local office not described in subdivision (1). [P.L.5-1986, § 9; P.L.3-1987, § 425; P.L.10-1988, § 189.]

**3-13-2-9. Certification of candidates.** — The secretary of state shall furnish each circuit court clerk of a county in which the election district is located with a certified list of the name and address of each candidate selected under section 8(1) [IC 3-13-2-8(1)] of this chapter. [P.L.5-1986, § 9; P.L.3-1987, § 426; P.L.10-1988, § 190.]

**3-13-2-10. Selection of defeated primary candidates to fill vacancies.** — A person who was defeated in a primary election or in a town or state convention is eligible to be appointed by the person's own political party to fill any vacancy on the party's ticket as a candidate in any general, municipal, or special election following that primary election or convention. [P.L.5-1986, § 9; P.L.3-1987, § 427.]

## CHAPTER 3

### VACANCIES IN FEDERAL OFFICES

#### SECTION.

3-13-3-1. Senator.

3-13-3-2. Representative.

**3-13-3-1. Senator.** — (a) A vacancy that occurs, other than by resignation, in the United States Senate shall be certified to the governor by the secretary of state.

(b) The governor shall immediately fill a vacancy in the United States Senate by appointing a person possessing the qualifications required under Article 1, Section 3, Clause 3 of the Constitution of the United States. The person appointed holds office until the next general election, when the vacancy shall be filled by the election of a Senator in a special election to hold office for the unexpired term.

(c) If a vacancy in the United States Senate occurs after the last day on which notice of the special election can be published under IC 3-10-8-4, the person appointed under subsection (b) holds office until the vacancy is filled in a special election held at the time of the next general election for which notice can be published under IC 3-10-8-4. [P.L.5-1986, § 9; P.L.3-1987, § 428; P.L.10-1989, § 18.]

**3-13-3-2. Representative.** — (a) A vacancy that occurs, other than by resignation, in the United States House of Representatives shall be certified to the governor by the circuit court clerk of the county in which the Representative resided.

(b) A special election shall be held to fill a vacancy in the United States House of Representatives in accordance with IC 3-10-8. [P.L.5-1986, § 9; P.L.3-1987, § 429.]

CHAPTER 4

VACANCIES IN STATE OFFICES

SECTION.

- 3-13-4-1. Governor — Lieutenant governor.
- 3-13-4-2. Supreme court justice — Court of appeals judge — Tax court judge.
- 3-13-4-3. Other state offices.

**3-13-4-1. Governor — Lieutenant governor.** — A vacancy in the office of governor or lieutenant governor shall be filled as provided in Article 5, Section 10 of the Constitution of the State of Indiana. [P.L.5-1986, § 9.]

**3-13-4-2. Supreme court justice — Court of appeals judge — Tax court judge.** — A vacancy in the office of justice of the supreme court, judge of the court of appeals, or judge of the tax court shall be filled as provided in IC 33-2-1-4. [P.L.5-1986, § 9.]

**3-13-4-3. Other state offices.** — (a) A vacancy that occurs, other than by resigna-

tion, in a state office other than governor, lieutenant governor, or a judicial office shall be certified to the governor by the circuit court clerk of the county in which the officer resided.

(b) A vacancy in a state office other than governor, lieutenant governor, or a judicial office shall be filled by appointment by the governor. The person who is appointed holds office for the remainder of the unexpired term and until a successor is elected and qualified. [P.L.5-1986, § 9; P.L.3-1987, § 430.]

CHAPTER 5

VACANCIES IN LEGISLATIVE OFFICES

SECTION.

- 3-13-5-1. Filling by caucus.
- 3-13-5-2. Caucus — Place — Date — Time — Notice.
- 3-13-5-3. Caucus — Presiding officer — Candidate filing requirements — Rules and procedure.
- 3-13-5-4. Caucus — Persons entitled to vote.
- 3-13-5-5. Voting — By proxy — By secret ballot.
- 3-13-5-6. Certification of person selected by state chairman.
- 3-13-5-7. Certification of person selected by secretary of state.
- 3-13-5-8. Rights and term of person selected.
- 3-13-5-9. Chapter applicable to vacancies declared by general assembly — Eligibility requirements of successor.
- 3-13-5-10. Candidate ineligible to fill vacancies.

**3-13-5-1. Filling by caucus.** — (a) A vacancy in a legislative office shall be filled by a caucus comprised by the precinct committeemen from the senate or house district where the vacancy exists who represent the same political party that elected or selected the person who held the vacated seat. Within thirty (30) days after the vacancy occurs, the caucus shall meet and select a person to fill the vacancy by a majority vote of those casting a vote for a candidate, including vice committeemen eligible under proxies filed under section 5 [IC 3-13-5-5] of this chapter. The person selected must reside in the district where the vacancy occurred.

(b) If a vacancy in a legislative office occurs while the general assembly is in session, the president pro tempore of the senate or the speaker of the house of representatives, as appropriate, shall notify the governor. [P.L.5-1986, § 9; P.L.8-1986, § 2; P.L.3-1987, § 431; P.L.10-1988, § 191.]

**3-13-5-2. Caucus — Place — Date — Time — Notice.** — The state chairman of the political party that elected or selected the person who held the vacated seat shall

set the place, date, and time of a caucus meeting. The chairman shall send a notice, by first class mail, of the purpose, place, date, and time of the meeting to all precinct committeemen in the caucus at least ten (10) days before the meeting. [P.L.5-1986, § 9; P.L.10-1988, § 192.]

**3-13-5-3. Caucus — Presiding officer — Candidate filing requirements — Rules and procedure.** — (a) The state chairman shall preside over a caucus meeting held under this chapter.

(b) A person who desires to be a candidate to fill a vacancy under this chapter must file:

- (1) A declaration of candidacy with the chairman of the caucus; and
- (2) A statement of economic interests under IC 2-2.1-3-2 with the secretary of the senate or principal clerk of the house of representatives;

at least seventy-two (72) hours before the time fixed for the caucus.

(c) In addition to the procedures prescribed by this chapter, the chairman and precinct committeemen may adopt rules of procedure that are necessary to conduct business. [P.L.5-1986, § 9; P.L.3-1987, § 432.]

**3-13-5-4. Caucus — Persons entitled to vote.** — Each precinct committeeman in a caucus meeting held under this chapter has one (1) vote. A committeeman may not vote if the committeeman was not a committeeman at least thirty (30) days before the vacancy occurred. [P.L.5-1986, § 9.]

**3-13-5-5. Voting — By proxy — By secret ballot.** — (a) Subject to subsection (b), voting by proxy is not allowed in a caucus meeting held under this chapter.

(b) A precinct committeeman may designate a precinct vice committeeman who:

- (1) Is a member of the same political party that elected or selected the person who vacated the office to be filled;
- (2) Is the vice committeeman for the committeeman's precinct; and
- (3) Has been a vice committeeman continuously for a period beginning thirty (30) days before the date the vacancy occurred;

as the committeeman's proxy in a caucus meeting. To be effective, the designation must be filed with the chairman of the caucus meeting at least seventy-two (72) hours before the meeting. The chairman of the caucus meeting shall read the list of the persons eligible to vote under a proxy in the caucus meeting before any voting occurs. A proxy may not be revoked after it

is filed with the chairman of the caucus meeting.

(c) Voting shall be conducted by secret ballot, and IC 5-14-1.5-3(b) does not apply to this chapter. [P.L.5-1986, § 9; P.L.8-1986, § 3; P.L.10-1988, § 193.]

**3-13-5-6. Certification of person selected by state chairman.** — The state chairman shall certify the name of the person selected under section 1 [IC 3-13-5-1] of this chapter to the president pro tempore of the senate or the speaker of the house of representatives, as appropriate, who shall acknowledge receipt of the certification and immediately forward the certificate to the secretary of state. [P.L.5-1986, § 9.]

**3-13-5-7. Certification of person selected by secretary of state.** — The secretary of state shall, within fourteen (14) days after receipt of the certification under section 6 [IC 3-13-5-6] of this chapter, certify the person selected to fill the vacated seat. [P.L.5-1986, § 9.]

**3-13-5-8. Rights and term of person selected.** — A person certified to fill a vacancy under this chapter has all the rights and duties of a member of the general assembly elected at a general election. The person serves for the remainder of the unexpired term. [P.L.5-1986, § 9.]

**3-13-5-9. Chapter applicable to vacancies declared by general assembly — Eligibility requirements of successor.** — If a house of the general assembly determines that a person should not be seated as a member of that house because that person was ineligible to hold the seat for which a certificate of election has been issued by the secretary of state, the seat shall be filled under this chapter. A person selected to fill a vacant seat under this section must meet all requirements set forth in Article 4, Section 7 of the Constitution of the State of Indiana as of the date of the general election for which the ineligible person who was not seated received a certificate of election. [P.L.5-1986, § 9; P.L.3-1987, § 433.]

**3-13-5-10. Candidates ineligible to fill vacancies.** — The person who last held a vacated legislative office may not be a candidate for selection to fill a vacancy in that office under this chapter for the remainder of the term. [P.L.8-1986, § 4.]

## CHAPTER 6

VACANCIES IN LOCAL JUDICIAL AND  
CIRCUIT OFFICES

## SECTION.

- 3-13-6-1. Judges.  
3-13-6-2. Prosecuting attorneys.  
3-13-6-3. Circuit court clerks.

**3-13-6-1. Judges.** — (a) A vacancy that occurs, other than by resignation, in the office of judge of a circuit, superior, probate, or county court shall be certified to the governor by the circuit court clerk of the county in which the judge resided.

(b) A vacancy in the office of judge of a circuit court shall be filled by the governor as provided by Article 5, Section 18 of the Constitution of the State of Indiana. The person who is appointed holds office until a successor is elected at the next general election and qualified. The person elected at the general election following an appointment to fill the vacancy, upon being qualified, holds office for the six (6) year term prescribed by Article 7, Section 7 of the Constitution of the State of Indiana and until a successor is elected and qualified.

(c) A vacancy in the office of judge of a superior, probate, or county court shall be filled by the governor subject to the following:

- (1) IC 33-5-5.1-37.1.
- (2) IC 33-5-5.1-41.1.
- (3) IC 33-5-29.5-39.
- (4) IC 33-5-40-44.

The person who is appointed holds office for the remainder of the unexpired term.

(d) A vacancy that occurs, other than by resignation, in the office of judge of a municipal court shall be certified to the judicial nominating commission by the circuit court clerk. The vacancy shall be filled by the governor or chairman of the judicial nominating commission as provided by IC 33-6-1. [P.L.5-1986, § 9; P.L.3-1987, § 434; P.L.5-1989, § 67; P.L.334-1989(ss), § 2.]

**3-13-6-2. Prosecuting attorneys.** —

(a) A vacancy that occurs, other than by resignation, in the office of prosecuting attorney shall be certified to the governor by the circuit court clerk of the county in which the prosecuting attorney resided.

(b) A vacancy in the office of prosecuting attorney shall be filled by the governor. The person who is appointed holds office for the remainder of the unexpired term and until a successor is elected and qualified. [P.L.5-1986, § 9; P.L.3-1987, § 435.]

**3-13-6-3. Circuit court clerks.** — (a) A vacancy in the office of clerk of the circuit court that was last held by a person elected or selected as a candidate of a major political party of the state shall be filled by a caucus under IC 3-13-11.

(b) A vacancy that occurs in the office of clerk of the circuit court:

- (1) Other than by resignation; and
- (2) That is not covered by subsection (a);

shall be certified to the governor by the judge of the circuit court.

(c) A vacancy in the office of clerk of the circuit court not covered by subsection (a) shall be filled by the governor. The person who is appointed holds office for the remainder of the unexpired term and until a successor is elected and qualified. [P.L.5-1986, § 9; P.L.3-1987, § 436; P.L.14-1988, § 1.]

## CHAPTER 7

VACANCIES IN COUNTY OFFICES NOT HELD  
BY A MAJOR PARTY

## SECTION.

- 3-13-7-1. Filling by caucus.  
3-13-7-2. Filling by county board of commissioners — Selection as appointment pro tempore.  
3-13-7-3. Filling of county council vacancy by other members.  
3-13-7-4. Vacancy by incumbent during election contest — Incumbent's right to hold over.  
3-13-7-5. Person filling vacancy — Bond — Oath — Rights and duties.  
3-13-7-6. Person filling vacancy — Term.

**3-13-7-1. Filling by caucus.** — A vacancy in a county office that was last held by a person elected or selected as a candidate of a major political party of the state shall be filled by a caucus under IC 3-13-11.

**3-13-7-2. Filling by county board of commissioners — Selection as appointment pro tempore.** — (a) A vacancy in a county elected office (other than county council) not covered by section 1 [IC 3-13-7-1] of this chapter shall be filled by the board of commissioners of the county at a regular or special meeting. The county auditor shall give notice of the meeting, which shall be held within thirty (30) days after the vacancy occurs. The notice must:

- (1) Be in writing;
- (2) State the purpose of the meeting;
- (3) State the date, time, and place of the meeting; and
- (4) Be sent by first class mail to each commissioner at least ten (10) days before the meeting.

(b) Selections made under this section (or under IC 3-2-10-3(a) before its repeal on March 4, 1986) are appointments pro tempore for the purposes of Article 2, Section 11 of the Constitution of the State of Indiana. [P.L.5-1986, § 9; P.L.3-1987, § 437; P.L.15-1987, § 1; P.L.3-1990, § 12.]

**3-13-7-3. Filling of county council vacancy by other members.** — A vacancy in a county council not covered by section 1 [IC 3-13-7-1] of this chapter shall be filled by a majority of the remaining members of the council at a regular or special meeting. The county auditor shall give notice of the meeting, which shall be held within thirty (30) days after the vacancy occurs. The notice must:

- (1) Be in writing;
- (2) State the purpose of the meeting;
- (3) State the date, time, and place of the meeting; and
- (4) Be sent by first-class mail to each council member at least ten (10) days before the meeting. [P.L.5-1986, § 9; P.L.3-1987, § 438.]

**3-13-7-4. Vacancy by incumbent during election contest — Incumbent's right to hold over.** — If, pending the outcome of an election contest, the incumbent vacates the office after the expiration of the incumbent's term, the vacancy shall be filled as are other vacancies under this chapter until the election is decided or the office is otherwise filled. This section does not affect the incumbent's right to hold over as provided in Article 15, Section 3 of the Constitution of the State of Indiana. [P.L.5-1986, § 9.]

**3-13-7-5. Person filling vacancy — Bond — Oath — Rights and duties.** — A person filling a vacancy under this chapter must give the same bond and take the same oath and has the same rights and duties as the official who vacated the office. [P.L.5-1986, § 9.]

**3-13-7-6. Person filling vacancy — Term.** — A person selected to fill a vacant office under this chapter holds the office for the remainder of the term. [P.L.5-1986, § 9.]

## CHAPTER 8

### VACANCIES IN CITY OFFICES NOT HELD BY A MAJOR PARTY

#### SECTION.

- 3-13-8-1. City offices other than city court judge — Filling by caucus.  
 3-13-8-2. City court judge.  
 3-13-8-3. Mayor of Indianapolis.

#### SECTION.

- 3-13-8-4. City-county council in Indianapolis.  
 3-13-8-5. Mayors of second-class cities.  
 3-13-8-6. City clerks in second-class cities.  
 3-13-8-7. Common councils of second-class cities.  
 3-13-8-8. Mayors of third-class cities.  
 3-13-8-9. City clerk-treasurers of third-class cities.  
 3-13-8-10. Common councils of third-class cities.  
 3-13-8-11. Vacancy by incumbent during election contest — Incumbent's right to hold over.  
 3-13-8-12. Person filling vacancy — Bond — Oath — Rights and duties.  
 3-13-8-13. Person filling vacancy — Term.

**3-13-8-1. City offices other than city court judge — Filling by caucus.** — A vacancy in a city office (other than judge of a city court) that was last held by a person elected or selected as a candidate of a major political party of the state shall be filled by a caucus under IC 3-13-11. [P.L.5-1986, § 9; P.L.10-1988, § 195.]

**3-13-8-2. City court judge.** — (a) A vacancy that occurs, other than by resignation, in the office of judge of a city court shall be certified to the governor by the circuit court clerk of the county in which the judge resided.

(b) A vacancy in the office of judge of a city court shall be filled by the governor. [P.L.5-1986, § 9; P.L.3-1987, § 439.]

**3-13-8-3. Mayor of Indianapolis.** — (a) A vacancy in the office of mayor of a first-class city not covered by section 1 [IC 3-13-8-1] of this chapter shall be filled by the city-county council at a regular or special meeting. The city clerk shall give notice of the meeting, which shall be held within thirty (30) days after the vacancy occurs. The notice must:

- (1) Be in writing;
- (2) State the purpose of the meeting;
- (3) State the date, time, and place of the meeting; and
- (4) Be sent by first-class mail to each council member at least ten (10) days before the meeting.

(b) The city clerk shall preside at the meeting but may not vote unless there is a tie vote among the members of the council. The council must appoint one (1) of its own members to the office. Until the vacancy is filled, the president of the council shall serve as acting mayor. [P.L.5-1986, § 9; P.L.3-1987, § 440.]

**3-13-8-4. City-county council in Indianapolis.** — (a) A vacancy in the city-county council of a first-class city not covered by section 1 [IC 3-13-8-1] of this chapter shall be filled by a majority of the remaining members of the council at a



regular or special meeting. The city clerk shall give notice of the meeting, which shall be held within thirty (30) days after the vacancy occurs. The notice must:

- (1) Be in writing;
- (2) State the purpose of the meeting;
- (3) State the date, time, and place of the meeting; and
- (4) Be sent by first class mail to each council member at least ten (10) days before the meeting.

(b) The appointed member serves until a successor is elected and qualified at the next municipal or general election, whichever occurs first. The successor serves from noon January 1 following that election to noon January 1 following the next municipal election, as provided in IC 36-3-4-2. The persons appointed and elected must be resident voters in the district where the vacancy occurred, unless the vacancy occurred in an at large seat. [P.L.5-1986, § 9; P.L.3-1987, § 441; P.L.5-1988, § 17.]

**3-13-8-5. Mayors of second-class cities.** — (a) A vacancy in the office of mayor of a second-class city not covered by section 1 [IC 3-13-8-1] of this chapter shall be filled as follows:

- (1) If the city has a deputy mayor, the deputy mayor assumes the office for the remainder of the unexpired term.
- (2) If the city does not have a deputy mayor, the city controller assumes the office for the remainder of the unexpired term.
- (3) If the city does not have a deputy mayor and the office of city controller is vacant, the common council shall fill the vacancy at a regular or special meeting.

(b) The city clerk shall give notice of the meeting required under subsection (a)(3), which shall be held within thirty (30) days after the vacancy occurs. The notice must:

- (1) Be in writing;
- (2) State the purpose of the meeting;
- (3) State the date, time, and place of the meeting; and
- (4) Be sent by first-class mail to each council member at least ten (10) days before the meeting.

(c) Until the vacancy is filled, the council shall designate one (1) of its members to serve as acting mayor. [P.L.5-1986, § 9; P.L.3-1987, § 442.]

**3-13-8-6. City clerks in second-class cities.** — (a) A vacancy in the office of city clerk of a second-class city not covered by section 1 [IC 3-13-8-1] of this chapter shall be filled by the mayor or acting mayor, subject to the approval of the common council.

(b) The common council shall vote on the question of approving the mayor or acting mayor's appointment at a regular or special meeting. The president of the common council shall give notice of the meeting, which shall be held within thirty (30) days after the appointment is made. The notice must:

- (1) Be in writing;
- (2) State the purpose of the meeting;
- (3) State the date, time, and place of the meeting; and
- (4) Be sent by first-class mail to each council member at least ten (10) days before the meeting. [P.L.5-1986, § 9; P.L.3-1987, § 443.]

**3-13-8-7. Common councils of second-class cities.** — A vacancy in the common council of a second-class city not covered by section 1 [IC 3-13-8-1] of this chapter shall be filled by the remaining members of the council at a regular or special meeting. The city clerk shall give notice of the meeting, which shall be held within thirty (30) days after the vacancy occurs. The notice must:

- (1) Be in writing;
- (2) State the purpose of the meeting;
- (3) State the date, time, and place of the meeting; and
- (4) Be sent by first-class mail to each council member at least ten (10) days before the meeting. [P.L.5-1986, § 9; P.L.3-1987, § 444.]

**3-13-8-8. Mayors of third-class cities.** — (a) A vacancy in the office of mayor of a third-class city not covered by section 1 [IC 3-13-8-1] of this chapter shall be filled as follows:

- (1) If the city has a deputy mayor, the deputy mayor assumes the office for the remainder of the unexpired term.
- (2) If the city does not have a deputy mayor, the common council shall fill the vacancy at a regular or special meeting.

(b) The city clerk-treasurer shall give notice of the meeting required under subsection (a)(2), which shall be held within thirty (30) days after the vacancy occurs. The notice must:

- (1) Be in writing;
- (2) State the purpose of the meeting;
- (3) State the date, time, and place of the meeting; and
- (4) Be sent by first-class mail to each council member at least ten (10) days before the meeting.

(c) Until the vacancy is filled, the council shall designate one (1) of its members to serve as acting mayor. [P.L.5-1986, § 9; P.L.3-1987, § 445.]

**3-13-8-9. City clerk-treasurers of third-class cities.** — (a) A vacancy in the office of city clerk-treasurer of a third-class city not covered by section 1 [IC 3-13-8-1] of this chapter shall be filled by the mayor or acting mayor, subject to the approval of the common council.

(b) The common council shall vote on the question of approving the mayor or acting mayor's appointment at a regular or special meeting. The mayor shall give notice of the meeting, which shall be held within thirty (30) days after the appointment is made. The notice must:

- (1) Be in writing;
- (2) State the purpose of the meeting;
- (3) State the date, time, and place of the meeting; and
- (4) Be sent by first-class mail to each council member at least ten (10) days before the meeting. [P.L.5-1986, § 9; P.L.3-1987, § 446.]

**3-13-8-10. Common councils of third-class cities.** — (a) A vacancy in the common council of a third-class city not covered by section 1 [IC 3-13-8-1] of this chapter shall be filled by the remaining members of the council at a regular or special meeting. The city executive may break any tie vote.

(b) The city-treasurer shall give notice of the meeting, which shall be held within thirty (30) days after the vacancy occurs. The notice must:

- (1) Be in writing;
- (2) State the purpose of the meeting;
- (3) State the date, time, and place of the meeting; and
- (4) Be sent by first-class mail to each council member at least ten (10) days before the meeting. [P.L.5-1986, § 9; P.L.3-1987, § 447; P.L.10-1988, § 196.]

**3-13-8-11. Vacancy by incumbent during election contest — Incumbent's right to hold over.** — If, pending the outcome of an election contest, the incumbent vacates the office after the expiration of the incumbent's term, the vacancy shall be filled as are other vacancies under this chapter until the election is decided or the office is otherwise filled. This section does not affect the incumbent's right to hold over as provided in Article 15, Section 3 of the Constitution of the State of Indiana. [P.L.5-1986, § 9.]

**3-13-8-12. Person filling vacancy — Bond — Oath — Rights and duties.** — A person filling a vacancy under this chapter must give the same bond and take the same oath and has the same rights and

duties as the official who vacated the office. [P.L.5-1986, § 9.]

**3-13-8-13. Person filling vacancy — Term.** — A person selected to fill a vacant office under this chapter holds the office for the remainder of the term, except as provided in section 4 [IC 3-13-8-4] of this chapter. [P.L.5-1986, § 9.]

## CHAPTER 9

### VACANCIES IN TOWN OFFICES NOT HELD OR FILLED BY A MAJOR PARTY

#### SECTION.

- 3-13-9-1. Office held by candidate of major political party.
- 3-13-9-2. Town judges.
- 3-13-9-3. Clerk-treasurer — Filling by council.
- 3-13-9-4. Council — Selection by other members.
- 3-13-9-5. Vacancy by incumbent during election contest — Incumbent's right to hold over.
- 3-13-9-5.5. Nonelection of candidate — Holding over by incumbent.
- 3-13-9-5.6. Election of fewer than specified number of members — Meeting to determine membership — Notice.
- 3-13-9-6. Person filling vacancy — Bond — Oath — Rights and duties.
- 3-13-9-7. Person filling vacancy — Term.

**3-13-9-1. Office held by candidate of major political party.** — A vacancy in a town office that was last held by a person elected or selected as a candidate of a major political party of the state shall be filled by a caucus under IC 3-13-11. [P.L.5-1986, § 9; P.L.3-1987, § 448; P.L.10-1988, § 197.]

**3-13-9-2. Town judges.** — (a) A vacancy in the office of judge of a town court that is:

- (1) Not covered by section 1 [IC 3-13-9-1] of this chapter; or
  - (2) Covered by section 1 of this chapter, but exists after the thirtieth day after the vacancy occurs;
- shall be filled by the town council at a regular or special meeting.

(b) The town clerk-treasurer shall give notice of the meeting, which shall be held:

- (1) Within thirty (30) days after the vacancy occurs if the vacancy is not covered by section 1 of this chapter; or
- (2) Within sixty (60) days after the vacancy occurs if the vacancy exists for more than thirty (30) days.

(c) The notice must:

- (1) Be in writing;
- (2) State the purpose of the meeting;
- (3) State the date, time, and place of the meeting; and

(4) Be sent by first class mail to each council member at least ten (10) days before the meeting. [P.L.5-1986, § 9; P.L.3-1987, § 449; P.L.8-1989, § 9; P.L.4-1991, § 127.]

**3-13-9-3. Clerk-treasurer — Filling by council.** — (a) A vacancy in the office of town clerk-treasurer:

- (1) Not covered by section 1 [IC 3-13-9-1] of this chapter; or
- (2) Covered by section 1 of this chapter, but existing after the thirtieth day after the vacancy occurs;

shall be filled by the town council at a regular or special meeting.

(b) The president of the town council shall give notice of the meeting, which shall be held:

- (1) Within thirty (30) days after the vacancy occurs if the vacancy is not covered by section 1 of this chapter; or
- (2) Within sixty (60) days after the vacancy occurs if the vacancy exists for more than thirty (30) days.

(c) The notice must:

- (1) Be in writing;
- (2) State the purpose of the meeting;
- (3) State the date, time, and place of the meeting; and
- (4) Be sent by first class mail to each council member at least ten (10) days before the meeting. [P.L.5-1986, § 9; P.L.3-1987, § 450; P.L.8-1989, § 10; P.L.4-1991, § 128.]

**3-13-9-4. Council — Selection by other members.** — (a) A vacancy in the town council:

- (1) Not covered by section 1 [IC 3-13-9-1] of this chapter; or
- (2) Covered by section 1 of this chapter, but existing after the thirtieth day after the vacancy occurs;

shall be filled by the remaining members of the council at a regular or special meeting.

(b) The town clerk-treasurer shall give notice of the meeting, which shall be held:

- (1) Within thirty (30) days after the vacancy occurs if the vacancy is not covered by section 1 of this chapter; or
- (2) Within sixty (60) days after the vacancy occurs if the vacancy exists for more than thirty (30) days.

(c) The notice must:

- (1) Be in writing;
- (2) State the purpose of the meeting;
- (3) State the date, time, and place of the meeting; and
- (4) Be sent by first class mail to each council member at least ten (10) days before the meeting. [P.L.5-1986, § 9;

P.L.3-1987, § 451; P.L.8-1989, § 11; P.L.4-1991, § 129.]

**3-13-9-5. Vacancy by incumbent during election contest — Incumbent's right to hold over.** — If, pending the outcome of an election contest, the incumbent vacates the office after the expiration of the incumbent's term, the vacancy shall be filled as are other vacancies under this chapter until the election is decided or the office is otherwise filled. This section does not affect the incumbent's right to hold over as provided in Article 15, Section 3 of the Constitution of the State of Indiana. [P.L.5-1986, § 9.]

**3-13-9-5.5. Nonelection of candidate — Holding over by incumbent.** — If no candidate was elected to the office of town council from a district, the incumbent council member holds office under Article 15, Section 3 of the Constitution of the State of Indiana until a successor is elected and qualified. [P.L.4-1991, § 130.]

**3-13-9-5.6. Election of fewer than specified number of members — Meeting to determine membership — Notice.** — (a) If fewer town council members have been elected at large than there were members to be elected, the town council shall determine, at the council's first organizational meeting following the election, the incumbent council member or members who hold office under Article 15, Section 3 of the Constitution of the State of Indiana until a successor is elected and qualified. If a tie vote occurs during the vote to determine the members that continue to hold office, the town clerk-treasurer casts the deciding vote under IC 36-5-2-8.

(b) The town clerk-treasurer shall give notice of the meeting.

(c) The notice must:

- (1) Be in writing;
- (2) State the purpose of the meeting;
- (3) State the date, time, and place of the meeting; and
- (4) Be sent by first class mail to each member of the town council at least ten (10) days before the meeting. [P.L.4-1991, § 131.]

**3-13-9-6. Person filling vacancy — Bond — Oath — Rights and duties.** — A person filling a vacancy under this chapter must give the same bond and take the same oath and has the same rights and duties as the official who vacated the office. [P.L.5-1986, § 9.]

**3-13-9-7. Person filling vacancy — Term.** — A person selected to fill a vacant office under this chapter holds the office for the remainder of the term. [P.L.5-1986, § 9.]

## CHAPTER 10

### VACANCIES IN TOWNSHIP OFFICES NOT HELD BY A MAJOR PARTY

#### SECTION.

- 3-13-10-1. Township offices — Filling by caucus.
- 3-13-10-2. Trustees — Filling by county board of commissioners.
- 3-13-10-3. Assessors — Filling by county assessor.
- 3-13-10-4. Township boards — Filling by county board of commissioners.
- 3-13-10-5. Small claims court judge or constable — Filling by township board.
- 3-13-10-6. Vacancy by incumbent during election contest — Incumbent's right to hold over.
- 3-13-10-6.5. Election of fewer than specified number of members — Meeting to determine membership — Notice.
- 3-13-10-7. Person filling vacancy — Bond — Oath — Rights and duties.
- 3-13-10-8. Person filling vacancy — Term.

**3-13-10-1. Township offices — Filling by caucus.** — A vacancy in a township office that was last held by a person elected or selected as a candidate of a major political party of the state shall be filled by a caucus under IC 3-13-11. [P.L.5-1986, § 9; P.L.10-1988, § 198.]

**3-13-10-2. Trustees — Filling by county board of commissioners.** — A vacancy in the office of township trustee not covered by section 1 [IC 3-13-10-1] of this chapter shall be filled by the board of commissioners of the county at a regular or special meeting. The county auditor shall give notice of the meeting, which shall be held within thirty (30) days after the vacancy occurs. The notice must:

- (1) Be in writing;
- (2) State the purpose of the meeting;
- (3) State the date, time, and place of the meeting; and
- (4) Be sent by first-class mail to each commissioner at least ten (10) days before the meeting. [P.L.5-1986, § 9; P.L.3-1987, § 452.]

**3-13-10-3. Assessors — Filling by county assessor.** — A vacancy in the office of township assessor not covered by section 1 [IC 3-13-10-1] of this chapter shall be filled by the county assessor, subject to the approval of the state board of tax commissioners. The county assessor shall make the appointment within thirty (30) days after the vacancy occurs. If the

vacancy occurred because the elected township assessor failed to qualify or was removed, the person who is appointed must be of the same political party. [P.L.5-1986, § 9; P.L.3-1987, § 453.]

**3-13-10-4. Township boards — Filling by county board of commissioners.** — A vacancy on the township board of a township not covered by section 1 [IC 3-13-10-1] of this chapter shall be filled by the board of commissioners of the county at a regular or special meeting. The county auditor shall give notice of the meeting, which shall be held within thirty (30) days after the vacancy occurs. The notice must:

- (1) Be in writing;
- (2) State the purpose of the meeting;
- (3) State the date, time, and place of the meeting; and
- (4) Be sent by first-class mail to each commissioner at least ten (10) days before the meeting. [P.L.5-1986, § 9; P.L.3-1987, § 454; P.L.8-1987, § 3.]

**3-13-10-5. Small claims court judge or constable — Filling by township board.** — A vacancy in the office of judge of a small claims court or small claims court constable not covered by section 1 [IC 3-13-10-1] of this chapter shall be filled by the township board at a regular or special meeting. The chairman of the township board shall give notice of the meeting, which shall be held within thirty (30) days after the vacancy occurs. The notice must:

- (1) Be in writing;
- (2) State the purpose of the meeting;
- (3) State the date, time, and place of the meeting; and
- (4) Be sent by first-class mail to each board member at least ten (10) days before the meeting. [P.L.5-1986, § 9; P.L.3-1987, § 455; P.L.8-1987, § 4.]

**3-13-10-6. Vacancy by incumbent during election contest — Incumbent's right to hold over.** — If, pending the outcome of an election contest, the incumbent vacates the office after the expiration of the incumbent's term, the vacancy shall be filled as are other vacancies under this chapter until the election is decided or the office is otherwise filled. This section does not affect the incumbent's right to hold over as provided in Article 15, Section 3 of the Constitution of the State of Indiana. [P.L.5-1986, § 9.]

**3-13-10-6.5. Election of fewer than specified number of members — Meeting to determine membership — Notice.** — (a) If fewer candidates have been

elected to the township board than there were members to be elected, the county executive shall determine, at a regular or special meeting, the incumbent board member or members that hold office under Article 15, Section 3 of the Constitution of the State of Indiana until a successor is elected and qualified.

(b) The county auditor shall give notice of the meeting, which shall be held as follows:

(1) Not earlier than the thirtieth day before the general election.

(2) Not later than December 31 following the general election.

(c) The notice must:

(1) Be in writing;

(2) State the purpose of the meeting;

(3) State the date, time, and place of the meeting; and

(4) Be sent by first class mail to each member of the county executive at least ten (10) days before the meeting.

[P.L.4-1991, § 132.]

**3-13-10-7. Person filling vacancy — Bond — Oath — Rights and duties.** — A person filling a vacancy under this chapter must give the same bond and take the same oath and has the same rights and duties as the official who vacated the office. [P.L.5-1986, § 9.]

**3-13-10-8. Person filling vacancy — Term.** — A person selected to fill a vacant office under this chapter holds the office for the remainder of the term. [P.L.5-1986, § 9.]

## CHAPTER 11

### CAUCUS PROCEDURE FOR FILLING VACANCIES IN CERTAIN LOCAL OFFICES HELD BY MAJOR PARTIES

#### SECTION.

3-13-11-1. Applicability — Selections as appointments pro tempore.

3-13-11-2. [Repealed.]

3-13-11-3. Notice and time of caucus.

3-13-11-4. Contents of notice of caucus.

3-13-11-5. Caucus — Eligible participants.

3-13-11-6. Caucus — Chairman.

3-13-11-7. Declarations of candidacy.

3-13-11-8. Caucus — Rules of procedure — Tie votes.

3-13-11-9. Caucus — Proxy voting.

3-13-11-10. Caucus — Voting to fill vacancy.

3-13-11-11. Certification of selection.

3-13-11-12. Temporary assumption of offices during vacancy — Chief deputy employee.

3-13-11-13. Temporary assumption of offices duties during vacancy — Appointee of county board of commissioners.

#### SECTION.

3-13-11-14. Temporary assumption of duties of mayors in first and second-class cities during vacancies.

3-13-11-15. Temporary assumption of duties of mayor in third-class city during vacancy.

3-13-11-16. Temporary assumption of clerk-treasurer's duties during vacancy.

3-13-11-17. Temporary assumption of town trustee's duties during vacancy.

3-13-11-18. Rights and duties of persons filling vacancies.

3-13-11-19. Ineligible candidates for pro tempore appointment to fill vacancies.

#### 3-13-11-1. Applicability — Selections as appointments pro tempore.

— The caucus procedure prescribed by this chapter for filling vacancies in local offices must be followed whenever required by IC 3-13-6-3(a), IC 3-13-7-1, IC 3-13-8-1, IC 3-13-9-1, or IC 3-13-10-1. Selections made under this chapter (or under IC 3-2-9 before its repeal on March 4, 1986) are appointments pro tempore for the purposes of Article 2, Section 11 of the Constitution of the State of Indiana. [P.L.5-1986, § 9; P.L.8-1986, § 5; P.L.15-1987, § 2; P.L.14-1988, § 2; P.L.3-1990, § 13.]

#### 3-13-11-2. [Repealed.]

**3-13-11-3. Notice and time of caucus.** — (a) Except as provided in subsection (b), within ten (10) days after a vacancy occurs in an office subject to this chapter, the county chairman:

(1) Of the county in which the greatest percentage of the population of the election district of the office is located; and

(2) Of the same political party that elected or selected the official who vacated the office;

shall give notice of a caucus to all eligible precinct committeemen.

(b) A county chairman may give notice of a caucus before the time specified under subsection (a) if a vacancy will exist because the official has:

(1) Submitted a written resignation under IC 5-8-3.5; or

(2) Been elected to another office.

(c) Notwithstanding IC 5-8-4, a person may not withdraw the person's resignation after the resignation has been accepted by the person authorized to accept the resignation less than seventy-two (72) hours before the announced starting time of a caucus under this section.

(d) A caucus under this section shall be held not later than thirty (30) days after the vacancy occurs. [P.L.5-1986, § 9; P.L.3-1987, § 456; P.L.10-1988, § 199; P.L.4-1991, § 133.]

**3-13-11-4. Contents of notice of caucus.** — The notice for a caucus under section 3 [IC 3-13-11-3] of this chapter must:

- (1) Be in writing;
- (2) State the name of the chairman of the caucus;
- (3) State the purpose of the caucus;
- (4) State the date, time, and place of the caucus; and
- (5) Be sent by first-class mail to each member of the caucus at least ten (10) days before the caucus. [P.L.5-1986, § 9; P.L.3-1987, § 457.]

**3-13-11-5. Caucus — Eligible participants.** — (a) To be eligible to be a member of a caucus under this chapter, a person must:

- (1) Be a member of the same political party that elected or selected the person who vacated the office to be filled;
- (2) Be the precinct committeeman of a precinct in which voters were eligible to vote for the person who vacated the office to be filled at the last election conducted or permitted for the office; and
- (3) If an appointed precinct committeeman, have been a precinct committeeman continuously for a period beginning thirty (30) days before the date the vacancy occurred.

(b) However, if fewer than two (2) persons are eligible to be members of a caucus under this section, the county chairman entitled to give notice of a caucus under section 3 [IC 3-13-11-3] of this chapter shall fill the vacancy, no later than thirty (30) days after the vacancy occurs. A chairman acting under this subsection is not required to conduct a caucus.

(c) If the vacancy to be filled under this chapter resulted from the death of a person holding a local office who also served as a precinct committeeman, the vice committeeman for that precinct is eligible to participate in the caucus. [P.L.5-1986, § 9; P.L.3-1987, § 458; P.L.10-1988, § 200; P.L.5-1989, § 68; P.L.3-1993, § 227.]

**3-13-11-6. Caucus — Chairman.** — The county chairman:

- (1) Of the county in which the greatest percentage of the population of the election district is located; and
- (2) Of the same political party that elected or selected the official who vacated the office to be filled;

is the chairman of a caucus held under this chapter. The chairman is not eligible to vote in the caucus unless the chairman is also a member of the caucus. [P.L.5-1986,

§ 9; P.L.3-1987, § 459; P.L.10-1988, § 201.]

**3-13-11-7. Declarations of candidacy.** — (a) This section does not apply to a vacancy filled by a county chairman under section 5(b) [IC 3-13-11-5(b)] of this chapter.

(b) A person who wishes to be a candidate for pro tempore appointment to fill a vacancy under this chapter must file a declaration of candidacy with the chairman of the caucus at least seventy-two (72) hours before the time fixed for the caucus. [P.L.5-1986, § 9; P.L.8-1986, § 6; P.L.5-1989, § 69.]

**3-13-11-8. Caucus — Rules of procedure — Tie votes.** — Except as provided in this chapter, the caucus shall establish the caucus rules of procedure. The chairman shall break any tie vote that occurs in the caucus. [P.L.5-1986, § 9; P.L.8-1986, § 7; P.L.3-1987, § 460.]

**3-13-11-9. Caucus — Proxy voting.** — (a) Subject to subsection (b), a member of a caucus under this chapter may not vote by proxy.

(b) A precinct committeeman may designate a precinct vice committeeman who:

- (1) Is a member of the same political party that elected or selected the person who vacated the office to be filled;
- (2) Is the vice committeeman for the committeeman's precinct; and
- (3) Has been a vice committeeman continuously for a period beginning thirty (30) days before the date the vacancy occurred;

as the committeeman's proxy in a caucus meeting. To be effective, the designation must be filed with the chairman of the caucus meeting at least seventy-two (72) hours before the meeting. The chairman of the caucus meeting shall read the list of persons eligible to vote under a proxy in the caucus meeting before any voting occurs. A proxy may not be revoked after it is filed with the chairman of the caucus meeting. [P.L.5-1986, § 9; P.L.8-1986, § 8; P.L.3-1987, § 461; P.L.10-1988, § 202.]

**3-13-11-10. Caucus — Voting to fill vacancy.** — The members of a caucus held under this chapter shall select, by a majority vote of those casting a vote for a candidate, a person to fill the vacancy described in the written notice of the caucus. The selection shall be conducted by secret ballot. [P.L.5-1986, § 9; P.L.8-1986, § 9; P.L.3-1987, § 462.]

**3-13-11-11. Certification of selection.** — No later than noon five (5) days after:

- (1) The selection required by section 10 [IC 3-13-11-10] of this chapter; or
- (2) A selection under section 5(b) [IC 3-13-11-5(b)] of this chapter;

the chairman shall certify the pro tempore appointment results to the circuit court clerk of the county in which the greatest percentage of the population of the election district is located. The clerk shall file the certificate in the clerk's office in the same manner as certificates of election are filed. Within twenty-four (24) hours after the certificate is filed, the clerk shall issue a copy of the certificate to the individual named in the certificate. [P.L.5-1986, § 9; P.L.8-1986, § 10; P.L.10-1988, § 203; P.L.5-1989, § 70.]

**3-13-11-12. Temporary assumption of offices during vacancy — Chief deputy employee.** — Subject to sections 13 through 17 [IC 3-13-11-13 — 3-13-11-17] of this chapter, the chief deputy employee of the office that is vacant assumes the duties of that office for the period of time between when a vacancy occurs and when the office is filled under this chapter in a county, city, or town office, or in the office of township trustee. [P.L.5-1986, § 9.]

**3-13-11-13. Temporary assumption of offices during vacancy — Appointee of county board of commissioners.** — In accordance with section 12 [IC 3-13-11-12] of this chapter, if a chief deputy employee does not exist in a county office, or the chief deputy employee declines or is ineligible to serve, the board of county commissioners shall appoint, as soon as is reasonably possible, a person to assume the duties of the office until the office is filled under this chapter. [P.L.5-1986, § 9; P.L.3-1993, § 228.]

**3-13-11-14. Temporary assumption of duties of mayors in first and second-class cities during vacancies.** — In accordance with section 12 [IC 3-13-11-12] of this chapter, if the position of deputy mayor is not established by ordinance in a first-class or second-class city, the city controller assumes the duties of mayor until the office is filled under this chapter. [P.L.5-1986, § 9.]

**3-13-11-15. Temporary assumption of duties of mayor in third-class city during vacancy.** — In accordance with section 12 [IC 3-13-11-12] of this chapter, if the position of deputy mayor is not established by ordinance in a third-class

city, the president pro tempore of the common council assumes the duties of mayor until the office is filled under this chapter. [P.L.5-1986, § 9.]

**3-13-11-16. Temporary assumption of clerk-treasurer's duties during vacancy.** — In accordance with section 12 [IC 3-13-11-12] of this chapter, if a chief deputy employee does not exist in the office of clerk-treasurer of a city or town, or the chief deputy employee declines or is ineligible to serve, the mayor of the city or the president of the town council shall appoint, as soon as is reasonably possible, a person to assume the duties of the office until the office is filled under this chapter. [P.L.5-1986, § 9; P.L.8-1989, § 12; P.L.3-1993, § 229.]

**3-13-11-17. Temporary assumption of town trustee's duties during vacancy.** — In accordance with section 12 [IC 3-13-11-12] of this chapter, if a chief deputy employee does not exist in the office of township trustee, or the chief deputy employee declines or is ineligible to serve, the chairman of the township board assumes the duties of the township trustee until the office is filled under this chapter. [P.L.5-1986, § 9; P.L.8-1987, § 5; P.L.3-1993, § 230.]

**3-13-11-18. Rights and duties of persons filling vacancies.** — A person who assumes the duties of a vacant office under this chapter has all of its rights and duties. [P.L.5-1986, § 9.]

**3-13-11-19. Ineligible candidates for pro tempore appointment to fill vacancies.** — The person who last held a vacated office may not be a candidate for pro tempore appointment to fill a vacancy in that office under this chapter for the remainder of the term. [P.L.8-1986, § 11.]

## ARTICLE 14

### OFFENSES

#### CHAPTER.

1. CAMPAIGN VIOLATIONS, 3-14-1-1 — 3-14-1-16.
2. VOTE FRAUD, 3-14-2-1 — 3-14-2-29.
3. INTERFERENCE WITH FREE AND EQUAL ELECTIONS, 3-14-3-1 — 3-14-3-24.
4. PROCEDURAL VIOLATIONS BY ELECTION OFFICERS, 3-14-4-1 — 3-14-4-10.
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**CAMPAIGN VIOLATIONS**

**SECTION.**

- 3-14-1-1. Declarations of candidacy — Certificates of nomination — Petitions of nomination.
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- 3-14-1-7. Failure of committee to appoint treasurer.
- 3-14-1-8. Expenditure of campaign funds not passing through committee treasurer.
- 3-14-1-9. Persons making contributions to other than authorized entities.
- 3-14-1-10. Corporations and labor organizations exceeding contribution limits.
- 3-14-1-11. Persons making or receiving contributions in another's name.
- 3-14-1-12. Persons illegally paying election or caucus expenses.
- 3-14-1-13. Filing fraudulent report under IC 3-9.
- 3-14-1-14. Failure to report campaign receipts and expenditures.
- 3-14-1-14.5. Commingling of funds — Penalty.
- 3-14-1-15. Failure to keep records or file reports in school district election campaigns.
- 3-14-1-16. Wrongful use of campaign contributions.

**3-14-1-1. Declarations of candidacy — Certificates of nomination — Petitions of nomination. —** A person who knowingly:

- (1) Falsely makes or fraudulently defaces or destroys a declaration of candidacy, request for ballot placement under IC 3-8-3, certificate or petition of nomination, recount petition or cross-petition, contest petition, or certificate of candidate selection, or a part of the declaration, request, petition, or certificate;
- (2) Files a declaration of candidacy, request for ballot placement under IC 3-8-3, certificate or petition of nomination, recount petition or cross-petition, contest petition, or certificate of candidate selection, knowing any part thereof to be falsely made;
- (3) Refuses to execute a certificate of nomination or candidate selection when required by this title to do so and knowing that the candidate has been nominated or selected;
- (4) If the document is listed in subdivision (1), refuses to:
  - (A) Receive the document; or
  - (B) Record the date and time the document was received;
 when presented in accordance with this title; or

(5) Suppresses a declaration of candidacy, request for ballot placement under IC 3-8-3, petition or certificate of nomination, recount petition or cross-petition, contest petition, or certificate of candidate selection, that has been duly filed, or any part of the declaration, request, petition, or certificate;

commits a Class D felony. [P.L.5-1986, § 10; P.L.10-1988, § 204.]

**3-14-1-2. Slates. —** (a) A person who:

- (1) Prints, publishes, or distributes a slate during a primary election campaign without authority from and:

- (A) Over the name of an organization of voters, including the name of the organization and its officers; or
- (B) If it is not an organized group of voters, over the names of at least ten (10) voters in the political subdivision in which the primary election is being held;

together with the name of the printer who printed the slate;

(2) Prints on a slate during a primary election campaign the name or number of a candidate without the candidate's written consent; or

(3) Prints, publishes, or distributes a slate during a primary election campaign unless at least five (5) days before it is printed and published the written consent of the voters over whose names it is published and the written consent of the candidates in whose behalf it is distributed are filed in the office of the county election board in each county where the election is held;

commits a Class A misdemeanor.

(b) As used in this section, "slate" means a ballot or ticket having the names or numbers of more than one (1) candidate for nomination at a primary election. [P.L.5-1986, § 10; P.L.3-1987, § 463; P.L.10-1988, § 205.]

**3-14-1-3. Unendorsed material concerning candidates. —** An individual, an organization, or a committee that circulates or publishes material concerning a candidate or public question in an election without the statement required under IC 3-9-3-2 commits a Class A misdemeanor. [P.L.5-1986, § 10; P.L.10-1988, § 206; P.L.5-1989, § 71.]

**3-14-1-4. Unattributed publications, broadcasts, and advertisements. —** (a) An individual, an organization, or a committee subject to IC 3-9 that recklessly expends any money for the printing, publi-



cation, broadcast, electronic publication, or electronic broadcast in a newspaper or other periodical communications medium of any political matter that does not include the statement required under IC 3-9-3-2 commits a Class A misdemeanor.

(b) If a newspaper or periodical containing an article is subscribed and paid for by an individual, an organization, or a committee and sent to voters, it is not necessary to mark the article or a part of the article as an advertisement or to stamp or place on the newspaper a statement that it is published or circulated by the authority of the individual, the organization, or the chairman or treasurer of the committee, if the only payment made to the newspaper is for the material actually delivered and at not more than the usual rate of subscription.

(c) It is not necessary to mark or declare as an advertisement political information furnished to a communications medium by an individual, the organization, or the committee if the communications medium receives no compensation for the publication or broadcast of the information. [P.L.5-1986, § 10; P.L.3-1987, § 464; P.L.10-1988, § 207; P.L.5-1989, § 72.]

### 3-14-1-5. [Repealed.]

**3-14-1-6. Political activities by state police department employees, policemen or firefighters.** — A state police department employee or a police officer or a firefighter (including a special duty, auxiliary, or volunteer police officer or firefighter) of a political subdivision who recklessly:

- (1) Solicits votes or campaign funds;
- (2) Challenges voters; or
- (3) Performs any other election related function;

while wearing any identifying insignia or article of clothing that is part of an official uniform or while on duty commits a Class A misdemeanor. However, this section does not prohibit a state police department civilian employee from voting while on duty or a police officer or firefighter from voting while wearing any part of an official uniform or while on duty. [P.L.5-1986, § 10; P.L.16-1987, § 1; P.L.12-1989, § 1.]

**3-14-1-7. Failure of committee to appoint treasurer.** — A committee subject to IC 3-9 or any of its members that recklessly collects, receives, keeps, or disburses money or other property to promote any activity to which IC 3-9 applies without appointing and maintaining a treasurer as required by IC 3-9-1 commits a Class B misdemeanor. [P.L.5-1986, § 10.]

**3-14-1-8. Expenditure of campaign funds not passing through committee treasurer.** — A committee subject to IC 3-9 or any of its members that recklessly disburses or expends money or other property for any political purpose before the money or other property has passed through the hands of the treasurer of the committee commits a Class B misdemeanor. [P.L.5-1986, § 10.]

**3-14-1-9. Persons making contributions to other than authorized entities.** — A person who recklessly makes a contribution other than to:

- (1) A committee subject to IC 3-9; or
- (2) To a person authorized by law or by a committee to receive contributions in its behalf;

commits a Class B misdemeanor. [P.L.5-1986, § 10.]

**3-14-1-10. Corporations and labor organizations exceeding contribution limits.** — A corporation or labor organization that recklessly exceeds any of the limitations on contributions prescribed by IC 3-9-2-4 commits a Class B misdemeanor. [P.L.5-1986, § 10.]

**3-14-1-11. Persons making or receiving contributions in another's name.** — A person who:

- (1) Recklessly makes a contribution in the name of another person; or
- (2) Knowingly accepts a contribution made by one person in the name of another person;

commits a Class B misdemeanor. [P.L.5-1986, § 10.]

**3-14-1-12. Persons illegally paying election or caucus expenses.** — A person, other than the treasurer of a committee subject to IC 3-9, who recklessly pays any of the expenses of an election or caucus, except as authorized by IC 3-9, commits a Class B misdemeanor. [P.L.5-1986, § 10.]

**3-14-1-13. Filing fraudulent report under IC 3-9.** — A person who knowingly files a report required by IC 3-9 that is fraudulent commits a Class D felony. [P.L.5-1986, § 10.]

**3-14-1-14. Failure to report campaign receipts and expenditures.** — A person who fails to file a report with the proper office as required by IC 3-9 commits a Class B misdemeanor. [P.L.5-1986, § 10; P.L.3-1987, § 465.]

**3-14-1-14.5. Commingling of funds — Penalty.** — A person who recklessly violates IC 3-9-2-9(c) by commingling the funds of a committee with the personal funds of an officer, a member, or an associate of the committee commits a Class B misdemeanor. [P.L.3-1993, § 231.]

**3-14-1-15. Failure to keep records or file reports in school district election campaigns.** — A person who fails to keep the records or file the reports as required by IC 3-9-6-3 and IC 3-9-6-5 commits a Class B misdemeanor. [P.L.5-1986, § 10.]

**3-14-1-16. Wrongful use of campaign contributions.** — A person who knowingly or intentionally violates IC 3-9-3-4 commits a Class A infraction. [P.L.13-1987, § 3.]

## CHAPTER 2

### VOTE FRAUD

#### SECTION.

- 3-14-2-1. Affidavits of registration — Writing name of voter without personal knowledge of his name.
- 3-14-2-2. Applying for or obtaining registration — Voter ineligible.
- 3-14-2-3. Affidavits of registration — Subscribing with knowledge of application's falsity — Subscriber failing to give name and address.
- 3-14-2-4. Voter already registered recklessly applying for or obtaining registration.
- 3-14-2-5. Destruction of or failure to file executed affidavit or form registration.
- 3-14-2-6. Release or removal of registration materials from election officials' office.
- 3-14-2-7. Furnishing false information to or withholding information from poll taker.
- 3-14-2-8. Poll taker returning false or fraudulent information.
- 3-14-2-9. Ineligible voter knowingly voting or offering to vote.
- 3-14-2-10. Unregistered voter recklessly voting.
- 3-14-2-11. Voter voting outside precinct of residence and registry.
- 3-14-2-12. Knowingly voting or applying to vote in another's name — Knowingly applying to vote or voting a second time.
- 3-14-2-13. Hiring or soliciting nonresident to vote or voter to vote outside precinct.
- 3-14-2-14. Election officials allowing unauthorized voter or procedure.
- 3-14-2-15. Improper delivery of ballots by election board members.
- 3-14-2-16. Applying or receiving ballot in precinct not entitled to vote — Marking ballot to reveal vote — Viewing another's ballot — Receipt or delivery of ballots by unauthorized persons — Unauthorized absentee ballot.

#### SECTION.

- 3-14-2-17. Knowingly placing distinguishing mark on ballot.
- 3-14-2-18. Voter knowingly revealing his or determining another's voting machine selections.
- 3-14-2-19. Forgery of official ballot endorsement — Printing and distribution of imitation ballots.
- 3-14-2-20. Deception of voter — Registering vote contrary to voter's request.
- 3-14-2-21. Fraudulently causing voter to vote counter to intent.
- 3-14-2-22. Misrepresentation to non-English reading voters of names on ballots.
- 3-14-2-23. Opening, destroying or improperly delivering ballots.
- 3-14-2-24. Removal of ballots from ballot box — Substituting ballots — Destroying ballots — False entries in poll books — False candidate vote tallies.
- 3-14-2-25. Marking of ballot by election official.
- 3-14-2-26. Tampering with ballots, ballot boxes, voting materials and records.
- 3-14-2-27. Falsely counting or returning voting machine counts.
- 3-14-2-28. Alteration of election returns — Destruction, misplacement, or loss of poll books or tally sheets.
- 3-14-2-29. Inspecting voting machine without authorization.

**3-14-2-1. Affidavits of registration — Writing name of voter without personal knowledge of his name.** — A person who recklessly writes the name of a voter on an affidavit of registration without being personally acquainted with the voter and knowing the voter to be the person who the voter represents the voter to be commits a Class A misdemeanor. [P.L.5-1986, § 10.]

**3-14-2-2. Applying for or obtaining registration — Voter ineligible.** — A person who, knowing the person is not a voter and will not be a voter at the next election, applies for registration or procures registration as a voter commits a Class A misdemeanor. [P.L.5-1986, § 10.]

**3-14-2-3. Affidavits of registration — Subscribing with knowledge of application's falsity — Subscriber failing to give name and address.** — A person who:

- (1) Subscribes the name of another person to an affidavit of registration knowing that the application contains a false statement; or
- (2) Subscribes the name of another person to an affidavit of registration without writing on it the person's own name and address as an attesting witness;

commits a Class A misdemeanor. [P.L.5-1986, § 10.]

**3-14-2-4. Voter already registered recklessly applying for or obtaining registration.** — A person who recklessly registers or offers to register to vote more than once commits a Class A misdemeanor. [P.L.5-1986, § 10.]

**3-14-2-5. Destruction of or failure to file executed affidavit or form registration.** — A person who recklessly destroys or fails to file or deliver to the proper officer a registration affidavit or form of registration after it has been executed commits a Class A misdemeanor. [P.L.5-1986, § 10.]

**3-14-2-6. Release or removal of registration materials from election officials' office.** — A person who releases or removes any registration materials (including envelopes or post cards returned by the United States Postal Service under IC 3-7-3-14) from the office of the circuit court clerk or board of registration, except when release or removal is necessary:

- (1) To comply with IC 3-7; or
- (2) For the destruction of the materials under IC 5-15-6;

commits a Class A misdemeanor. [P.L.5-1986, § 10.]

**3-14-2-7. Furnishing false information to or withholding information from poll taker.** — A person who knowingly:

- (1) Upon the demand of a poll taker, withholds any information from the poll taker with regard to the qualifications of a voter or person not entitled to vote;
- (2) Furnishes to a poll taker any false information with regard to the qualifications of any person for voting; or
- (3) Returns to the poll taker as voters any false names or the names of any persons who are dead or are not voters;

commits a Class A misdemeanor. [P.L.5-1986, § 10.]

**3-14-2-8. Poll taker returning false or fraudulent information.** — A poll taker who knowingly returns:

- (1) The name of a person who is not entitled to vote in the precinct for which the poll is taken at the next election;
- (2) A fictitious name; or
- (3) The name of a dead person;

commits a Class A misdemeanor. [P.L.5-1986, § 10.]

**3-14-2-9. Ineligible voter knowingly voting or offering to vote.** — A person who knowingly votes or offers to vote at an election when the person is not registered or authorized to vote commits a Class D felony. [P.L.5-1986, § 10.]

**3-14-2-10. Unregistered voter recklessly voting.** — A person who recklessly votes at an election, unless the person is a registered voter under the requirements of IC 3-7 at the time of the election, commits a Class A misdemeanor. [P.L.5-1986, § 10.]

**3-14-2-11. Voter voting outside precinct of residence and registry.** — Except as provided by IC 3-7-4 or IC 3-7-4.5 a person who knowingly votes or offers to vote in a precinct except the one in which the person is registered and resides commits a Class D felony. [P.L.5-1986, § 10; P.L.3-1987, § 466; P.L.10-1988, § 208; P.L.17-1993, § 17.]

**3-14-2-12. Knowingly voting or applying to vote in another's name — Knowingly applying to vote or voting a second time.** — A person who:

- (1) Knowingly votes or makes application to vote in an election in a name other than the person's own; or
- (2) Having voted once at an election, knowingly applies to vote at the same election in the person's own name or any other name;

commits a Class D felony. [P.L.5-1986, § 10.]

**3-14-2-13. Hiring or soliciting non-resident to vote or voter to vote outside precinct.** — A person who knowingly hires or solicits another person:

- (1) To come into Indiana; or
- (2) To go from one precinct into another precinct;

for the purpose of voting at an election when the person hired or solicited is not a voter in Indiana or the precinct commits a Class D felony. [P.L.5-1986, § 10.]

**3-14-2-14. Election officials allowing unauthorized voter or procedure.** — A precinct election officer or public official upon whom a duty is imposed by this title who knowingly:

- (1) Allows a person to vote who is not entitled to vote; or
- (2) Allows a person to vote by use of an unauthorized procedure;

commits a Class D felony. [P.L.5-1986, § 10.]

**3-14-2-15. Improper delivery of ballots by election board members.** — A member or employee of the state election board or of a county election board who knowingly delivers a ballot to a person except in the manner prescribed by this title commits a Class D felony. [P.L.5-1986, § 10.]

**3-14-2-16. Applying or receiving ballot in precinct not entitled to vote — Marking ballot to reveal vote — Viewing another's ballot — Receipt or delivery of ballots by unauthorized persons — Unauthorized absentee ballot.** — A person who knowingly:

- (1) Applies for or receives a ballot in a precinct other than that in which the person is entitled to vote;
  - (2) Shows a ballot after it is marked to another person in such a way as to reveal the contents of it or the name of a candidate for whom the person has voted;
  - (3) Examines a ballot that a voter has prepared for voting or solicits the voter to show the ballot;
  - (4) Receives from a voter a ballot prepared by the voter for voting, except the inspector, a member of the precinct election board temporarily acting for the inspector, or a member of a county election board or an absentee voter board acting under IC 3-11-10;
  - (5) Receives a ballot from a person other than one of the poll clerks or authorized assistant poll clerks;
  - (6) Delivers a ballot to a voter to be voted, unless the person is a poll clerk or authorized assistant poll clerk;
  - (7) Delivers a ballot (other than an absentee ballot) to an inspector that is not the ballot the voter receives from the poll clerk or assistant poll clerk; or
  - (8) Delivers an absentee ballot to a team of absentee ballot counters appointed under IC 3-11.5-4-22, a county election board, a circuit court clerk, or an absentee voting board under IC 3-11-10 that is not the ballot cast by the absentee voter;
- commits a Class D felony. [P.L.5-1986, § 10; P.L.3-1987, § 467; P.L.5-1989, § 73; P.L.3-1993, § 232; P.L.19-1993, § 3.]

**3-14-2-17. Knowingly placing distinguishing mark on ballot.** — A voter at an election who knowingly writes or places on a ballot a name, sign, or device as a distinguishing mark by which to indicate to any other person how the voter has voted commits a Class D felony. [P.L.5-1986, § 10.]

**3-14-2-18. Voter knowingly revealing his or determining another's voting machine selections.** — A voter who knowingly:

- (1) Does anything to enable any other person to see or know for what ticket, candidates, or public questions the voter has voted on a voting machine; or
  - (2) Moves into a position, or does any other thing, to enable the voter to see or know for what ticket, candidates, or public questions any other voter votes on a voting machine;
- commits a Class D felony. [P.L.5-1986, § 10; P.L.10-1988, § 209.]

**3-14-2-19. Forgery of official ballot endorsement — Printing and distribution of imitation ballots.** — A person who knowingly:

- (1) Forges or falsely makes the official endorsement of a ballot; or
  - (2) Prints or circulates an imitation ballot;
- commits a Class D felony. [P.L.5-1986, § 10.]

**3-14-2-20. Deception of voter — Registering vote contrary to voter's request.** — A person who knowingly:

- (1) Deceives a voter in registering the voter's vote under IC 3-11-8; or
  - (2) Registers a voter's vote in a way other than as requested by the voter;
- commits a Class D felony. [P.L.5-1986, § 10; P.L.3-1987, § 468.]

**3-14-2-21. Fraudulently causing voter to vote counter to intent.** — A person who fraudulently causes a voter at an election to vote for a person different from the one the voter intended to vote for or on a public question different from the vote the voter intended to cast commits a Class D felony. [P.L.5-1986, § 10; P.L.3-1987, § 469; P.L.10-1988, § 210.]

**3-14-2-22. Misrepresentation to non-English reading voters of names on ballots.** — A person who knowingly furnishes a voter who cannot read the English language with a ballot at an election that the person represents to the voter as containing a name different from the one printed or written on it commits a Class D felony. [P.L.5-1986, § 10; P.L.3-1987, § 470.]

**3-14-2-23. Opening, destroying or improperly delivering ballots.** — A person entrusted with the custody of ballots who knowingly:

(1) Opens a package in which the ballots are contained;  
 (2) Destroys a ballot; or  
 (3) Delivers such a package or ballot to a person not entitled to receive it; commits a Class D felony. [P.L.5-1986, § 10.]

**3-14-2-24. Removal of ballots from ballot box — Substituting ballots — Destroying ballots — False entries in poll books — False candidate vote tallies.** — A person who:

(1) Takes a ballot legally deposited out of a ballot box for the purpose of destroying it or substituting another in its place;  
 (2) Destroys or misplaces a ballot with the intent to substitute another ballot for it or with the intent to prevent it from being counted; or  
 (3) Knowingly enters upon the poll books the name of a person who has not legally voted or knowingly tallies a vote for a candidate or on a public question not voted for by the ballot; commits a Class D felony. [P.L.5-1986, § 10; P.L.10-1988, § 211.]

**3-14-2-25. Marking of ballot by election official.** — A member of a precinct election board or county election board, a person employed at the central counting headquarters, or a person charged with a duty in connection with an election or entrusted with the custody or control of a ballot either before or after voting who marks or defaces a ballot for the purpose of:

(1) Identifying the ballot (except by numbering protested ballots for future reference as provided by law); or  
 (2) Vitiating the ballot; commits a Class D felony. [P.L.5-1986, § 10.]

**3-14-2-26. Tampering with ballots, ballot boxes, voting materials and records.** — A person who:

(1) During the progress of an election or within the time for preparation required under this title, knowingly breaks open or violates the seal or lock of a ballot box, envelope, container, or bag in which ballots have been deposited;  
 (2) Knowingly obtains a ballot box, envelope, container, or bag that contains ballots and cancels, withholds, or destroys a ballot;  
 (3) Knowingly increases or decreases the number of ballots legally deposited in a ballot box, envelope, container, or bag; or

(4) Knowingly makes a fraudulent erasure or alteration on a tally sheet, poll book, list of voters, or election return deposited in a ballot box, envelope, or bag; commits a Class D felony. [P.L.5-1986, § 10; P.L.3-1987, § 471.]

**3-14-2-27. Falsely counting or returning voting machine counts.** — A precinct election officer who, at the close of the polls, or an absentee ballot counter acting under IC 3-11.5-5 or IC 3-11.5-6, who knowingly:

(1) Causes the vote to be incorrectly taken down for a candidate or public question; or  
 (2) Makes a false statement, certificate, or return of any kind of that vote; commits a Class D felony. [P.L.5-1986, § 10; P.L.3-1987, § 472; P.L.3-1993, § 233; P.L.19-1993, § 4.]

**3-14-2-28. Alteration of election returns — Destruction, misplacement, or loss of poll books or tally sheets.** — A person who:

(1) With intent to defraud, alters an election return;  
 (2) Knowingly destroys, misplaces, or loses a poll book or tally sheet; or  
 (3) With intent to defraud, alters the vote of a candidate or on a public question as returned by the county election board or its employees; commits a Class D felony. [P.L.5-1986, § 10; P.L.10-1988, § 212.]

**3-14-2-29. Inspecting voting machine without authorization.** — A person who knowingly inspects a voting machine or electronic voting system under IC 3-12-4-18 without obtaining authorization from the state recount commission to conduct the inspection commits a Class D felony. [P.L.3-1987, § 473.]

## CHAPTER 3

### INTERFERENCE WITH FREE AND EQUAL ELECTIONS

#### SECTION.

- 3-14-3-1. [Repealed.]  
 3-14-3-2. Failing to cast or return ballot.  
 3-14-3-3. Interference with poll watcher's duties.  
 3-14-3-4. Obstruction or interference with election officers or voters.  
 3-14-3-5. Precinct election officers tampering with voting equipment.  
 3-14-3-6. Precinct election officers permitting use of malfunctioning voting equipment.  
 3-14-3-7. Inspectors and poll clerks — Removal, change or mutilation of ballot labels.

## SECTION.

- 3-14-3-8. Tampering with voting equipment or materials by other than precinct election officers.
- 3-14-3-9. Failing to receive vote.
- 3-14-3-10. Removal or destruction of ballot supplies, voter instruction cards, voting booths, etc.
- 3-14-3-11. Tampering with marking device, voting equipment, etc. — Interfering with voting secrecy.
- 3-14-3-12. Voter's reckless removal of ballot, pencil or other marking device from polls.
- 3-14-3-13. Voter's knowing removal from or possession outside polls of ballot, pencil or other marking device.
- 3-14-3-14. Crimes by ballot printers.
- 3-14-3-15. Unauthorized persons entering into or remaining near polls.
- 3-14-3-16. Electioneering within fifty feet of polls.
- 3-14-3-17. Election board member inducing or persuading voter's vote.
- 3-14-3-18. Improper collateral acts or threats to influence voter's vote.
- 3-14-3-19. Giving or offering financial inducement to vote or refrain from voting.
- 3-14-3-20. Accepting or soliciting financial inducement to vote or refrain from voting.
- 3-14-3-21. Enclosurement of political inducements or threats in paychecks — Handbill or placard forecasting certain business loss if certain candidates elected or defeated.
- 3-14-3-22. [Repealed.]
- 3-14-3-23. Failing to maintain poll list or permit polling.
- 3-14-3-24. Use of poll list for improper purpose.

**3-14-3-1. [Repealed.]**

**3-14-3-2. Failing to cast or return ballot.** — A person who, having procured an official ballot, knowingly fails to cast or return it in the prescribed manner commits a Class A misdemeanor. [P.L.5-1986, § 10.]

**3-14-3-3. Interference with poll watcher's duties.** — A person who knowingly:

- (1) Interferes with a watcher;
- (2) Prevents a watcher from performing the watcher's duties;
- (3) Otherwise violates:
  - (A) IC 3-6-8-3;
  - (B) IC 3-6-8-4;
  - (C) IC 3-6-8-5;
  - (D) IC 3-6-8-6;
  - (E) IC 3-6-9; or
  - (F) IC 3-6-10; or
- (4) Violates IC 3-11-12-21(d) or IC 3-11-13-44(d);

commits a Class D felony. [P.L.5-1986, § 10; P.L.5-1989, § 74.]

**3-14-3-4. Obstruction or interference with election officers or voters.** —

(a) A person who:

- (1) Knowingly obstructs or interferes with an election officer in the discharge of the officer's duty; or
- (2) Knowingly obstructs or interferes with a voter within fifty (50) feet of the polls;

commits a Class D felony.

(b) A person called as a witness to testify against another for a violation of this section is a competent witness to prove the offense even though the person may have been a party to the violation, and the person shall be compelled to testify as other witnesses. However, the person's evidence may not be used against the person in a prosecution growing out of matters about which the person testifies, and the person is not liable to indictment or information for the offense. [P.L.5-1986, § 10.]

**3-14-3-5. Precinct election officers tampering with voting equipment.** — A precinct election officer who, with the intent to cause or permit a voting machine, ballot card voting system, or electronic voting system to fail to correctly register all votes cast, tampers with or disarranges the machine or system or any part of it commits a Class D felony. [P.L.5-1986, § 10; P.L.3-1987, § 474.]

**3-14-3-6. Precinct election officers permitting use of malfunctioning voting equipment.** — A precinct election officer who permits a voting machine, ballot card voting system, or electronic voting system to be used for voting at an election, with knowledge of the fact that the machine or system is not in order or not perfectly set and adjusted so that it will correctly register all votes cast, commits a Class D felony. [P.L.5-1986, § 10; P.L.3-1987, § 475.]

**3-14-3-7. Inspectors and poll clerks — Removal, change or mutilation of ballot labels.** — An inspector or poll clerk in a precinct who, for the purpose of:

- (1) Deceiving a voter;
- (2) Causing it to be doubtful for what ticket, candidate, or public question a vote is cast; or
- (3) Causing it to appear that votes cast for one ticket, candidate, or public question were cast for another ticket, candidate, or public question;

removes, changes, or mutilates a ballot label on a voting machine or any part thereof commits a Class D felony. [P.L.5-1986, § 10.]

**3-14-3-8. Tampering with voting equipment or materials by other than precinct election officers.** — A person other than a precinct election officer who knowingly, before or during an election:

- (1) Damages, disarranges, or tampers with a voting machine, ballot card system, or electronic voting system; or
  - (2) Damages a ballot label placed or to be placed on the machine, electronic voting system, or any other appliance used in connection with the machine, ballot card voting system, or electronic voting system;
- commits a Class D felony. [P.L.5-1986, § 10; P.L.3-1987, § 476.]

**3-14-3-9. Failing to receive vote.** — A person who knowingly fails to receive the vote of a legal voter at an election commits a Class D felony. [P.L.5-1986, § 10; P.L.3-1987, § 477.]

**3-14-3-10. Removal or destruction of ballot supplies, voter instruction cards, voting booths, etc.** — A person who during an election recklessly:

- (1) Removes or destroys any of the supplies or other conveniences placed in the voting booths or delivered to the voter for the purpose of enabling a voter to prepare a ballot;
  - (2) Removes or defaces the cards printed for the instruction of the voters; or
  - (3) Removes or destroys a voting booth, railing, or other convenience provided for the election;
- commits a Class D felony. [P.L.5-1986, § 10; P.L.3-1987, § 478.]

**3-14-3-11. Tampering with marking device, voting equipment, etc. — Interfering with voting secrecy.** — A person who recklessly:

- (1) Tampers with or damages a marking device, ballot, or other record or equipment used in an election;
  - (2) Interferes with the correct operation of such a device or equipment; or
  - (3) Interferes with the secrecy of voting;
- commits a Class D felony. [P.L.5-1986, § 10.]

**3-14-3-12. Voter's reckless removal of ballot, pencil or other marking device from polls.** — A voter who recklessly attempts to leave the polls with a ballot, the pencil, or other marking device used in marking ballots in the voter's possession commits a Class A misdemeanor. A voter who attempts to leave the polls with a ballot, pencil, or other marking device in

the voter's possession shall be arrested at once on demand of any member of the precinct election board. [P.L.5-1986, § 10; P.L.3-1987, § 479.]

**3-14-3-13. Voter's knowing removal from or possession outside polls of ballot, pencil or other marking device.** — A person who during an election knowingly:

- (1) Removes a ballot, pencil, or other marking device from the polls; or
  - (2) Possesses outside the polls a ballot, pencil, or other marking device either genuine or counterfeit;
- commits a Class D felony. [P.L.5-1986, § 10; P.L.3-1987, § 480.]

**3-14-3-14. Crimes by ballot printers.** — A printer of the ballots for an election, or person employed in printing the ballots, who knowingly:

- (1) Delivers a ballot to a person other than a member of the state election board or a county election board for which the ballots are being printed;
  - (2) Prints a ballot in any form other than the one prescribed by law; or
  - (3) Prints a ballot containing any names, spellings, or arrangements other than as authorized by the state election board or a county election board;
- commits a Class D felony. [P.L.5-1986, § 10.]

**3-14-3-15. Unauthorized persons entering into or remaining near polls.** — A person not authorized by this title who recklessly:

- (1) Enters the polls;
  - (2) Enters within the railing leading from the challenge window or door to the entrance of the polls without having been passed by the challengers or having been sworn in; or
  - (3) Remains within fifty (50) feet of the polls;
- commits a Class A misdemeanor. [P.L.5-1986, § 10.]

**3-14-3-16. Electioneering within fifty feet of polls.** — A person who knowingly does any electioneering on election day within the polls or within fifty (50) feet of the polls commits a Class D felony. [P.L.5-1986, § 10.]

**3-14-3-17. Election board member inducing or persuading voter's vote.** — A member of a precinct election board who knowingly induces or persuades a voter to vote for a candidate or for or against a public question commits a Class D felony.

[P.L.5-1986, § 10; P.L.3-1987, § 481; P.L.10-1988, § 213.]

**3-14-3-18. Improper collateral acts or threats to influence voter's vote.** — A person who, for the purpose of influencing a voter:

- (1) Seeks to enforce the payment of a debt by force or threat of force;
- (2) Ejects or threatens to eject the voter from a house the voter occupies;
- (3) Begins a criminal prosecution; or
- (4) Damages the business or trade of the voter;

commits a Class D felony. [P.L.5-1986, § 10.]

**3-14-3-19. Giving or offering financial inducement to vote or refrain from voting.** — A person who, for the purpose of inducing or procuring another person to vote or refrain from voting for or against a candidate or for or against a public question at an election or political convention, gives, offers, or promises to any person any money or other property commits a Class D felony. [P.L.5-1986, § 10; P.L.3-1987, § 482.]

**3-14-3-20. Accepting or soliciting financial inducement to vote or refrain from voting.** — A person who, for the purpose of inducing or procuring a voter to vote or refrain from voting for or against a candidate or for or against a public question at an election or political convention, receives, accepts, requests, or solicits from any person any money or other property commits a Class D felony. [P.L.5-1986, § 10; P.L.3-1987, § 483.]

**3-14-3-21. Enclosurement of political inducements or threats in paychecks — Handbill or placard forecasting certain business loss if certain candidates elected or defeated.** — A person who:

- (1) Pays employees the salary or wages due in pay envelopes upon which there is printed or in which there is enclosed a political motto, device, or argument containing threats intended or calculated to influence the political opinions or actions of the employees; or
- (2) Exhibits in the workplace of the person's employees a handbill or placard containing a threat, notice, or information that, if a particular ticket, candidate, or public question is elected, approved, or defeated:

(A) Work in the person's place or establishment will cease in whole or in part;

(B) The person's establishment will be closed; or

(C) The wages of the employees will be reduced;

or that is otherwise intended or calculated to influence the political opinions or actions of the employees;

commits a Class D felony. [P.L.5-1986, § 10; P.L.3-1987, § 484; P.L.10-1988, § 214.]

**3-14-3-22. [Repealed.]**

**3-14-3-23. Failing to maintain poll list or permit polling.** — A proprietor, a manager, or an association of co-owners who violates IC 3-6-11-5 or IC 3-6-11-7 commits a Class C infraction. [P.L.7-1990, § 51.]

**3-14-3-24. Use of poll list for improper purpose.** — An organization that violates IC 3-6-11-7.5 commits a Class C infraction. [P.L.7-1990, § 52.]

## CHAPTER 4

### PROCEDURAL VIOLATIONS BY ELECTION OFFICERS

#### SECTION.

3-14-4-1. Precinct election board members — Serving with knowledge of ineligibility.

3-14-4-2. Inspector failing to appear at county election board for distribution of ballots.

3-14-4-3. Knowing omission of official duty.

3-14-4-3.5. Failure to comply — Penalty.

3-14-4-4. Failing to provide or properly arrange poll booth screen.

3-14-4-5. [Repealed.]

3-14-4-6. Depositing ballot without poll clerks' initials or with distinguishing mark.

3-14-4-7. Revealing individual's vote — Discussion of ballot's appearance.

3-14-4-8. Activity by precinct election board member with intention of determining how a voter voted.

3-14-4-9. Disclosing voter's selections — Electioneering.

3-14-4-10. Unlawful disclosure of information — Penalty.

**3-14-4-1. Precinct election board members — Serving with knowledge of ineligibility.** — A person who knowingly serves as a member of a precinct election board in violation of IC 3-6-6 commits a Class D felony. [P.L.5-1986, § 10; P.L.3-1987, § 486.]

**3-14-4-2. Inspector failing to appear at county election board for distribution of ballots.** — An inspector who negligently or knowingly fails to appear at the county election board's office in person or by representative as required by IC



3-11-3 commits a Class D felony. [P.L.5-1986, § 10; P.L.3-1987, § 487.]

**3-14-4-3. Knowing omission of official duty.** — A precinct election officer or public official upon whom a duty is imposed by this title who knowingly omits to perform the duty commits a Class D felony. [P.L.5-1986, § 10.]

**3-14-4-3.5. Failure to comply — Penalty.** — A circuit court clerk, member of a board of registration, or county official responsible for maintaining computerized voter registration information who recklessly fails to comply with IC 3-7-7.5 not more than thirty (30) days after being required to perform a duty under IC 3-7-7.5 commits a Class B misdemeanor. [P.L.3-1993, § 234.]

**3-14-4-4. Failing to provide or properly arrange poll booth screen.** — A member of a precinct election board who recklessly allows a booth or compartment in which a voter is preparing a ballot to be used:

- (1) Without a screen; or
- (2) With a screen arranged so as not to shield the preparation of the ballot from observation;

commits a Class D felony. [P.L.5-1986, § 10; P.L.3-1987, § 488.]

**3-14-4-5. [Repealed.]**

**3-14-4-6. Depositing ballot without poll clerks' initials or with distinguishing mark.** — An inspector, or person acting in the inspector's behalf, who knowingly deposits:

- (1) A ballot upon which the initials of the poll clerks or authorized assistant poll clerks do not appear; or
- (2) A ballot on which appears externally a distinguishing mark or defacement;

commits a Class D felony. [P.L.5-1986, § 10; P.L.3-1987, § 490.]

**3-14-4-7. Revealing individual's vote — Discussion of ballot's appearance.** — A member of a precinct election board or a person otherwise entitled to the inspection of the ballots who knowingly:

- (1) Reveals to another person how a voter has voted; or
- (2) Gives information concerning the appearance of any ballot voted;

commits a Class D felony. [P.L.5-1986, § 10.]

**3-14-4-8. Activity by precinct election board member with intention of**

**determining how a voter voted.** — A member of a precinct election board or an absentee ballot counter appointed under IC 3-11.5-4-22 who knowingly:

- (1) Opens or marks, by folding or otherwise, a ballot presented by a voter, except as provided by law; or
- (2) Tries to find out how the voter voted before the ballot is deposited in the ballot box or cast on a voting machine, ballot card voting system, or electronic voting system or counted by the absentee ballot counter;

commits a Class D felony. [P.L.5-1986, § 10; P.L.3-1987, § 491; P.L.3-1993, § 235; P.L.19-1993, § 5.]

**3-14-4-9. Disclosing voter's selections — Electioneering.** — An election officer who knowingly:

- (1) Discloses to a person the name of a candidate for whom a voter has voted or how a voter voted on a public question; or
- (2) Does any electioneering on election day;

commits a Class D felony. [P.L.5-1986, § 10; P.L.10-1988, § 215.]

**3-14-4-10. Unlawful disclosure of information — Penalty.** — A person who knowingly violates IC 3-11.5-5 or IC 3-11.5-6 by providing any other person with information concerning the number of votes a candidate received for an office or cast to approve or reject a public question on absentee ballots counted under IC 3-11.5-5 or IC 3-11.5-6 before the closing of the polls commits a Class D felony. [P.L.3-1993, § 236; P.L.19-1993, § 6.]

## CHAPTER 5

### ENFORCEMENT PROVISIONS

#### SECTION.

3-14-5-1. Voter's affidavit alleging illegal voter voted — Arrest — Prosecution.

3-14-5-2. Voters' affidavits — Sealing — Delivery to county election board — Grand jury investigations and report.

3-14-5-3. Reports by election boards of violations.

3-14-5-4. Prosecutions by circuit prosecuting attorney.

3-14-5-5. Indictments and informations.

3-14-5-6. Witness' privilege against self-incrimination unavailable.

3-14-5-7. Immunity for witness testifying as to giving or receiving of money to influence voting.

**3-14-5-1. Voter's affidavit alleging illegal voter voted — Arrest — Prosecution.** — If at any time during a primary, general, or municipal election a voter makes an affidavit before the inspector in

a precinct that a person who has voted is an illegal voter in the precinct, the election sheriff or other law enforcement officer shall immediately arrest the person accused and deliver the person to the civil authorities. Immediately after the close of the polls the inspector shall deliver the affidavit to the prosecuting attorney for the county, who shall proceed as if the affidavit had been made before the prosecuting attorney. [P.L.5-1986, § 10.]

**3-14-5-2. Voter's affidavits — Sealing — Delivery to county election board — Grand jury investigations and report.** — Each precinct election board shall, at the close of the polls, place all affidavits prescribed by this title for use on election day in a strong paper bag or envelope and securely seal it. Each member shall endorse that member's name on the back of the bag or envelope. The inspector shall deliver the bag or envelope to the county election board, whose duty it is to carefully preserve it and deliver it, with the seal unbroken, to the foreman of the grand jury when next in session. The grand jury shall inquire into the truth or falsity of the affidavits, and the court having jurisdiction over the grand jury shall specially charge the jury as to its duties under this section. The grand jury shall file with the court a report of the result of its inquiry. [P.L.5-1986, § 10.]

**3-14-5-3. Reports by election boards of violations.** — The state election board and each county election board shall report a violation of law to the appropriate prosecuting attorney, the attorney general, and the alleged violator. The boards may have the report transmitted and presented to the grand jury of the county in which the violation was committed at its first session after making the report and at subsequent sessions that may be required. The boards shall furnish the grand jury any evidence at their command necessary in the investigation and prosecution of the violation. [P.L.5-1986, § 10.]

**3-14-5-4. Prosecutions by circuit prosecuting attorney.** — In addition to the duties prescribed by IC 33-14, the prosecuting attorney of each circuit shall prosecute each resident of the circuit who the prosecutor believes has violated IC 3-14-1-4, IC 3-14-1-7, IC 3-14-1-8, IC 3-14-1-9, IC 3-14-1-10, IC 3-14-1-12, IC 3-14-1-13, IC 3-14-1-14, or IC 3-14-1-15 in any circuit of the state. [P.L.5-1986, § 10.]

**3-14-5-5. Indictments and informations.** — When an election offense is

committed, an indictment or information for the offense is sufficient if it alleges that the election was authorized by law without stating the names of the officers holding the election, the candidates voted for, or the offices filled at the election. [P.L.5-1986, § 10.]

**3-14-5-6. Witness' privilege against self-incrimination unavailable.** — In a criminal prosecution for violation of IC 3-14-1-4, IC 3-14-1-7, IC 3-14-1-8, IC 3-14-1-9, IC 3-14-1-10, IC 3-14-1-12, IC 3-14-1-13, IC 3-14-1-14, or IC 3-14-1-15, a witness, except the person who is accused and on trial, may not be excused from answering a question or producing a book, paper, or other thing on the ground that the witness' answer or the thing to be produced may tend to incriminate the witness or render the witness liable to a penalty. However, the witness' answer or the thing produced by the witness may not be used in a proceeding against the witness, except in a prosecution for perjury in so testifying. [P.L.5-1986, § 10.]

**3-14-5-7. Immunity for witness testifying as to giving or receiving of money to influence voting.** — If a person who has given or received money or other property to or from another person for the purpose of influencing any voter's vote at an election informs upon and testifies against the person receiving or giving the money in a criminal prosecution, the person informing and testifying may not be prosecuted in connection with the transaction. [P.L.5-1986, § 10.]

## CHAPTER 6

### ELECTION PROFITEERING

#### SECTION.

3-14-6-1. Penalty for providing voter information for prohibited use.

3-14-6-2. Misuse of voter information — Penalty.

**3-14-6-1. Penalty for providing voter information for prohibited use.** — An officer or employee of the state election board who grants a request for voter registration information under IC 3-7-7.5-6 with knowledge that the information will be used in a manner prohibited by IC 3-7-7.5-6 commits a Class B infraction. An officer or employee of the state election board who has previously received a judgment for committing an infraction under this section, and violates this section a second time shall be dismissed from the officer's or employee's position. [P.L.13-1992, § 4.]

**3-14-6-2. Misuse of voter information — Penalty.** — (a) This section does not apply to:

- (1) Political activities; or
- (2) Political fundraising activities.

(b) A person who uses voter registration information obtained under IC 3-7-7.5 to solicit merchandise, goods, services, or subscriptions commits a Class B infraction.

(c) The court shall:

- (1) Keep a record; and
- (2) Send a copy of the record to the prosecuting attorney of the county in which the infraction proceeding was tried;

of a judgment for an infraction proceeding tried under this section.

(d) A person who:

- (1) Has previously received a judgment for committing an infraction under this section; and
- (2) Knowingly or intentionally uses voter registration information in violation of this section;

commits a Class A misdemeanor. [P.L.13-1992, § 4.]

**TITLE 5**

**STATE AND LOCAL ADMINISTRATION**

**ARTICLE.**

- 4. OFFICERS' BONDS AND OATHS, ch. 1.
- 8. OFFICERS' IMPEACHMENT, REMOVAL, RESIGNATION AND DISQUALIFICATION, chs. 1-4.

**ARTICLE 4**

**OFFICERS' BONDS AND OATHS**

**CHAPTER.**

- 1. FILING AND RECORDING — TERMS, 5-4-1-1 — 5-4-1-20.

**CHAPTER 1**

**FILING AND RECORDING—TERMS**

**SECTION.**

- 5-4-1-1. Oaths — Officers and deputies — Prosecuting attorneys.
- 5-4-1-1.1. Oaths — Township assessors and their deputies — County assessors — Form.
- 5-4-1-1.2. Oaths — Failure of township assessor or city officer to file.
- 5-4-1-2. Oaths — Endorsement on commission or certificate — Recordation of prosecuting attorney's oath.
- 5-4-1-3. Oaths — General assembly — Governor and lieutenant governor.
- 5-4-1-4. Oaths — Copy, where deposited.
- 5-4-1-5. [Repealed.]
- 5-4-1-5.1. Performance bonds — Filing — Official

**SECTION.**

- bond register — Oath recorded.
- 5-4-1-6. Bonds of secretary of state, where filed.
- 5-4-1-7. Bonds — Certified copies — Fees.
- 5-4-1-8. Approval of bond.
- 5-4-1-9. Time for giving bond — Failure to give bond.
- 5-4-1-10. Bonds payable to state of Indiana.
- 5-4-1-11. Several recoveries on bonds.
- 5-4-1-12. Defective bonds valid.
- 5-4-1-13. Execution of bonds.
- 5-4-1-14. Bonds — Certified copy to be evidence.
- 5-4-1-15. [Repealed.]
- 5-4-1-15.1. Individual or blanket bond for state employees.
- 5-4-1-16, 5-4-1-17. [Repealed.]
- 5-4-1-18. Individual or blanket bond for employees of political subdivisions.
- 5-4-1-19. Scope of bonds under IC 5-4-1-18.
- 5-4-1-20. Bond of prosecuting attorney.

**5-4-1-1. Oaths — Officers and deputies — Prosecuting attorneys.** — (a) Every officer and every deputy, before entering on the officer's or deputy's official duties, shall take an oath to support the Constitution of the United States and the Constitution of the State of Indiana, and that the officer or deputy will faithfully discharge the duties of such office.

(b) A prosecuting attorney and a deputy prosecuting attorney shall take the oath required under subsection (a) before taking office. [1 R.S. 1852, ch. 13, § 1, p. 166; P.L.49-1989, § 2.]

**5-4-1-1.1. Oaths — Township assessors and their deputies — County assessors — Form.** — Before beginning the duties of office, township assessors and their deputies, and county assessors, shall take and subscribe an oath or affirmation, which shall be administered by the county auditor or one [1] of his deputies. The oath of the county assessor should be in a form similar to the oath of the township assessor and deputies, which is as follows:  
**STATE OF INDIANA**

SS:

**COUNTY OF \_\_\_\_\_**

I, \_\_\_\_\_, do solemnly swear that I will support the Constitution of the United States, and the Constitution of the State of Indiana; that I will faithfully, impartially, and honestly discharge the duties of my office as Township Assessor, and that I will assess all property assessed by me in the manner provided by law according to my best knowledge and judgment, so help me God.

\_\_\_\_\_  
Township Assessor

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

\_\_\_\_\_  
County Auditor (Deputy)

[IC 5-4-1-1.1, as added by Acts 1980, P.L. 8, § 27; 1980, P.L. 24, § 1.]

**5-4-1-1.2. Oaths — Failure of township assessor or city officer to file.** — If the township assessor or any city officer does not take and file the oath within ten [10] days after the beginning of his term, the office becomes vacant. [IC 5-4-1-1.2, as added by Acts 1980, P.L. 8, § 28.]

**5-4-1-2. Oaths — Endorsement on commission or certificate — Recordation of prosecuting attorney's oath.** — (a) The oath required by section 1 [IC 5-4-1-1] of this chapter, except in the case of a notary public or in those cases specified in section 3 [IC 5-4-1-3] of this chapter, shall be endorsed on the:

- (1) Commission;
- (2) Certificate if a certificate was issued under IC 3-10-7-34, IC 3-12-4, or IC 3-12-5; or
- (3) Certificate of appointment pro tempore under IC 3-13-11-11;

signed by the person taking the oath, and certified to by the officer before whom it was taken, who shall also deliver to the person taking the oath a certified copy of the oath.

(b) The oath of office of a prosecuting attorney shall be recorded on the bond required by section 20 [IC 5-4-1-20] of this chapter and on the commission of the prosecuting attorney. [1 R.S. 1852, ch. 13, § 2, p. 166; Acts 1978, P.L. 23, § 1; P.L.49-1989, § 3; P.L.10-1992, § 26; P.L.3-1993, § 240.]

**5-4-1-3. Oaths — General assembly — Governor and lieutenant governor.** — Members of the general assembly shall take such oath, before taking their seats, which shall be entered on the journals; and the governor and lieutenant governor shall each take such oath, in presence of both houses of the general assembly in convention, and the same shall be entered on the journals thereof. [1 R.S. 1852, ch. 13, § 3, p. 166.]

**5-4-1-4. Oaths — Copy, where deposited.** — The certified copy of the oath certified under section 2 [IC 5-4-1-2] of this chapter shall be deposited by the person as follows:

- (1) Of all officers whose oath is endorsed on the commission and whose duties are not limited to a particular county, in the office of the secretary of state.
- (2) Of county officers and constables

of a small claims court, in the clerk's office of the county.

(3) Of county council members, officers appointed by the board of county commissioners, and township officers that the board may require to do so, with the county auditor.

(4) Of township board members, with the township trustee.

(5) Of city officers, in the office of the clerk of the city-county council, city clerk, or city clerk-treasurer.

(6) Of deputies of the surveyor, in a book kept by the surveyor for this purpose.

(7) Of town officers, in the office of the town clerk-treasurer.

(8) Of a prosecuting attorney, in the office of the secretary of state.

(9) Of a deputy prosecuting attorney, in the office of the clerk of the circuit court of the county in which the deputy prosecuting attorney resides. [1 R.S. 1852, ch. 13, § 4, p. 166; Acts 1980, P.L. 8, § 29; 1980, P.L. 24, § 2; P.L.8-1987, § 7; P.L.49-1989, § 4; P.L.32-1992, § 1.]

#### **5-4-1-5. [Repealed.]**

**5-4-1-5.1. Performance bonds — Filing — Official bond register — Oath recorded.** — (a) "Political subdivision" as used in this section means city, town, county, circuit, township, municipal corporation, or special taxing district, or a department or subdivision of any of these entities, but excludes any department or agency of the state.

(b) Every elected or appointed officer, official, deputy, or employee of a political subdivision who is required by section 18 [5-4-1-18] of this chapter to file an official bond for the faithful performance of duty, except the county recorder and deputies and employees of the recorder, shall file the bond in the office of the county recorder in the county of residence of the officer, official, deputy, or employee. The county recorder and deputies and employees of the recorder shall file their bonds in the office of the clerk of the circuit court.

(c) The bonds described in subsection (b) shall be filed within ten [10] days of their issuance or, if approval is required, within ten [10] days after their approval by the person required to approve the bonds. The county recorder shall procure, at the expense of the county, a book to be known as the official bond register. The recorder shall record in this book all of the bonds filed under this section, indexing them alphabetically under the name of the prin-

cipal and referring to the title, office, and page number where recorded. The bonds shall be kept in a safe and convenient place in the recorder's office with a reference to the date filed and record and page where recorded.

(d) Every county officer who is required to give bond shall have the oath of office recorded on the bond. [IC 5-4-1-5.1, as added by Acts 1980, P.L. 8, § 30; 1981, P.L. 47, § 1.]

**5-4-1-6. Bonds of secretary of state, where filed.** — The official bond of the secretary of state shall be filed and recorded in the recorder's office of Marion County. [1 R.S. 1852, ch. 13, § 6, p. 166; Acts 1980, P.L. 8, § 31.]

**5-4-1-7. Bonds — Certified copies — Fees.** — It shall be the duty of every officer with whom such certified copies and bonds shall be filed to preserve the same, and on demand give certified copies thereof, or of the record, attested with his official seal, and for the same he shall receive the same fees allowed by law for certified copies in other cases. [1 R.S. 1852, ch. 13, § 7, p. 166.]

**5-4-1-8. Approval of bond.** — (a) The official bonds of officers, if sufficient, shall be approved as follows:

(1) Of county officers required to give bonds, by the clerk of the circuit court unless otherwise specified in this section.

(2) Of county sheriff, county coroner, county recorder, county auditor, county treasurer, and clerk of the circuit court, by the county executive.

(3) Of county assessor, township trustee, and township assessor, by the county auditor.

(4) Of city officers, except the executive and members of the legislative body, by the city executive.

(5) Of members of the board of public works or of the board of public works and safety in cities, by the city legislative body.

(6) Of clerk-treasurer and marshal of a town, by the town legislative body.

(7) Of a controller of a solid waste management district established under IC 13-9.5, by the board of directors of the solid waste management district.

(b) A person who approves an official bond shall write the approval on the bond.

(c) A bond must be approved before it is filed. [1 R.S. 1852, ch. 13, § 8, p. 166; Acts 1980, P.L. 8, § 32; 1981, P.L. 47, § 2; P.L.8-1989, § 17; P.L.33-1992, § 1.]

**5-4-1-9. Time for giving bond — Failure to give bond.** — An officer required to give an official bond shall give the bond before the commencement of his term of office. If the officer fails to give the bond before that time, the officer may not take office. [1 R.S. 1852, ch. 13, § 9, p. 166; Acts 1980, P.L. 8, § 33; 1980, P.L. 24, § 3.]

**5-4-1-10. Bonds payable to state of Indiana.** — All official bonds shall be payable to the state of Indiana; and every such bond shall be obligatory to such state, upon the principal and sureties for the faithful discharge of all duties required of such officer by any law, then or subsequently in force, for the use of any person injured by any breach of the condition thereof. [1 R.S. 1852, ch. 13, § 10, p. 166.]

**5-4-1-11. Several recoveries on bonds.** — No official bond shall be void on a first recovery, but suits may be instituted thereon, from time to time, until the penalty thereof is exhausted. [1 R.S. 1852, ch. 13, § 11, p. 166.]

**5-4-1-12. Defective bonds valid.** — No official bond shall be void because of defects in form or substance or in the approval and filing thereof, but upon the suggestion of such defects, such bond shall be obligatory as if properly executed, filed and approved. [1 R.S. 1852, ch. 13, § 12, p. 166.]

**5-4-1-13. Execution of bonds.** — (a) All official bonds required by statute shall be executed by the principal and one or more freehold sureties except as provided by subsection (b).

(b) The official bonds of county surveyors and township trustees shall be executed by the principal and by two [2] or more freehold sureties or an authorized surety company. [1 R.S. 1852, ch. 13, § 13, p. 166; Acts 1980, P.L. 8, § 34.]

**5-4-1-14. Bonds — Certified copy to be evidence.** — A copy, a record, or a copy of a record of an official bond legally certified has the same effect in evidence as the original. Suit may be brought on a copy of an official bond as on the original. [1 R.S. 1852, ch. 13, § 14, p. 166; Acts 1980, P.L. 8, § 35.]

**5-4-1-15. [Repealed.]**

**5-4-1-15.1. Individual or blanket bond for state employees.** — (a) Whenever it is necessary to bond any deputies or employees of any department or agency of the state, the appropriate administrative

officer may bond or cause to be bonded those deputies or employees by either individual or blanket bonds to cover the faithful performance of duties and in amounts and with surety approved by the administrative officer.

(b) Individual or blanket bonds obtained under this section shall be filed and paid for in the same manner as public official bonds.

(c) This section does not apply to officers required by law to execute and furnish individual official bonds. [IC 5-4-1-15.1, as added by Acts 1982, P.L. 33, § 3.]

#### 5-4-1-16, 5-4-1-17. [Repealed.]

#### 5-4-1-18. Individual or blanket bond for employees of political subdivisions.

— (a) Except as provided in subsection (b), the following city, town, county, or township officers and employees shall file an individual surety bond:

- (1) City judges, controllers, clerks, and clerk-treasurers.
- (2) Town judges and clerk-treasurers.
- (3) Auditors, treasurers, recorders, surveyors, sheriffs, coroners, assessors, and clerks.
- (4) Township trustees and assessors.
- (5) Those employees directed to file an individual bond by the fiscal body of a city, town, or county.

(b) The fiscal body of a city, town, county, or township may by ordinance authorize a blanket bond to cover the faithful performance of all employees, commission members, and persons acting on behalf of the local government unit including those officers described in subsection (a).

(c) The fiscal bodies of the respective units shall fix the amount of the bond of city controllers, city clerk-treasurers, town clerk-treasurers, Barrett Law fund custodians, county treasurers, county sheriffs, circuit court clerks, township trustees, and conservancy district financial clerks as follows:

- (1) The amount must equal fifteen thousand dollars (\$15,000) for each one million dollars (\$1,000,000) of receipts of the officer's office during the last complete fiscal year before the purchase of the bond, subject to subdivision (2).
- (2) The amount may not be less than fifteen thousand dollars (\$15,000) nor more than three hundred thousand dollars (\$300,000).

County auditors shall file bonds in amounts of not less than fifteen thousand dollars (\$15,000), as fixed by the fiscal body of the county. The amount of the bond of any other person required to file an

individual bond shall be fixed by the fiscal body of the unit at not less than eight thousand five hundred dollars (\$8,500).

(d) A controller of a solid waste management district established under IC 13-9.5 shall file an individual surety bond in an amount:

- (1) Fixed by the board of directors of the solid waste management district; and
- (2) That is at least fifteen thousand dollars (\$15,000).

(e) Except as provided under subsection (d), a person who is required to file an individual surety bond by the board of directors of a solid waste management district established under IC 13-9.5 shall file a bond in an amount fixed by the board of directors.

(f) In 1982 and every four (4) years after that, the state examiner shall review the bond amounts fixed under this section and report to the general assembly whether changes are necessary to ensure adequate and economical coverage.

(g) The commissioner of insurance shall prescribe the form of the bonds required by this section, in consultation with the commission on public records under IC 5-15-5.1-6. [IC 5-4-1-18, as added by Acts 1981, P.L. 47, § 3; P.L.49-1989, § 5; P.L.54-1989, § 1; P.L.33-1992, § 2.]

**5-4-1-19. Scope of bonds under IC 5-4-1-18.** — The bonds prescribed by IC 5-4-1-18 cover the faithful performance of the duties of the officer or employee, including the duty to comply with IC 35-44-1-2 and the duty to account properly for all monies and property received by virtue of his position or employment. [IC 5-4-1-19, as added by Acts 1981, P.L. 47, § 4.]

**5-4-1-20. Bond of prosecuting attorney.** — (a) A person elected to the office of prosecuting attorney shall execute an individual surety bond for the faithful performance of the duties of the office. The amount of the bond must be at least eight thousand five hundred dollars (\$8,500).

(b) A person elected to the office of prosecuting attorney may not take office until that person has filed a bond:

- (1) In the office of the county recorder of the county in which the person resides; and
- (2) Within ten (10) days after the bond is issued.

(c) The cost of a bond shall be paid by the county. For multiple county judicial circuits, the cost shall be paid by each county in the judicial circuit in the manner provided by IC 33-13-12-4.

(d) A bond must be:

(1) Executed by the person elected prosecuting attorney and one (1) or more freehold sureties; and  
 (2) Payable to the state as provided in section 10 [IC 5-4-1-10] of this chapter.

(e) A bond is not void on first recovery, and suits may be brought on the bond until the penalty is exhausted.

(f) If a bond has been legally certified, any of the following have the same effect in evidence as the bond:

(1) A copy of the bond.  
 (2) A record of the bond.  
 (3) A copy of a record of the bond.

(g) The county recorder of the county in which the person elected prosecuting attorney resides shall record the bond in an official bond register. [P.L.49-1989, § 6.]

## ARTICLE 8

### OFFICERS' IMPEACHMENT, REMOVAL, RESIGNATION AND DISQUALIFICATION

#### CHAPTER.

1. IMPEACHMENT AND REMOVAL FROM OFFICE, 5-8-1-1 — 5-8-1-37.
2. REMOVAL FOR INTOXICATION DURING BUSINESS HOURS, 5-8-2-1.
3. DISQUALIFICATION BY VIOLATION OF LAWS OF UNITED STATES, 5-8-3-1, 5-8-3-2.
- 3.5. NOTICE OF RESIGNATION, 5-8-3.5-1.
4. RESIGNATIONS — WITHDRAWALS, 5-8-4-1 — 5-8-4-3.

#### CHAPTER 1

##### IMPEACHMENT AND REMOVAL FROM OFFICE

#### SECTION.

- 5-8-1-1. Impeachment for misdemeanor.
- 5-8-1-2. Resolution of impeachment — Trial.
- 5-8-1-3. Delivery of articles of impeachment.
- 5-8-1-4. Time for hearing.
- 5-8-1-5. Notice to officer.
- 5-8-1-6. Failure to appear — Hearing.
- 5-8-1-7. Objections and plea.
- 5-8-1-8. Objections overruled — Answer.
- 5-8-1-9. Oaths to members of court.
- 5-8-1-10. Vote required to convict.
- 5-8-1-11. Judgment on conviction.
- 5-8-1-12. Majority vote on resolution.
- 5-8-1-13. Judgment — Suspension or removal.
- 5-8-1-14. Suspension — Fees and salary.
- 5-8-1-15. Suspension pending trial.
- 5-8-1-16. Chief justice presiding.
- 5-8-1-17. Indictment or information not barred.
- 5-8-1-18. Continuance of senate to try.
- 5-8-1-19. Judges and prosecutors — Removal — Filling vacancies.
- 5-8-1-20. [Repealed.]
- 5-8-1-21. Accusation of local officers — Prosecution.
- 5-8-1-22. Contents of accusation.
- 5-8-1-23. Service of copy of accusation — Filing of original.

#### SECTION.

- 5-8-1-24. Appearance by defendant — Answer — Effect of nonappearance.
- 5-8-1-25. Character of answer.
- 5-8-1-26. Objections in writing.
- 5-8-1-27. Oral denial.
- 5-8-1-28. Objection overruled — Answer.
- 5-8-1-29. Pleas of guilty or not guilty — Refusal to answer — Effect.
- 5-8-1-30. Jury trial.
- 5-8-1-31. Process for witnesses.
- 5-8-1-32, 5-8-1-33. [Repealed.]
- 5-8-1-34. Accusation of prosecuting attorney — Prosecution by attorney general.
- 5-8-1-35. Malfeasance, accusation, hearing, judgment.
- 5-8-1-36. [Repealed.]
- 5-8-1-37. Conviction of felony.

**5-8-1-1. Impeachment for misdemeanor.** — (a) Under Article 6, Sections 7 and 8 of the Constitution of the State of Indiana, all state officers other than justices of the supreme court or judges of the court of appeals of Indiana or the Indiana tax court, all other judges, prosecuting attorneys, and all county, city, town, and township officers are liable to impeachment for any misdemeanor in office.

(b) A justice of the supreme court or a judge of the court of appeals of Indiana or of the Indiana tax court is subject to removal from office under Article 7, Section 11 of the Constitution of the State of Indiana. [Acts 1897, ch. 182, § 1, p. 278; P.L.3-1993, § 241.]

**5-8-1-2. Resolution of impeachment — Trial.** — All impeachments must be by resolution, adopted, originated in and conducted by managers elected by the house of representatives, who must prepare articles of impeachment, present them at the bar of the senate and prosecute the same, and the trial must be had before the senate sitting as a court of impeachment. [Acts 1897, ch. 182, § 2, p. 278.]

**5-8-1-3. Delivery of articles of impeachment.** — When an officer is impeached by the house of representatives for a misdemeanor in office, the articles of impeachment must be delivered to the president of the senate, saving and excepting only that in case the officer impeached be the governor, lieutenant governor, or the acting president of the senate, such articles shall be delivered to the secretary of the senate. [Acts 1897, ch. 182, § 3, p. 278.]

**5-8-1-4. Time for hearing.** — The senate must assign a day for the hearing of the impeachment, and inform the managers elected by the house of representatives thereof. The secretary of the senate

must cause a copy of the articles of impeachment, with a notice to appear and answer the same at the time and place appointed, to be served on the defendant not less than ten [10] days before the day fixed for the hearing. [Acts 1897, ch. 182, § 4, p. 278.]

**5-8-1-5. Notice to officer.** — The service must be made upon the defendant personally, or if he cannot, upon diligent inquiry, be found within the state, the senate, upon proof of the fact, may order publication to be made, in such manner as it may deem proper, of a notice requiring him to appear at a specified time and place and answer the articles of impeachment. [Acts 1897, ch. 182, § 5, p. 278.]

**5-8-1-6. Failure to appear — Hearing.** — If the defendant does not appear, the senate, upon proof of service or publication, as provided in the two [2] sections last preceding [5-8-1-4, 5-8-1-5], may, of its own motion, or for cause shown, assign another day for hearing the impeachment, or may proceed, in the absence of the defendant, to trial and judgment. [Acts 1897, ch. 182, § 6, p. 278.]

**5-8-1-7. Objections and plea.** — When the defendant appears, he may in writing object to the sufficiency of the articles of impeachment, or he may answer the same by an oral plea of not guilty, which plea must be entered upon the journal and put in issue every material allegation of the articles of impeachment. [Acts 1897, ch. 182, § 7, p. 278.]

**5-8-1-8. Objections overruled — Answer.** — If the objection to the sufficiency of the articles of impeachment is not sustained by a majority of the members of the senate who heard the argument, the defendant must be ordered forthwith to answer the articles of impeachment. If he then pleads guilty, the senate must render judgment of conviction against him. If he plead not guilty, or refuses to plead, the senate must, at such time as it may appoint, proceed to try the impeachment. [Acts 1897, ch. 182, § 8, p. 278.]

**5-8-1-9. Oaths to members of court.** — At the time and place appointed, and before the senate proceeds to act on the impeachment, the secretary must administer to the president of the senate, and the president of the senate to each of the members of the senate then present, an oath, truly and impartially to hear, try and determine the impeachment; and no member of the senate can vote or act upon

the impeachment, or upon any question arising thereon, without having taken such oath. [Acts 1897, ch. 182, § 9, p. 278.]

**5-8-1-10. Vote required to convict.** — The defendant cannot be convicted on impeachment without the concurrence of two-thirds [ $\frac{2}{3}$ ] of the members elected, voting by ayes and noes, and if two-thirds [ $\frac{2}{3}$ ] of the members elected do not concur in a conviction, he must be acquitted. [Acts 1897, ch. 182, § 10, p. 278.]

**5-8-1-11. Judgment on conviction.** — After conviction, the senate must, at such time as it may appoint, pronounce judgment, in the form of resolution entered upon the journals of the senate. [Acts 1897, ch. 182, § 11, p. 278.]

**5-8-1-12. Majority vote on resolution.** — On the adoption of the resolution by a majority of the members present who voted on the question of acquittal or conviction, it becomes the judgment of the senate. [Acts 1897, ch. 182, § 12, p. 278.]

**5-8-1-13. Judgment — Suspension or removal.** — The judgment may be that the defendant be suspended or that he be removed from office and disqualified to hold any office of honor, trust or profit, under the state. [Acts 1897, ch. 182, § 13, p. 278.]

**5-8-1-14. Suspension — Fees and salary.** — If judgment of suspension is given, the defendant, during the continuance thereof, is disqualified from receiving the salary, fees or emoluments of the office. [Acts 1897, ch. 182, § 14, p. 278.]

**5-8-1-15. Suspension pending trial.** — Whenever articles of impeachment against any officer subject to impeachment are presented to the senate, such officer is temporarily suspended from office and cannot act in the officer's official capacity until the officer is acquitted. Upon such suspension of any officer other than the governor, the office must, at once, be temporarily filled by an appointment made by the governor, with the advice and consent of the senate, until the acquittal of the party impeached, or, in case of removal, until the vacancy is filled as required by law. [Acts 1897, ch. 182, § 15, p. 278; P.L.3-1989, § 27.]

**5-8-1-16. Chief justice presiding.** — If the governor or lieutenant governor is impeached, the chief justice of the Supreme Court of the state shall preside over



the senate during the impeachment trial, but he shall not have the right to vote. [Acts 1897, ch. 182, § 16, p. 278.]

**5-8-1-17. Indictment or information not barred.** — If the offense for which the defendant is convicted on impeachment is also the subject of an indictment or information, the indictment or information is not barred hereby. [Acts 1897, ch. 182, § 17, p. 278.]

**5-8-1-18. Continuance of senate to try.** — In case impeachment proceedings be pending in the senate at the time of the expiration of any session of the general assembly, the senate shall be continued in session for the sole and only purpose of sitting as a court of impeachment until such impeachment proceedings be concluded, and may, pending the conclusion of such impeachment proceedings, adjourn from time to time, as it may deem expedient. [Acts 1897, ch. 182, § 18, p. 278.]

**5-8-1-19. Judges and prosecutors — Removal — Filling vacancies.** — (a) Under Article 7, Section 13 of the Constitution of the State of Indiana, whenever a circuit, superior, probate, or county court judge or prosecuting attorney has been convicted of corruption or any other high crime, the attorney general shall bring proceedings in the supreme court, on information, in the name of the state, for the removal from office of the judge or prosecuting attorney.

(b) If the judgment is against the defendant, the defendant is removed from office. The governor shall, subject to:

- (1) IC 33-5-5.1-37.1;
- (2) IC 33-5-5.1-41.1;
- (3) IC 33-5-29.5-39;
- (4) IC 33-5-40-44; and
- (5) IC 33-6-1-12;

appoint a successor to fill the vacancy in office. [Acts 1897, ch. 182, § 19, p. 278; P.L.3-1987, § 497; P.L.3-1993, § 242.]

**5-8-1-20. [Repealed.]**

**5-8-1-21. Accusation of local officers — Prosecution.** — An accusation in writing against any district officer, county officer, township officer, municipal officer, or prosecuting attorney may be presented by the grand jury of the county in which the officer accused is elected or appointed. [Acts 1897, ch. 182, § 21, p. 278; P.L.1-1990, § 56.]

**5-8-1-22. Contents of accusation.** — The accusation must state the offense charged in ordinary and concise language,

and without repetition. [Acts 1897, ch. 182, § 22, p. 278.]

**5-8-1-23. Service of copy of accusation — Filing of original.** — The accusation must be delivered by the foreman of the grand jury to the prosecuting attorney of the county, except when he is the officer accused, who must cause a copy thereof to be served upon the defendant, and require, by notice in writing of not less than ten (10) days, that he appear before the circuit court of the county at the time mentioned in the notice, and answer the accusation. The original accusation must then be filed with the clerk of the court, or if he be the party accused, with the judge of the court. [Acts 1897, ch. 182, § 23, p. 278; P.L.3-1993, § 243.]

**5-8-1-24. Appearance by defendant — Answer — Effect of nonappearance.** — The defendant must appear at the time appointed in the notice and answer the accusation, unless, for some sufficient cause, the court assign another day for that purpose. If he does not appear, the court may proceed to hear and determine the accusation in his absence. [Acts 1897, ch. 182, § 24, p. 278.]

**5-8-1-25. Character of answer.** — The defendant may answer the accusation either by objecting to the sufficiency thereof, or of any article therein, or by denying the truth of the same. [Acts 1897, ch. 182, § 25, p. 278.]

**5-8-1-26. Objections in writing.** — If the defendant objects to the legal sufficiency of the accusation, the objection must be in writing, but need not be in any specific form, it being sufficient if it presents intelligibly the grounds of the objection. [Acts 1897, ch. 182, § 26, p. 278.]

**5-8-1-27. Oral denial.** — If he [the defendant] denies the truth of the accusation, the denial may be oral and without oath, and must be entered upon the minutes. [Acts 1897, ch. 182, § 27, p. 278.]

**5-8-1-28. Objection overruled — Answer.** — If an objection to the sufficiency of the accusation is not sustained, the defendant must answer thereto forthwith. [Acts 1897, ch. 182, § 28, p. 278.]

**5-8-1-29. Pleas of guilty or not guilty — Refusal to answer — Effect.** — If the defendant pleads guilty, or refuses to answer the accusation, the court must render

judgment of conviction against him. If he denies the matters charged, the court must immediately, or at such time as it may appoint, proceed to try the accusation. [Acts 1897, ch. 182, § 29, p. 278.]

**5-8-1-30. Jury trial.** — The trial must be by a jury, and conducted in all respects in the same manner as the trial of an indictment for a misdemeanor. [Acts 1897, ch. 182, § 30, p. 278.]

**5-8-1-31. Process for witnesses.** — The prosecuting attorney and the defendant are respectively entitled to such process as may be necessary to enforce the attendance of witnesses, as upon a trial of an indictment. [Acts 1897, ch. 182, § 31, p. 278.]

**5-8-1-32, 5-8-1-33. [Repealed.]**

**5-8-1-34. Accusation of prosecuting attorney — Prosecution by attorney general.** — The same proceedings may be had on like grounds for the removal of a prosecuting attorney, except that the accusation must be delivered by the foreman of the grand jury to the clerk, and by him to the judge of the circuit court of the county, or criminal court, if such court exists in the county, who must thereupon notify the attorney general to act as prosecuting officer in the matter, and shall designate some resident attorney to act as assistant to the attorney general in such prosecution, whose compensation shall be fixed by the court and paid out of the county treasury. [Acts 1897, ch. 182, § 34, p. 278.]

**5-8-1-35. Malfeasance, accusation, hearing, judgment.** — (a) When an accusation in writing, verified by the oath of any person, is presented to a circuit court, alleging that any officer within the jurisdiction of the court has been guilty of:

- (1) Charging and collecting illegal fees for services rendered or to be rendered in his office;
- (2) Refusing or neglecting to perform the official duties pertaining to his office; or
- (3) Violating IC 36-6-4-17(b) if the officer is the executive of a township;

the court must cite the party charged to appear before the court at any time not more than ten (10) nor less than five (5) days from the time the accusation was presented, and on that day or some other subsequent day not more than twenty (20) days from the time the accusation was presented must proceed to hear, in a summary manner, the accusation and evidence offered in support of the same, and

the answer and evidence offered by the party accused.

(b) If after the hearing under subsection (a) it appears that the charge is sustained, the court must do the following:

(1) Enter a decree that the party accused be deprived of his office.

(2) Enter a judgment as follows:

(A) For five hundred dollars (\$500) in favor of the prosecuting officer.

(B) For costs as are allowed in civil cases.

(C) For the amount of money that was paid to the officer in compensation from the day when the accusation was filed under this section to the day when judgment is entered in favor of the public entity paying the compensation to the officer.

(c) In an action under this section, a court may award reasonable attorney's fees, court costs, and other reasonable expenses of litigation to the accused officer if:

(1) The officer prevails; and

(2) The court finds that the accusation is frivolous or vexatious. [Acts 1897, ch. 182, § 35, p. 278; P.L.34-1992, § 1.]

**5-8-1-36. [Repealed.]**

**5-8-1-37. Conviction of felony.** — (a) As used in this section:

"Felony" means any crime punishable by imprisonment for more than one year in any correctional facility.

"Public officer" means any person, elected or appointed, who holds any state, county, township, city, or town office.

(b) Any public officer convicted of a felony during his term of office shall:

(1) Be removed from office by operation of law when he is sentenced for the felony; and

(2) Not receive any salary or remuneration from the time he is sentenced for the felony.

(c) If the conviction is reversed, vacated, or set aside, and the officer's term has not expired, the officer shall:

(1) Be reinstated in office; and

(2) Receive any salary or other remuneration which he would have received had he not been removed from office.

(d) If the conviction is reversed, vacated, or set aside, and the officer's term has expired, he shall receive any salary or other remuneration which he would have received had he not been removed from office.

(e) Every vacancy in a public office caused by the removal of a public officer

under this section shall be filled as provided by law. If a convicted public officer is reinstated, the person filling the office during the appeal shall cease to hold the office. [IC 5-8-1-37, as added by Acts 1982, P.L. 34, § 1; P.L.16-1983, § 2.]

## CHAPTER 2

### REMOVAL FOR INTOXICATION DURING BUSINESS HOURS

#### SECTION.

5-8-2-1. Removal for intoxication.

**5-8-2-1. Removal for intoxication. —** Any person holding any office under the constitution or laws of this state who shall voluntarily become intoxicated within the business hours of the office, or is in the habit of becoming intoxicated by the use of intoxicating liquors, shall be removed from office under IC 34-1-59. [Acts 1875, ch. 58, § 1, p. 91; P.L.3-1993, § 244.]

## CHAPTER 3

### DISQUALIFICATION BY VIOLATION OF LAWS OF UNITED STATES

#### SECTION.

5-8-3-1. Qualifications for holding office.

5-8-3-2. Appointment or election of disqualified person void.

**5-8-3-1. Qualifications for holding office. —** A person may not hold an office within Indiana, either by election or appointment, if the person has been convicted of:

- (1) Evading the Selective Service Act (50 App. U.S.C. 451-473);
- (2) Engaging in conspiracy or an attempt to defraud the government of the United States;
- (3) Seditious utterances in violation of the laws of the United States; or
- (4) Any other crime against the laws of the United States where the sentence imposed exceeded six (6) months. [Acts 1921, ch. 83, § 1, p. 179; P.L.3-1987, § 498; P.L.10-1988, § 216.]

**5-8-3-2. Appointment or election or disqualified person void. —** Any appointment or election of any person lacking the qualification described in section 1 [IC 5-8-3-1] of this chapter is absolutely void and the person shall be removed from office under IC 34-1-59. [Acts 1921, ch. 83, § 2, p. 179; P.L.25-1986, § 25; P.L.3-1993, § 245.]

## CHAPTER 3.5

### NOTICE OF RESIGNATION

#### SECTION.

5-8-3.5-1. Notice — To whom given.

**5-8-3.5-1. Notice — To whom given. —** (a) Officers who resign shall give written notice of their resignation as follows:

(1) The governor and lieutenant governor shall notify the general assembly if it is in session. If the general assembly is not in session, they shall notify the secretary of state.

(2) Members of the general assembly shall notify the governor, and in addition:

(A) Members of the senate shall notify the president pro tempore of the senate; and

(B) Members of the house of representatives shall notify the speaker of the house.

(3) All officers commissioned by the governor shall notify the governor.

(4) All officers entitled to receive a certificate of election from the clerk of the circuit court under IC 3-12-4 or IC 3-12-5 or from a town clerk-treasurer under IC 3-10-7-34 shall notify the clerk of the circuit court or the town clerk-treasurer.

(5) All county officers shall notify the board or council having the power to appoint a successor or that would have the power if IC 3-13-7-1 did not apply.

(6) All city, town, or township officers shall notify the council having power to appoint a successor if IC 3-13-8-1, IC 3-13-9-1, or IC 3-13-10-1 did not apply.

(7) All other officers shall notify the officer, board, or court from whom they received their appointment.

(b) An officer, a board, or a court that receives notice of a resignation and does not have the power to fill the vacancy created by the resignation shall, within seventy-two (72) hours after receipt of the notice of resignation, give notice of the vacancy to the officer, board, or court that has the power to:

(1) Fill the vacancy; or

(2) Call a caucus for the purpose of filling the vacancy. [IC 5-8-3.5-1, as added by Acts 1980, P.L. 8, § 39; P.L.6-1983, § 17; P.L.49-1983, § 1; P.L.5-1986, § 12; P.L.1-1991, § 31; P.L.10-1992, § 27; P.L.3-1993, § 246.]

CHAPTER 4

RESIGNATIONS—WITHDRAWALS

SECTION.

- 5-8-4-1. Approval required for withdrawal of resignation.
- 5-8-4-2. Written resignations — Conditions therein null and void.
- 5-8-4-3. [Repealed.]

**5-8-4-1. Approval required for withdrawal of resignation.** — Whenever any officer, servant or employee of the state of Indiana, or of any board, bureau, commission, department, division, instrumentality or agency thereof, or of any city, town, county, township, or school corporation, shall submit in writing his or her resignation, whether to take effect at once, when accepted, or at some future fixed date, with the proper officer, person or persons or authority of government to receive such resignation, the person so submitting such written resignation shall have no right to withdraw, rescind, annul or amend such resignation without the consent of the officer, person or persons or authority of government having power by law to fill such vacancy. [Acts 1945, ch. 119, § 1, p. 249.]

**5-8-4-2. Written resignations — Conditions therein null and void.** — Any condition contained in any resignation, except as to time of taking effect of the same, shall be null and void. [Acts 1945, ch. 119, § 2, p. 249.]

**5-8-4-3. [Repealed.]**

TITLE 7.1

ALCOHOLIC BEVERAGES

ARTICLE.

5. CRIMES, ch. 10.

ARTICLE 5

CRIMES

CHAPTER.

10. UNLAWFUL SALES, 7.1-5-10-1.

CHAPTER 10

UNLAWFUL SALES

SECTION.

7.1-5-10-1. Times when sales unlawful.

**7.1-5-10-1. Times when sales unlawful.** — (a) It is unlawful to sell alcoholic beverages at the following times:

- (1) At a time other than that made lawful by the provisions of IC 7.1-3-1-14;
- (2) On Christmas Day and until 7:00 o'clock in the morning, prevailing local time, the following day; and
- (3) On primary election day and general election day from 3:00 o'clock in the morning, prevailing local time, until the voting polls are closed in the evening on these days.

(b) During the time when the sale of alcoholic beverages is unlawful, no alcoholic beverages shall be sold, dispensed, given away, or otherwise disposed of on the licensed premises and the licensed premises shall remain closed to the extent that the nature of the business carried on on the premises, as at a hotel or restaurant, permits.

(c) It is unlawful to sell alcoholic beverages on New Years Day for off-premises consumption. [IC 7.1-5-10-1, as added by Acts 1973, P.L. 55, § 1; 1978, P.L. 51, § 7.]

TITLE 34

CIVIL PROCEDURE

ARTICLE.

4. SPECIAL PROCEEDINGS, ch. 32.

ARTICLE 4

SPECIAL PROCEEDINGS

CHAPTER.

32. INFRACTION AND ORDINANCE VIOLATION ENFORCEMENT PROCEEDINGS, 34-4-32-1— 34-4-32-5.

CHAPTER 32

INFRACTION AND ORDINANCE VIOLATION ENFORCEMENT PROCEEDINGS

SECTION.

- 34-4-32-1. Enforcement proceedings.
- 34-4-32-1.3. "Moving traffic violation."
- 34-4-32-1.5. Pleadings.
- 34-4-32-2. Detention of suspect by law enforcement officer.
- 34-4-32-3. Refusal of detainee to provide identity — Penalty.
- 34-4-32-4. Judgments and costs.
- 34-4-32-5. Traffic violations bureau — Violations clerk — Acceptance of payment for traffic violations.

**34-4-32-1. Enforcement actions — Deferral program.** — (a) An action to enforce a statute defining an infraction shall be brought in the name of the state of Indiana by the prosecuting attorney for

the judicial circuit in which the infraction allegedly took place.

(b) An action to enforce an ordinance shall be brought in the name of the municipal corporation. The municipal corporation need not prove that it or the ordinance is valid unless validity is controverted by affidavit.

(c) Actions under this chapter:

(1) Shall be conducted in accordance with the Indiana Rules of Trial Procedure; and

(2) Must be brought within two (2) years after the alleged conduct or violation occurred.

(d) The plaintiff in an action under this chapter must prove the commission of an infraction or ordinance violation by a preponderance of the evidence.

(e) The complaint and summons described in IC 9-30-3-6 may be used for any infraction or ordinance violation.

(f) The prosecuting attorney or the attorney for a municipal corporation may establish a deferral program for deferring actions brought under this section. Actions may be deferred under this section if:

(1) The defendant in the action agrees to conditions of a deferral program offered by the prosecuting attorney or the attorney for a municipal corporation;

(2) The defendant in the action agrees to pay to the clerk of the court an initial user's fee and monthly user's fee set by the prosecuting attorney or the attorney for the municipal corporation in accordance with IC 33-19-5-2(e);

(3) The terms of the agreement are recorded in an instrument signed by the defendant and the prosecuting attorney or the attorney for the municipal corporation;

(4) The defendant in the action agrees to pay court costs of twenty-five dollars (\$25) to the clerk of court if the action involves a moving traffic offense (as defined in IC 9-13-2-110); and

(5) The agreement is filed in the court in which the action is brought.

When a defendant complies with the terms of an agreement filed under this subsection, the prosecuting attorney or the attorney for the municipal corporation shall request the court to dismiss the action. Upon receipt of a request to dismiss an action under this subsection the court shall dismiss the action. An action dismissed under this subsection may not be refiled. [IC 34-4-32-1, as added by Acts 1981, P.L. 108, § 37; P.L.309-1985, § 1; P.L.288-1989, § 4; P.L.211-1991, § 8; P.L.1-1993, § 237.]

**34-4-32-1.3. "Moving traffic violation."** — As used in this chapter, "moving traffic violation" means a violation of:

- (1) A statute defining an infraction; or
- (2) An ordinance;

that applies when a motor vehicle is in motion. [P.L.93-1991, § 3.]

**34-4-32-1.5. Pleadings.** — In an action for a moving traffic violation, the pleadings are as follows:

- (1) A summons and complaint.
- (2) Entry by a defendant of:
  - (A) An admission to the violation;
  - (B) A denial of the violation; or
  - (C) A declaration of nolo contendere in which the defendant consents to entry of judgment for the state without admitting to the violation. [P.L.93-1991, § 4.]

**34-4-32-2. Detention of suspect by law enforcement officer.** — Whenever a law enforcement officer believes in good faith that a person has committed an infraction or ordinance violation, he may detain that person for a time sufficient to:

- (1) Inform the person of the allegation;
- (2) Obtain the person's:
  - (A) Name, address, and date of birth; or
  - (B) Driver's license, if in his possession; and
  - (3) Allow the person to execute a notice to appear. [IC 34-4-32-2, as added by Acts 1981, P.L. 108, § 37.]

**34-4-32-3. Refusal of detainee to provide identity — Penalty.** — A person who knowingly or intentionally refuses to provide either his:

- (1) Name, address, and date of birth; or
- (2) Driver's license, if in his possession;

to a law enforcement officer who has stopped the person for [an] infraction or ordinance violation commits a class C misdemeanor. [IC 34-4-32-3, as added by Acts 1981, P.L. 108, § 37.]

**34-4-32-4. Judgments and costs.** — (a) A judgment of up to ten thousand dollars (\$10,000) may be entered for a violation constituting a Class A infraction.

(b) A judgment of up to one thousand dollars (\$1,000) may be entered for a violation constituting a Class B infraction.

(c) A judgment of up to five hundred dollars (\$500) may be entered for a violation constituting a Class C infraction.

(d) A judgment of up to twenty-five dollars (\$25) may be entered for a violation constituting a Class D infraction.

(e) A judgment:

(1) Up to the amount requested in the complaint; and

(2) Not exceeding any limitation under IC 36-1-3-8;

may be entered for an ordinance violation.

(f) A defendant against whom a judgment is entered is liable for costs. Costs are part of the judgment and may not be suspended except under IC 9-30-3-12. Whenever a judgment is entered against a person for the commission of two (2) or more civil violations (infractions or ordinance violations), the court may waive the person's liability for costs for all but one (1) of the violations. This subsection does not apply to judgments entered for violations constituting Class D infractions.

(g) If a judgment is entered for a violation constituting a Class D infraction or if a judgment is entered in favor of the defendant in any case, he is not liable for costs.

(h) If a defendant fails to satisfy a judgment entered against him for the violation of a traffic ordinance or for a traffic infraction by a date fixed by the court, the court may suspend the defendant's drivers license. When a court suspends a person's drivers license under this section, the court shall forward notice of the suspension to the bureau of motor vehicles.

(i) Except for costs, the funds collected as judgments for violations of statutes defining infractions shall be deposited in the state general fund.

(j) A judgment may be entered against a defendant under this section upon a finding by the court that the defendant:

(1) Violated:

(A) A statute defining an infraction; or

(B) An ordinance; or

(2) Consents to entry of judgment for the plaintiff upon a pleading of nolo contendere for a moving traffic violation. [IC 34-4-32-4, as added by Acts 1981, P.L. 108, § 37; 1981, P.L. 292, § 1; P.L.122-1985, § 2; P.L.2-1991, § 100; P.L.93-1991, § 5.]

**34-4-32-5. Traffic violations bureau — Violations clerk — Acceptance of payment for traffic violations. —** (a)

Any court may establish a traffic violations bureau and appoint a violations clerk who shall serve under the direction and control of the court.

(b) The violations clerk or deputy violations clerk shall:

(1) Accept:

(A) Written appearances;

(B) Waivers of trial;

(C) Admissions of violation;

(D) Declarations of nolo contendere for moving traffic violations;

(E) Payments of judgments (including costs) in traffic violation cases; and

(F) Deferral agreements made under section 1(f) [IC 34-4-32-1(f)] of this chapter and deferral program fees prescribed under IC 33-19-5-2(e);

(2) Issue receipts and account for any judgments (including costs) collected; and

(3) Pay the judgments (including costs) collected to the appropriate unit of government as provided by law.

(c) The court shall:

(1) Designate the traffic violations within the authority of the violations clerk, but these violations may not include misdemeanors or felonies;

(2) Establish schedules, within limits prescribed by law, of the judgments to be imposed for first violations, designating each violation specifically;

(3) Order that the schedule of judgments be prominently posted in the place where the fines are paid;

(4) Establish a procedure under which any violations clerk or deputy violations clerk shall accept, receipt, and account for all money tendered for designated traffic violations; and

(5) Dismiss deferred actions if a dismissal request is made under section 1(f) of this chapter.

(d) If the court is a county court, the judge shall:

(1) Establish a traffic violations bureau in each county which the judge services;

(2) Appoint the clerk of the court to administer the traffic violations bureau; and

(3) Except at a state police unit, appoint the dispatcher on duty at every law enforcement unit within the county to be a deputy violations clerk charged with all of the duties of a violations clerk.

(e) Any person charged with a traffic violation that is within the authority of the violations clerk may mail or deliver:

(1) The amount of the judgment (including costs) indicated on the ticket; and

(2) A signed:

(A) Admission of the violation; or

(B) Pleading of nolo contendere, if the action is for a moving traffic violation.

(f) Before accepting a pleading admitting to a violation or entering a declaration of nolo contendere to a violation, the violations clerk or the officer writing the ticket shall inform the person that:

- (1) The person's signature to:
  - (A) An admission of the violation; or
  - (B) A pleading of nolo contendere; will have the same effect as a judgment of a court; and
- (2) The record of judgment will be sent to the commissioner of motor vehicles of Indiana or the state where the person received a license to drive.

(g) A court may permit a person to utilize a credit card issued by a financial institution for the purpose of paying a court cost and judgment with respect to a traffic violation that is enforced under this chapter. The state board of accounts shall allow a county to pay any applicable credit card service charge on behalf of a court that permits the use of a credit card under this subsection. The county fiscal body must appropriate funds to cover the costs of applicable credit card service charges before a court may permit the use of a credit card under this subsection. [IC 34-4-32-5, as added by Acts 1981, P.L. 108, § 37; P.L.137-1983, § 2; P.L.288-1989, § 5; P.L.24-1991, § 7; P.L.93-1991, § 6.]

### TITLE 35

## CRIMINAL LAW AND PROCEDURE

ARTICLE.

50. SENTENCES, chs. 2, 3.

### ARTICLE 50 SENTENCES

CHAPTER.

- 2. SENTENCES FOR FELONIES, 35-50-2-1 — 35-50-2-10.
- 3. SENTENCES FOR MISDEMEANORS, 35-50-3-1 — 35-50-3-4.

### CHAPTER 2 SENTENCES FOR FELONIES

SECTION.

- 35-50-2-1. Definitions.
- 35-50-2-2. Suspension — Probation.
- 35-50-2-2.1. Suspension for adult with juvenile record.
- 35-50-2-3. Murder.
- 35-50-2-4. Class A felony.
- 35-50-2-5. Class B felony.
- 35-50-2-6. Class C felony.
- 35-50-2-7. Class D felony.

SECTION.

- 35-50-2-7.1. [Repealed.]
- 35-50-2-8. Habitual offenders.
- 35-50-2-9. Death sentences.
- 35-50-2-10. Habitual controlled substance offenders.

**35-50-2-1. Definitions.** — (a) As used in this chapter, "Class D felony conviction" means a conviction of a Class D felony in Indiana and a conviction, in any other jurisdiction at any time, with respect to which the convicted person might have been imprisoned for more than one (1) year. However, it does not include a conviction with respect to which the person has been pardoned, or a conviction of a Class A misdemeanor under section 7(b) [IC 35-50-2-7(b)] of this chapter.

(b) As used in this chapter, "felony conviction" means a conviction, in any jurisdiction at any time, with respect to which the convicted person might have been imprisoned for more than one (1) year. However, it does not include a conviction with respect to which the person has been pardoned, or a conviction of a Class A misdemeanor under section 7(b) of this chapter.

(c) As used in this chapter, "minimum sentence" means:

- (1) For murder, thirty (30) years;
- (2) For a Class A felony, twenty (20) years;
- (3) For a Class B felony, six (6) years;
- (4) For a Class C felony, two (2) years; and
- (5) For a Class D felony, one (1) year.

[IC 35-50-2-1, as added by Acts 1976, P.L. 148, § 8; 1977, P.L. 340, § 114; P.L.334-1983, § 1; P.L.98-1988, § 8.]

### 35-50-2-2. Suspension — Probation.

— (a) The court may suspend any part of a sentence for a felony, except as provided in this section or in section 2.1 [IC 35-50-2-2.1] of this chapter.

(b) With respect to the crimes listed in this subsection, the court may suspend only that part of the sentence that is in excess of the minimum sentence:

- (1) The crime committed was a Class A or Class B felony and the person has a prior unrelated felony conviction.
- (2) The crime committed was a Class C felony and less than seven (7) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class C felony for which the person is being sentenced.
- (3) The crime committed was a Class D felony and less than three (3) years have elapsed between the date the

person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class D felony for which the person is being sentenced. However, the court may suspend the minimum sentence for the crime only if the court orders home detention under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum sentence specified for the crime under this chapter.

(4) The felony committed was:

- (A) Murder (IC 35-42-1-1);
- (B) Battery (IC 35-42-2-1) with a deadly weapon;
- (C) Sexual battery (IC 35-42-4-8) with a deadly weapon;
- (D) Kidnapping (IC 35-42-3-2);
- (E) Confinement (IC 35-42-3-3) with a deadly weapon;
- (F) Rape (IC 35-42-4-1) as a Class A felony;
- (G) Criminal deviate conduct (IC 35-42-4-2) as a Class A felony;
- (H) Child molesting (IC 35-42-4-3) as a Class A or Class B felony;
- (I) Robbery (IC 35-42-5-1) resulting in serious bodily injury or with a deadly weapon;
- (J) Arson (IC 35-43-1-1) for hire or resulting in serious bodily injury;
- (K) Burglary (IC 35-43-2-1) resulting in serious bodily injury or with a deadly weapon;
- (L) Resisting law enforcement (IC 35-44-3-3) with a deadly weapon;
- (M) Escape (IC 35-44-3-5) with a deadly weapon;
- (N) Rioting (IC 35-45-1-2) with a deadly weapon;
- (O) Dealing in cocaine or a narcotic drug (IC 35-48-4-1) as a Class A felony; or
- (P) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2) if the amount of controlled substance involved has an aggregate weight of three (3) grams or more.

(c) Whenever the court suspends a sentence for a felony, it shall place the person on probation under IC 35-38-2 for a fixed period to end not later than the date that the maximum sentence that may be imposed for the felony will expire.

(d) The minimum sentence for a person convicted of voluntary manslaughter may not be suspended unless the court finds at the sentencing hearing that the crime was not committed by means of a deadly weapon. [IC 35-50-2-2, as added by Acts 1976, P.L. 148, § 8; 1977, P.L. 340, § 115; 1979, P.L. 305, § 1; 1982, P.L. 204, § 39; P.L.334-1983, § 2; P.L.284-1985, § 3;

P.L.211-1986, § 1; P.L.98-1988, § 9; P.L.351-1989(ss), § 4; P.L.214-1991, § 2; P.L.240-1991(ss2), § 98.]

**35-50-2-2.1. Suspension for adult with juvenile record.** — (a) Except as provided in subsection (b) or section 2 [IC 35-50-2-2] of this chapter, the court may not suspend a sentence for a felony for a person with a juvenile record when:

(1) The juvenile record includes findings that the juvenile acts, if committed by an adult, would constitute:

- (A) One (1) Class A or Class B felony;
- (B) Two (2) Class C or Class D felonies; or
- (C) One (1) Class C and one (1) Class D felony; and

(2) Less than three (3) years have elapsed between commission of the juvenile acts that would be felonies if committed by an adult and the commission of the felony for which the person is being sentenced.

(b) Notwithstanding subsection (a), the court may suspend any part of the sentence for a felony, except as provided in section 2 of this chapter, if it finds that:

- (1) The crime was the result of circumstances unlikely to recur;
- (2) The victim of the crime induced or facilitated the offense;
- (3) There are substantial grounds tending to excuse or justify the crime, though failing to establish a defense; or
- (4) The acts in the juvenile record would not be Class A or Class B felonies if committed by an adult, and the convicted person is to undergo home detention under IC 35-38-1-21 instead of the minimum sentence specified for the crime under this chapter. [P.L.284-1985, § 4; P.L.331-1987, § 1; P.L.98-1988, § 10.]

**35-50-2-3. Murder.** — (a) A person who commits murder shall be imprisoned for a fixed term of forty (40) years, with not more than twenty (20) years added for aggravating circumstances or not more than ten (10) years subtracted for mitigating circumstances; in addition, the person may be fined not more than ten thousand dollars (\$10,000).

(b) Notwithstanding subsection (a), a person who was at least sixteen (16) years of age at the time the murder was committed may be sentenced to:

(1) Death; or

(2) Life imprisonment without parole; under section 9 [IC 35-50-2-9] of this chapter. [IC 35-50-2-3, as added by Acts



1976, P.L. 148, § 8; 1977, P.L. 340, § 116; P.L.332-1987, § 1; P.L.250-1993, § 1.]

**35-50-2-4. Class A felony.** — A person who commits a class A felony shall be imprisoned for a fixed term of thirty [30] years, with not more than twenty [20] years added for aggravating circumstances or not more than ten [10] years subtracted for mitigating circumstances; in addition, he may be fined not more than ten thousand dollars [\$10,000]. [IC 35-50-2-4, as added by Acts 1976, P.L. 148, § 8; 1977, P.L. 340, § 117.]

**35-50-2-5. Class B felony.** — A person who commits a class B felony shall be imprisoned for a fixed term of ten [10] years, with not more than ten [10] years added for aggravating circumstances or not more than four [4] years subtracted for mitigating circumstances; in addition, he may be fined not more than ten thousand dollars [\$10,000]. [IC 35-50-2-5, as added by Acts 1976, P.L. 148, § 8; 1977, P.L. 340, § 118.]

**35-50-2-6. Class C felony.** — A person who commits a Class C felony shall be imprisoned for a fixed term of four (4) years, with not more than four (4) years added for aggravating circumstances or not more than two (2) years subtracted for mitigating circumstances. In addition, he may be fined not more than ten thousand dollars (\$10,000). [IC 35-50-2-6, as added by Acts 1976, P.L. 148, § 8; 1977, P.L. 340, § 119; P.L.167-1990, § 1.]

**35-50-2-7. Class D felony.** — (a) A person who commits a Class D felony shall be imprisoned for a fixed term of one and one-half (1½) years, with not more than one and one-half (1½) years added for aggravating circumstances or not more than one (1) year subtracted for mitigating circumstances. In addition, he may be fined not more than ten thousand dollars (\$10,000).

(b) Notwithstanding subsection (a), if a person has committed a Class D felony, the court may enter judgment of conviction of a Class A misdemeanor and sentence accordingly. However, the court shall enter a judgment of conviction of a Class D felony if:

(1) The court finds that:

- (A) The person has committed a prior, unrelated felony for which judgment was entered as a conviction of a Class A misdemeanor; and
- (B) The prior felony was committed less than three (3) years before the second felony was committed;

(2) The offense is auto theft (IC 35-43-4-2.5); or

(3) The offense is receiving stolen auto parts (IC 35-43-4-2.5).

The court shall enter in the record, in detail, the reason for its action whenever it exercises the power to enter judgment of conviction of a Class A misdemeanor granted in this subsection. [IC 35-50-2-7, as added by Acts 1976, P.L. 148, § 8; 1977, P.L. 340, § 120; 1982, P.L. 204, § 40; P.L.334-1983, § 3; P.L.136-1987, § 7; P.L.167-1990, § 2.]

#### **35-50-2-7.1. [Repealed.]**

**35-50-2-8. Habitual offenders.** — (a) The state may seek to have a person sentenced as a habitual offender for any felony by alleging, on a page separate from the rest of the charging instrument, that the person has accumulated two (2) prior unrelated felony convictions.

(b) After a person has been convicted and sentenced for a felony committed after sentencing for a prior unrelated felony conviction, the person has accumulated two (2) prior unrelated felony convictions. However, a conviction does not count for purposes of this subsection, if:

(1) It has been set aside; or

(2) It is one for which the person has been pardoned.

(c) If the person was convicted of the felony in a jury trial, offense nor more than three (3) times the presumptive sentence for the underlying offense. However, the additional sentence may not exceed thirty (30) years.

(d) A person is a habitual offender if the jury (if the hearing is by a jury) or the court (if the hearing is to the court alone) finds that the state has proved beyond a reasonable doubt that the person had accumulated two (2) prior unrelated felony convictions.

(e) The court shall sentence a person found to be a habitual criminal to an additional fixed term that is not less than the presumptive sentence for the underlying offense nor more than three (3) times the presumptive sentence for the underlying offense. However, the additional sentence may not exceed thirty (30) years. [IC 35-50-2-8, as added by Acts 1976, P.L. 148, § 8; 1977, P.L. 340, § 121; 1980, P.L. 210, § 1; P.L.335-1983, § 1; P.L.328-1985, § 2; P.L.1-1990, § 353; P.L.164-1993, § 13.]

**35-50-2-9. Death sentences.** — (a) The state may seek a death sentence for murder by alleging, on a page separate from the rest of the charging instrument, the existence of at least one (1) of the aggravating circumstances listed in sub-

section (b). In the sentencing hearing after a person is convicted of murder, the state must prove beyond a reasonable doubt the existence of at least one (1) of the aggravating circumstances alleged.

(b) The aggravating circumstances are as follows:

(1) The defendant committed the murder by intentionally killing the victim while committing or attempting to commit any of the following:

- (A) Arson (IC 35-43-1-1).
- (B) Burglary (IC 35-43-2-1).
- (C) Child molesting (IC 35-42-4-3).
- (D) Criminal deviate conduct (IC 35-42-4-2).
- (E) Kidnapping (IC 35-42-3-2).
- (F) Rape (IC 35-42-4-1).
- (G) Robbery (IC 35-42-5-1).
- (H) Carjacking (IC 35-42-5-2).
- (I) Dealing in cocaine or a narcotic drug (IC 35-48-4-1).

(2) The defendant committed the murder by the unlawful detonation of an explosive with intent to injure person or damage property.

(3) The defendant committed the murder by lying in wait.

(4) The defendant who committed the murder was hired to kill.

(5) The defendant committed the murder by hiring another person to kill.

(6) The victim of the murder was a corrections employee, probation officer, parole officer, community corrections worker, home detention officer, fireman, judge, or law enforcement officer, and either:

- (A) The victim was acting in the course of duty; or
- (B) The murder was motivated by an act the victim performed while acting in the course of duty.

(7) The defendant has been convicted of another murder.

(8) The defendant has committed another murder, at any time, regardless of whether the defendant has been convicted of that other murder.

(9) The defendant was:

- (A) Under the custody of the department of correction;
- (B) Under the custody of a county sheriff;
- (C) On probation after receiving a sentence for the commission of a felony; or
- (D) On parole;

at the time the murder was committed.

(10) The defendant dismembered the victim.

(11) The victim of the murder was less than twelve (12) years of age.

(12) The victim was a victim of any of the following offenses for which the defendant was convicted:

(A) Battery as a Class D felony or as a Class C felony under IC 35-42-2-1.

(B) Kidnapping (IC 35-42-3-2).

(C) Criminal confinement (IC 35-42-3-3).

(D) A sex crime under IC 35-42-4.

(13) The victim of the murder was listed by the state or known by the defendant to be a witness against the defendant and the defendant committed the murder with the intent to prevent the person from testifying.

(c) The mitigating circumstances that may be considered under this section are as follows:

(1) The defendant has no significant history of prior criminal conduct.

(2) The defendant was under the influence of extreme mental or emotional disturbance when the murder was committed.

(3) The victim was a participant in, or consented to, the defendant's conduct.

(4) The defendant was an accomplice in a murder committed by another person, and the defendant's participation was relatively minor.

(5) The defendant acted under the substantial domination of another person.

(6) The defendant's capacity to appreciate the criminality of the defendant's conduct or to conform that conduct to the requirements of law was substantially impaired as a result of mental disease or defect or of intoxication.

(7) The defendant was less than eighteen (18) years of age at the time the murder was committed.

(8) Any other circumstances appropriate for consideration.

(d) If the defendant was convicted of murder in a jury trial, the jury shall reconvene for the sentencing hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall conduct the sentencing hearing. The jury or the court may consider all the evidence introduced at the trial stage of the proceedings, together with new evidence presented at the sentencing hearing. The court shall instruct the jury concerning the statutory penalties for murder and any other offenses for which the defendant was convicted, the potential for consecutive or concurrent sentencing, and the availability of good time credit and clemency. The defendant may present any additional evidence relevant to:

(1) The aggravating circumstances alleged; or

(2) Any of the mitigating circumstances listed in subsection (c).

(e) If the hearing is by jury, the jury shall recommend to the court whether the death penalty or life imprisonment without parole, or neither, should be imposed. The jury may recommend:

(1) The death penalty; or

(2) Life imprisonment without parole; only if it makes the findings described in subsection (i). The court is not bound by the jury's recommendation.

(f) If a jury is unable to agree on a sentence recommendation after reasonable deliberations, the court shall discharge the jury and proceed as if the hearing had been to the court alone.

(g) If the hearing is to the court alone, the court shall:

(1) Sentence the defendant to death; or

(2) Impose a term of life imprisonment without parole;

only if it makes the findings described in subsection (i).

(h) A death sentence is subject to automatic review by the supreme court. The review, which shall be heard under rules adopted by the supreme court, shall be given priority over all other cases. The death sentence may not be executed until the supreme court has completed its review.

(i) To impose a sentence under this section, a jury must find that:

(1) The state has proved beyond a reasonable doubt that at least one (1) of the aggravating circumstances listed in subsection (b) exists; and

(2) Any mitigating circumstances that exist are outweighed by the aggravating circumstance or circumstances. [IC 35-50-2-9, as added by Acts 1977, P.L. 340, § 122; P.L.336-1983, § 1; P.L.212-1986, § 1; P.L.320-1987, § 2; P.L.332-1987, § 2; P.L.138-1989, § 6; P.L.296-1989, § 2; P.L.1-1990, § 354; P.L.230-1993, § 5; P.L.250-1993, § 2.]

**35-50-2-10. Habitual controlled substance offenders.** — (a) As used in this section:

(1) "Drug" means a drug or a controlled substance as defined in IC 35-48-1.

(2) "Substance offense" means a Class A misdemeanor or a felony in which the possession, use, abuse, delivery, transportation, or manufacture of alcohol or drugs is a material element of the crime.

(b) The state may seek to have a person sentenced as an habitual substance offender for any substance offense by alleging, on a page separate from the rest of the charging instrument, that the person has accumulated two (2) prior unrelated substance offense convictions.

(c) After a person has been convicted and sentenced for a substance offense committed after sentencing for a prior unrelated substance offense conviction, the person has accumulated two (2) prior unrelated substance offense convictions. However, a conviction does not count for purposes of this subsection if:

(1) It has been set aside; or

(2) It is a conviction for which the person has been pardoned.

(d) If the person was convicted of the substance offense in a jury trial, the jury shall reconvene for the sentencing hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall conduct the sentencing hearing, under IC 35-38-1-3.

(e) A person is an habitual substance offender if the jury (if the hearing is by jury) or the court (if the hearing is to the court alone) finds that the state has proved beyond a reasonable doubt that the person had accumulated two (2) prior unrelated substance offense convictions.

(f) The court shall sentence a person found to be an habitual substance offender to an additional fixed term of at least three (3) years but not more than eight (8) years imprisonment, to be added to the term of imprisonment imposed under IC 35-50-2 or IC 35-50-3. If the court finds that three (3) years or more have elapsed since the date the person was discharged from probation, imprisonment, or parole (whichever is later) for the last prior unrelated substance offense conviction and the date the person committed the substance offense for which the person is being sentenced as an habitual substance offender, then the court may reduce the additional fixed term. However, the court may not reduce the additional fixed term to less than one (1) year.

(g) If a reduction of the additional year fixed term is authorized under subsection (f), the court may also consider the aggravating or mitigating circumstances in IC 35-38-1-7.1 to:

(1) Decide the issue of granting a reduction; or

(2) Determine the number of years, if any, to be subtracted, under subsection (f). [IC 35-50-2-10, as added by P.L.335-1983, § 2; P.L. 327-1985, § 5; P.L.98-1988, § 11; P.L.1-1990, § 355.]

## CHAPTER 3

## SENTENCES FOR MISDEMEANORS

## SECTION.

- 35-50-3-1. Suspension — Probation.  
 35-50-3-2. Class A misdemeanor.  
 35-50-3-3. Class B misdemeanor.  
 35-50-3-4. Class C misdemeanor.

**35-50-3-1. Suspension — Probation.**

— (a) The court may suspend any part of a sentence for a misdemeanor.

(b) Except as provided in subsection (c), whenever the court suspends a sentence for a misdemeanor, it may place the person on probation under IC 35-38-2 for a fixed period of not more than one (1) year.

(c) Whenever the court suspends a sentence for a misdemeanor, if the court finds that the use or abuse of alcohol, drugs, or harmful substances is a contributing factor or a material element of the offense, the court may place the person on probation under IC 35-38-2 for a fixed period of not more than two (2) years. However, a court may not place a person on probation for a period of more than twelve (12) months in the absence of a report that substantiates the need for a period of probation that is longer than twelve (12) months for the purpose of completing a course of substance abuse treatment. A probation user's fee that exceeds fifty percent (50%) of the maximum probation user's fee allowed under IC 35-38-2-1 may not be required beyond the first twelve (12) months of probation. [IC 35-50-3-1, as added by Acts 1976, P.L. 148, § 8; 1977, P.L. 340, § 123; P.L.5-1988, § 210; P.L.135-1993, § 9.]

**35-50-3-2. Class A misdemeanor.**

— A person who commits a class A misdemeanor shall be imprisoned for a fixed term of not more than one [1] year; in addition, he may be fined not more than five thousand dollars [\$5,000]. [IC 35-50-3-2, as added by Acts 1976, P.L. 148, § 8; 1977, P.L. 340, § 124.]

**35-50-3-3. Class B misdemeanor.**

— A person who commits a class B misdemeanor shall be imprisoned for a fixed term of not more than one hundred eighty [180] days; in addition, he may be fined not more than one thousand dollars [\$1,000]. [IC 35-50-3-3, as added by Acts 1976, P.L. 148, § 8; 1977, P.L. 340, § 125.]

**35-50-3-4. Class C misdemeanor.**

— A person who commits a class C misdemeanor shall be imprisoned for a fixed term of not more than sixty [60] days; in addition, he may be fined not more than

five hundred dollars [\$500]. [IC 35-50-3-8, as added by Acts 1978, P.L. 2, § 3554.]

## TITLE 36

## LOCAL GOVERNMENT

## ARTICLE.

2. COUNTIES, chs. 2, 3.
3. GOVERNMENT OF CONSOLIDATED CITIES AND COUNTIES (UNIGOV), ch. 4.
4. CITIES AND TOWNS GENERALLY, ch. 6.
5. TOWNS, chs. 1, 2.

## ARTICLE 2

## COUNTIES

## CHAPTER.

2. COUNTY EXECUTIVE, 36-2-2-4 — 36-2-2-5.
3. COUNTY FISCAL BODY, 36-2-3-4 — 36-2-3-5.

## CHAPTER 2

## COUNTY EXECUTIVE

## SECTION.

- 36-2-2-4. County commissioner election districts — County redistricting commission in Lake County — Single-member districts in Lake and St. Joseph counties.
- 36-2-2-4.5. Territory not included in district — Territory included in more than one district.
- 36-2-2-4.7. Division of county into districts — Ordinance.
- 36-2-2-5. County commissioners — Qualifications — Forfeiture of office — Declaration of vacancy.

**36-2-2-4. County commissioner election districts — County redistricting commission in Lake County — Single-member districts in Lake and St. Joseph counties.** — (a) This subsection does not apply to a county having a population of:

- (1) More than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or
- (2) More than two hundred thousand (200,000) but less than three hundred thousand (300,000).

The executive shall divide the county into three (3) districts that are composed of contiguous territory and are reasonably compact. The district boundaries drawn by the executive must not cross precinct boundary lines and must divide townships only when a division is clearly necessary to accomplish redistricting under this section. If necessary, the county auditor shall call a special meeting of the executive to establish or revise districts.

(b) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). A county redistricting commission shall divide the county into three (3) single-member districts that comply with subsection (d). The commission is composed of:

- (1) The members of the state election board;
- (2) Two (2) members of the senate selected by the president pro tempore, one (1) from each political party; and
- (3) Two (2) members of the house of representatives selected by the speaker, one (1) from each political party.

The legislative members of the commission have no vote and may act only in an advisory capacity. A majority vote of the voting members is required for the commission to take action. The commission may meet as frequently as necessary to perform its duty under this subsection. Its members serve without additional compensation above that provided for them as members of the state election board, the senate, or the house of representatives.

(c) This subsection applies to a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). The executive shall divide the county into three (3) single-member districts that comply with subsection (d).

(d) Single-member districts established under subsection (b) or (c) must:

- (1) Be compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);
- (2) Contain, as nearly as is possible, equal population; and
- (3) Not cross precinct lines.

(e) A division under subsection (a), (b), or (c) shall be made:

- (1) In 1991 and every ten (10) years after that; and
- (2) When the county adopts an order declaring a county boundary to be changed under IC 36-2-1-2.

(f) A division under subsection (a), (b), or (c) may be made in any odd-numbered year not described in subsection (e). [IC 17-1-14-2, 17-1-15.6-1 — 17-1-15.6-3, re-codified as IC 36-2-2-4 by Acts 1980, P.L. 212, § 1; 1980, P.L. 125, § 13; 1981, P.L. 11, § 136; 1981, P.L. 17, § 6; P.L.10-1988, § 236; P.L.13-1988, § 13; P.L.5-1989, § 87; P.L.12-1992, § 150.]

**36-2-2-4.5. Territory not included in district — Territory included in more than one district.** — (a) If any territory in

a county is not included in one (1) of the districts established under section 4 [IC 36-2-2-4] of this chapter, the territory is included in the district that:

- (1) Is contiguous to that territory; and
- (2) Contains the least population of all districts contiguous to that territory.

(b) If any territory in any county is included in more than one (1) of the districts established under section 4 of this chapter, the territory is included in the district that:

- (1) Is one (1) of the districts in which the territory is described in the ordinance adopted under section 4 of this chapter;
- (2) Is contiguous to that territory; and
- (3) Contains the least population of all districts contiguous to that territory. [P.L.3-1993, § 256.]

**36-2-2-4.7. Division of county into districts — Ordinance.** — (a) Whenever the executive divides the county into districts under section 4 [IC 36-2-2-4] of this chapter, the executive shall adopt an ordinance.

(b) The executive shall file a copy of an ordinance adopted under subsection (a) with the circuit court clerk. [P.L.3-1993, § 257.]

**36-2-2-5. Qualifications of members — Residence requirement.** — (a) To be eligible for election to the executive, a person must meet the qualifications prescribed by IC 3-8-1-21.

(b) A member of the executive must reside within:

- (1) The county as provided in Article 6, Section 6 of the Constitution of the State of Indiana; and
- (2) The district from which the member was elected.

(c) If the person does not remain a resident of the county and district after taking office, the person forfeits the office. The county fiscal body shall declare the office vacant whenever a member of the executive forfeits office under this subsection.

(d) In a county having a population of:

- (1) More than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or
- (2) More than two hundred thousand (200,000) but less than three hundred thousand (300,000);

one (1) member of the executive shall be elected by the voters of each of the three (3) single-member districts established under section 4(b) or 4(c) [IC 36-2-2-4(b) or 36-2-2-4(c)] of this chapter. In other coun-

ties, all three (3) members of the executive shall be elected by the voters of the whole county.

(e) A member of the executive who wants to resign must send written notice to the president of the county fiscal body. The fiscal body shall then declare the member's office vacant. [IC 17-1-14-1, 17-1-14-2, 17-1-15.6-1, 17-1-15.6-2, recodified as IC 36-2-2-5 by Acts 1980, P.L. 212, § 1; 1981, P.L. 11, § 137; 1981, P.L. 17, § 7; P.L.5-1986, § 34; P.L.3-1987, § 542; P.L.12-1992, § 151.]

### CHAPTER 3

#### COUNTY FISCAL BODY

##### SECTION.

36-2-3-4. County council election districts.

36-2-3-4.5. Territory not included in district — Territory included in more than one district.

36-2-3-4.7. Division into districts — Ordinance.

36-2-3-5. Qualifications of members — Residence requirement.

**36-2-3-4. County council election districts.** — (a) This subsection does not apply to a county having a population of:

- (1) More than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or
- (2) More than two hundred thousand (200,000) but less than three hundred thousand (300,000).

The county executive shall, by ordinance, divide the county into four (4) contiguous, single member districts that comply with subsection (d). If necessary, the county auditor shall call a special meeting of the executive to establish or revise districts. One (1) member of the fiscal body shall be elected by the voters of each of the four (4) districts. Three (3) at-large members of the fiscal body shall be elected by the voters of the whole county.

(b) This subsection applies to a county having a population more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). The county redistricting commission established under IC 36-2-2-4 shall divide the county into seven (7) single-member districts that comply with subsection (d). One (1) member of the fiscal body shall be elected by the voters of each of these seven (7) single-member districts.

(c) This subsection applies to a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). The fiscal body shall divide the county into nine (9) single-member districts that comply with subsection (d). Three (3) of these

districts must be contained within each of the three (3) districts established under IC 36-2-2-4(c). One (1) member of the fiscal body shall be elected by the voters of each of these nine (9) single-member districts.

(d) Single-member districts established under subsection (a), (b), or (c) must:

- (1) Be compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);
- (2) Not cross precinct boundary lines;
- (3) Contain, as nearly as possible, equal population; and
- (4) Include whole townships, except when a division is clearly necessary to accomplish redistricting under this section.

(e) A division under subsection (a), (b), or (c) shall be made:

- (1) In 1991 and every ten (10) years after that; and
- (2) When the county executive adopts an order declaring a county boundary to be changed under IC 36-2-1-2.

(f) A division under subsection (a), (b), or (c) may be made in any odd-numbered year not described in subsection (e). [IC 17-1-24-2, recodified as IC 36-2-3-4 by Acts 1980, P.L. 212, § 1; 1981, P.L. 11, § 144; 1981, P.L. 17, § 10; 1981, P.L. 5, § 2; P.L.10-1988, § 237; P.L.13-1988, § 14; P.L.5-1989, § 88; P.L. 12-1992, § 153.]

**36-2-3-4.5. Territory not included in district — Territory included in more than one district.** — (a) If any territory in any county is not included in one (1) of the districts established under section 4 [IC 36-2-3-4] of this chapter, the territory is included in the district that:

- (1) Is contiguous to that territory; and
- (2) Contains the least population of all districts contiguous to that territory.

(b) If any territory in any county is included in more than one (1) of the districts established under section 4 of this chapter, the territory is included in the district that:

- (1) Is one (1) of the districts in which the territory is described in the ordinance adopted under section 4 of this chapter;
- (2) Is contiguous to that territory; and
- (3) Contains the least population of all districts contiguous to that territory. [P.L.3-1993, § 258.]

**36-2-3-4.7. Division into districts — Ordinance.** — (a) Whenever the county executive or the county fiscal body divides the county into districts under section 4 [IC 36-2-3-4] of this chapter, the county

executive or the county fiscal body shall adopt an ordinance.

(b) The county executive or the county fiscal body shall file a copy of an ordinance adopted under subsection (a) with the circuit court clerk. [P.L.3-1993, § 259.]

**36-2-3-5. Qualifications of members — Residence requirement.** — (a) To be eligible to serve as a member of the fiscal body, a person must meet the qualifications prescribed by IC 3-8-1-22.

(b) A member of the fiscal body must reside within:

(1) The county as provided in Article 6, Section 6 of the Constitution of the State of Indiana; and

(2) The district from which the member was elected, if applicable.

(c) A member who fails to comply with subsection (b) forfeits the office. [IC 17-1-24-2, 17-1-24-3, recodified as IC 36-2-3-5 by Acts 1980, P.L. 212, § 1; 1981, P.L. 11, § 145; 1981, P.L. 17, § 11; P.L.5-1986, § 36; P.L.3-1987, § 543.]

## ARTICLE 3

### GOVERNMENT OF CONSOLIDATED CITIES AND COUNTIES (UNIGOV)

#### CHAPTER.

#### 4. LEGISLATIVE BODIES, 36-3-4-2 — 36-3-4-3.5.

### CHAPTER 4

#### LEGISLATIVE BODIES

#### SECTION.

36-3-4-2. City-county council — Qualifications — Residence requirement — Vacancy.

36-3-4-3. Legislative districts — Decennial reapportionment.

36-3-4-3.5. Territory not included in district — Territory included in more than one district.

**36-3-4-2. City-county council — Qualifications — Residence requirement — Vacancy.** — (a) A twenty-nine (29) member city-county council, which is the legislative body of both the consolidated city and the county, shall be elected under IC 3-10-6 by the voters of the county.

(b) To be eligible to serve as a member of the legislative body, a person must meet the qualifications prescribed by IC 3-8-1-25.

(c) A member of the legislative body must reside within:

(1) The county as provided in Article 6, Section 6 of the Constitution of the State of Indiana; and

(2) The district from which the member was elected, if applicable.

(d) A vacancy in the legislative body occurs whenever a member:

(1) Dies, resigns, or is removed from office;

(2) Ceases to be a resident of the county or district from which the member was elected; or

(3) Is incapacitated to the extent that the member is unable to perform the member's duties for more than six (6) months.

(e) The vacancy shall be filled under IC 3-13-8.

(f) The term of office of a member of the legislative body is four (4) years, beginning at noon on January 1 after election and continuing until a successor is elected and qualified. [IC 18-4-1-2(h), 18-4-3-6, 18-4-3-7, recodified as IC 36-3-4-2 by Acts 1980, P.L. 212, § 2; P.L.5-1986, § 40; P.L.3-1987, § 552.]

**36-3-4-3. Legislative districts — Decennial reapportionment.** — (a) The city-county legislative body shall, by ordinance, divide the whole county into twenty-five (25) districts that:

(1) Are compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);

(2) Contain, as nearly as is possible, equal population; and

(3) Do not cross precinct boundary lines.

This division shall be made in 1992 and every ten (10) years after that, and may also be made at any other time, subject to IC 3-11-1.5-32.

(b) The legislative body is composed of twenty-five (25) members elected from the districts established under subsection (a) and four (4) members elected from an at large district containing the whole county.

(c) Each voter of the county may vote for four (4) candidates for at large membership and (1) candidate from the district in which the voter resides. The four (4) at large candidates receiving the most votes from the whole county and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(d) If the legislative body fails to make the division before the date prescribed by subsection (a) or the division is alleged to violate subsection (a) or other law, a taxpayer or registered voter of the county may petition the superior court of the

county to hear and determine the matter. There may not be a change of venue from the court or from the county. The court sitting en banc may appoint a master to assist in its determination and may draw proper district boundaries if necessary. An appeal from the court's judgment must be taken within thirty (30) days, directly to the supreme court, in the same manner as appeals from other actions.

(e) An election of the legislative body held under the ordinance or court judgment determining districts that is in effect on the date of the election is valid, regardless of whether the ordinance or judgment is later determined to be invalid. [IC 18-2-1-4, 18-4-3-6, 18-4-3-8, 18-4-3-9, recodified as IC 36-3-4-3 by Acts 1980, P.L. 212, § 2; 1980, P.L. 213, § 2; P.L.5-1986, § 41; P.L.13-1988, § 15.]

**36-3-4-3.5. Territory not included in district — Territory included in more than one district.** — (a) If any territory in any county is not included in one (1) of the districts established under section 3 [IC 36-3-4-3] of this chapter, the territory is included in the district that:

- (1) Is contiguous to that territory; and
- (2) Contains the least population of all districts contiguous to that territory.

(b) If any territory in any county is included in more than one (1) of the districts established under section 3 of this chapter, the territory is included in the district that:

- (1) Is one (1) of the districts in which the territory is described in the ordinance adopted under section 3 of this chapter;
- (2) Is contiguous to that territory; and
- (3) Contains the least population of all districts contiguous to that territory. [P.L.3-1993, § 260.]

## ARTICLE 4

### CITIES AND TOWNS GENERALLY

#### CHAPTER.

6. CITY LEGISLATIVE BODY, 36-4-6-2 — 36-4-6-5.

#### CHAPTER 6

##### CITY LEGISLATIVE BODY

#### SECTION.

36-4-6-2. Common council — Qualifications — Election — Residence — Term.

36-4-6-3. Council election districts in second class cities.

36-4-6-4. Council election districts in third class cities.

#### SECTION.

36-4-6-5. Council election districts in third class cities having a population of less than ten thousand.

**36-4-6-2. Common council — Qualifications — Election — Residence — Term.** — (a) A common council, which is the city legislative body, shall be elected under IC 3-10-6 by the voters of each city.

(b) A person is eligible to be a member of the legislative body only if the person meets the qualifications prescribed by IC 3-8-1-27.

(c) Residency in territory that is annexed by the city before the person files a declaration of candidacy or petition of nomination is considered residency for the purposes of subsection (b), even if the annexation takes effect less than one (1) year before the election.

(d) A member of the legislative body must reside within:

- (1) The city as provided in Article 6, Section 6 of the Constitution of the State of Indiana; and
- (2) The district from which the member was elected, if applicable.

(e) A member forfeits office if the member ceases to be a resident of the district or city.

(f) The term of office of a member of the legislative body is four (4) years, beginning at noon on January 1 after the election and continuing until a successor is elected and qualified. [IC 18-1-2-1, 18-1-2-1.5, 18-2-1-4.2, 18-2-1-4.4, 18-2-1-5, 18-2-1-6, 18-2-1-8, recodified as IC 36-4-6-2 by Acts 1980, P.L.212, § 3; P.L.5-1986, § 51; P.L.3-1987, § 557.]

**36-4-6-3. Council election districts in second class cities.** — (a) This section applies only to second class cities.

(b) The legislative body shall adopt an ordinance to divide the city into six (6) districts that:

- (1) Are composed of contiguous territory, except for territory that is not contiguous to any other part of the city;
- (2) Are reasonably compact;
- (3) Do not cross precinct boundary lines, except as provided in subsection (c) or (d); and
- (4) Contain, as nearly as is possible, equal population.

(c) The boundary of a city legislative body district may cross a precinct boundary line if:

- (1) More than one (1) member of the legislative body elected from the districts established under subsection (b) resides in one (1) precinct established



under IC 3-11-1.5 after the most recent municipal election; and

(2) Following the establishment of a legislative body district whose boundary crosses a precinct boundary line, not more than one (1) member of the legislative body elected from districts resides within the same city legislative body district.

(d) The boundary of a city legislative body district may cross a precinct line if the districts would not otherwise contain, as nearly as is possible, equal population.

(e) A city legislative body district with a boundary described by subsection (c) or (d) may not cross a census block boundary line except:

(1) When following a precinct boundary line; or

(2) The city legislative body certifies in the ordinance that the census block has no population, and is not likely to ever have population.

(f) The legislative body may not adopt an ordinance dividing the city into districts with boundaries described by subsection (c) or (d) unless the clerk of the city mails a written notice to the circuit court clerk. The notice must:

(1) State that the legislative body is considering the adoption of an ordinance described by this subsection; and

(2) Be mailed not later than ten (10) days before the legislative body adopts the ordinance.

(g) The division under subsection (b) shall be made in 2002, every ten (10) years after that, and when required to assign annexed territory to a district. This division may be made at any other time, subject to IC 3-11-1.5-32.

(h) The legislative body is composed of six (6) members elected from the districts established under subsection (b) and three (3) at-large members.

(i) Each voter of the city may vote for three (3) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The three (3) at-large candidates receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(j) If any territory in the city is not included in one (1) of the districts established under this section, the territory is included in the district that:

(1) Is contiguous to that territory; and

(2) Contains the least population of all districts contiguous to that territory.

(k) If any territory in the city is included in more than one (1) of the districts

established under this section, the territory is included in the district that:

(1) Is one (1) of the districts in which the territory is described in the ordinance adopted under this section;

(2) Is contiguous to that territory; and

(3) Contains the least population of all districts contiguous to that territory.

(l) A copy of the ordinance establishing districts under this section must be filed with the circuit court clerk of the county that contains the greatest population of the city not later than thirty (30) days after the ordinance is adopted. [IC 18-2-1-8, 18-2-9-1, recodified as IC 36-4-6-3 by Acts 1980, P.L. 212, § 3; 1980, P.L. 73, § 6; P.L.13-1988, § 16; P.L.5-1989, § 101; P.L.7-1990, § 58; P.L.3-1993, § 265.]

**36-4-6-4. Council election districts in third class cities.** — (a) This section applies to third class cities, except as provided by section 5 [IC 36-4-6-5] of this chapter.

(b) This subsection does not apply to a city with an ordinance described by subsection (j). The legislative body shall adopt an ordinance to divide the city into five (5) districts that:

(1) Are composed of contiguous territory, except for territory that is not contiguous to any other part of the city;

(2) Are reasonably compact;

(3) Do not cross precinct boundary lines except as provided in subsection (c) or (d); and

(4) Contain, as nearly as is possible, equal population.

(c) The boundary of a city legislative body district may cross a precinct boundary line if:

(1) More than one (1) member of the legislative body elected from the districts established under subsection (b) or (j) resides in one (1) precinct established under IC 3-11-1.5 after the most recent municipal election; and

(2) Following the establishment of a legislative body district whose boundary crosses a precinct boundary line, not more than one (1) member of the legislative body elected from the districts resides within the same city legislative body district.

(d) The boundary of a city legislative body district may cross a precinct line if the districts would not otherwise contain, as nearly as is possible, equal population.

(e) A city legislative body district with a boundary described by subsection (c) or (d) may not cross a census block boundary line except:

- (1) When following a precinct boundary line; or
- (2) The city legislative body certifies in the ordinance that the census block has no population, and is not likely to ever have population.
- (f) The legislative body may not adopt an ordinance dividing the city into districts with boundaries described by subsection (c) or (d) unless the clerk of the city mails a written notice to the circuit court clerk. The notice must:
- (1) State that the legislative body is considering the adoption of an ordinance described by this subsection; and
- (2) Be mailed not later than ten (10) days before the legislative body adopts the ordinance.
- (g) The division under subsection (b) or (j) shall be made in 2002, every ten (10) years after that, and when required to assign annexed territory to a district. This division may be made at any other time, subject to IC 3-11-1.5-32.
- (h) This subsection does not apply to a city with an ordinance described by subsection (j). The legislative body is composed of five (5) members elected from the districts established under subsection (b) and two (2) at-large members.
- (i) This subsection does not apply to a city with an ordinance described by subsection (j). Each voter of the city may vote for two (2) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The two (2) at-large candidates receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.
- (j) A city may adopt an ordinance under this subsection to divide the city into four (4) districts that:
- (1) Are composed of contiguous territory;
- (2) Are reasonably compact;
- (3) Do not cross precinct boundary lines, except as provided in subsection (c) or (d); and
- (4) Contain, as nearly as is possible, equal population.
- (k) This subsection applies to a city with an ordinance described by subsection (j). The legislative body is composed of four (4) members elected from the districts established under subsection (j) and three (3) at-large members.
- (l) This subsection applies to a city with an ordinance described by subsection (j). Each voter of the city may vote for three (3) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The three (3) at-

large candidates receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(m) A copy of the ordinance establishing districts under this section must be filed with the circuit court clerk of the county that contains the greatest population of the city no later than thirty (30) days after the ordinance is adopted.

(n) If any territory in the city is not included in one (1) of the districts established under this section, the territory is included in the district that:

- (1) Is contiguous to that territory; and
- (2) Contains the least population of all districts contiguous to that territory.

(o) If any territory in the city is included in more than one (1) of the districts established under this section, the territory is included in the district that:

- (1) Is one (1) of the districts in which the territory is described in the ordinance adopted under this section;
- (2) Is contiguous to that territory; and
- (3) Contains the least population of all districts contiguous to that territory. [IC 18-2-1-8, 18-2-12-1, recodified as IC 36-4-6-4 by Acts 1980, P.L. 212, § 3; 1980, P.L. 73, § 7; 1981, P.L. 44, § 43; P.L.13-1988, § 17; P.L.5-1989, § 102; P.L.7-1990, § 59; P.L.4-1991, § 141; P.L.1-1992, § 184; P.L.3-1993, § 266.]

**36-4-6-5. Council election districts in third class cities having a population of less than ten thousand.** — (a) This section applies to third class cities having a population of less than ten thousand (10,000). The legislative body of such a city may, by ordinance adopted before September 1, 1982, decide to be governed by this section instead of section 4 [IC 36-4-6-4] of this chapter. If this ordinance is repealed after August 31, 1982, except as a part of a codification of ordinances that reenacts the ordinance under IC 36-1-5-6, then section 4 of this chapter again applies to the city. The clerk of the legislative body shall send a certified copy of any ordinance adopted under this subsection to the secretary of the county election board.

(b) This subsection does not apply to a city with an ordinance described by subsection (j). The legislative body shall adopt an ordinance to divide the city into four (4) districts that:

- (1) Are composed of contiguous territory, except for territory that is not

contiguous to any other part of the city;

(2) Are reasonably compact;

(3) Do not cross precinct boundary lines except as provided in subsection (c) or (d); and

(4) Contain, as nearly as is possible, equal population.

(c) The boundary of a city legislative body district may cross a precinct boundary line if:

(1) More than one (1) member of the legislative body elected from the districts established under subsection (b) or (j) resides in one (1) precinct established under IC 3-11-1.5 after the most recent municipal election; and

(2) Following the establishment of a legislative body district whose boundary crosses a precinct boundary line, not more than one (1) member of the legislative body elected from the districts resides within the same city legislative body district.

(d) The boundary of a city legislative body district may cross a precinct line if the districts would not otherwise contain, as nearly as is possible, equal population.

(e) A city legislative body district with a boundary described by subsection (c) or (d) may not cross a census block boundary line except:

(1) When following a precinct boundary line; or

(2) The city legislative body certifies in the ordinance that the census block has no population, and is not likely to ever have population.

(f) The legislative body may not adopt an ordinance dividing the city into districts with boundaries described by subsection (c) or (d) unless the clerk of the city mails a written notice to the circuit court clerk. The notice must:

(1) State that the legislative body is considering the adoption of an ordinance described by this subsection; and

(2) Be mailed not later than ten (10) days before the legislative body adopts the ordinance.

(g) The division under subsection (b) or (j) shall be made in 2002, every ten (10) years after that, and when required to assign annexed territory to a district. This division may be made at any other time, subject to IC 3-11-1.5-32.

(h) This subsection does not apply to a city with an ordinance described by subsection (j). The legislative body is composed of four (4) members elected from the districts established under subsection (b) and one (1) at-large member.

(i) This subsection does not apply to a city with an ordinance described by sub-

section (j). Each voter may vote for one (1) candidate for at-large membership and one (1) candidate from the district in which the voter resides. The at-large candidate receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(j) A city may adopt an ordinance under this subsection to divide the city into three (3) districts that:

(1) Are composed of contiguous territory, except for territory that is not contiguous to any other part of the city;

(2) Are reasonably compact;

(3) Do not cross precinct boundary lines, except as provided in subsection (c) or (d); and

(4) Contain, as nearly as is possible, equal population.

(k) This subsection applies to a city with an ordinance described by subsection (j). The legislative body is composed of three (3) members elected from the districts established under subsection (j) and two (2) at-large members.

(l) This subsection applies to a city with an ordinance described by subsection (j). Each voter of the city may vote for two (2) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The two (2) at-large candidates receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(m) This subsection applies to a city having a population of less than seven thousand (7,000). A legislative body of such a city that has, by resolution adopted before May 7, 1991, decided to continue an election process that permits each voter of the city to vote for one (1) candidate at large and one (1) candidate from each of its four (4) council districts may hold elections using that voting arrangement. The at-large candidate and the candidate from each district receiving the most votes from the whole city are elected to the legislative body. The districts established in cities adopting such a resolution may cross precinct boundary lines.

(n) A copy of the ordinance establishing districts under this section must be filed with the circuit court clerk of the county that contains the greatest population of the city not later than thirty (30) days after the ordinance is adopted.

(o) If any territory in the city is not included in one (1) of the districts established under this section, the territory is included in the district that:

(1) Is contiguous to that territory; and

(2) Contains the least population of all districts contiguous to that territory.

(p) If any territory in the city is included in more than one (1) of the districts established under this section, the territory is included in the district that:

- (1) Is one (1) of the districts in which the territory is described in the ordinance adopted under this section;
- (2) Is contiguous to that territory; and
- (3) Contains the least population of all districts contiguous to that territory. [IC 18-2-1-8, recodified as IC 36-4-6-5 by Acts 1980, P.L. 212, § 3; 1980, P.L. 73, § 8; 1981, P.L. 44, § 44; P.L.13-1988, § 18; P.L.5-1989, § 103; P.L.7-1990, § 60; P.L.4-1991, § 142; P.L.1-1992, § 185; P.L.3-1993, § 267.]

## ARTICLE 5

### TOWNS

#### CHAPTER.

1. INCORPORATION — DISSOLUTION, 36-5-1-1 — 36-5-1-20.
2. TOWN LEGISLATIVE BODY AND EXECUTIVE, 36-5-2-1 — 36-5-2-12.

### CHAPTER 1

#### INCORPORATION—DISSOLUTION

#### SECTION.

##### [INCORPORATION]

- 36-5-1-1. Application of chapter.
- 36-5-1-2. Petition of incorporation — Contents — Qualifications of petitioner.
- 36-5-1-3. Required documents supporting petition to incorporate.
- 36-5-1-4. Investigation of proposed incorporation.
- 36-5-1-5. Hearing — Notice.
- 36-5-1-6. Parties — Remonstrance — Dismissal of petition.
- 36-5-1-7. Limitation on incorporation of town near city.
- 36-5-1-7.1. Exemption from requirements of IC 36-5-1-7.
- 36-5-1-8. Conditions to be met before approval of incorporation by county executive.
- 36-5-1-9. Petition for incorporation precluded within 1 year of denial of a petition.
- 36-5-1-10. [Repealed.]
- 36-5-1-10.1. Ordinance of incorporation of town.
- 36-5-1-11. Apportionment of debt of township.
- 36-5-1-11.5. Towns incorporating after August 31, 1988.

##### [DISSOLUTION OR CHANGE OF NAME]

- 36-5-1-12. Petition for dissolution or change of name — Current census.
- 36-5-1-13. Bond for costs and expenses must accompany petition for dissolution or change of name.

#### SECTION.

- 36-5-1-14. Notice of hearing on petition of dissolution or change of name.
- 36-5-1-15. Hearing on petition for dissolution or change of name of town — Withdrawal of petitioner's name.
- 36-5-1-16. Certification of question — Date of election — Notice.
- 36-5-1-17. Election — Form on ballot.
- 36-5-1-18. Requirements for approval of question on election — Effect of approval.
- 36-5-1-19. Judicial appeal of decisions on question of dissolution or name change.
- 36-5-1-20. Dissolution of town.

##### [INCORPORATION]

**36-5-1-1. Application of chapter.** — This chapter applies to all towns except an included town (as defined in IC 36-3-1-7). [IC 36-5-1-1, as added by Acts 1980, P.L. 212, § 4; P.L.5-1989, § 105.]

**36-5-1-2. Petition of incorporation — Contents — Qualifications of petitioner.** — (a) Proceedings to incorporate a town may be instituted by filing a petition in quadruplicate with the executive of the county in which all or a major part of the territory sought to be incorporated is located. The petition must be signed by at least fifty [50] owners of land in the territory and must state that:

- (1) The territory is used or will, in the reasonably foreseeable future, be used generally for commercial, industrial, residential, or similar purposes;
- (2) The territory is reasonably compact and contiguous;
- (3) There is enough undeveloped land in the territory to permit reasonable growth of the town; and
- (4) Incorporation is in the best interests of the citizens of the territory.

(b) The signatures of the petitioners must be verified, and the verification must include a statement that the petitioners are owners of land in the territory sought to be incorporated.

(c) In determining the number of petitioners, not more than one person having an interest in a single parcel of land may be counted, and a person owning more than one parcel of land in the area may be counted only once. [IC 18-3-1-4, recodified as IC 36-5-1-2 by Acts 1980, P.L. 212, § 4; P.L.195-1984, § 1.]

**36-5-1-3. Required documents supporting petition to incorporate.** — A petition for incorporation must be accompanied by the following items, to be supplied at the expense of the petitioners:

- (1) A survey, certified by a registered engineer, showing the boundaries of and

quantity of land contained in the territory sought to be incorporated.

(2) An enumeration of the territory's residents and landowners and their mailing addresses, completed not more than thirty [30] days before the time of filing of the petition and verified by the persons supplying it.

(3) A statement of the assessed valuation of all real property within the territory, certified by the assessors of the townships in which the territory is located.

(4) A statement of the services to be provided to the residents of the proposed town and the approximate times at which they are to be established.

(5) A statement of the estimated cost of the services to be provided and the proposed tax rate for the town.

(6) The name to be given to the proposed town. [IC 18-3-1-5, recodified as IC 36-5-1-3 by Acts 1980, P.L. 212, § 4.]

**36-5-1-4. Investigation of proposed incorporation.** — (a) On receipt of a petition for incorporation, the county executive shall examine it to see that it meets the requirements of sections 2 and 3 [36-5-1-2 and 36-5-1-3] of this chapter. If the petition is in order, the executive shall mark it with the date of filing and immediately forward one [1] copy to the department of commerce and one [1] copy to the plan commission, if any, having jurisdiction.

(b) The department and the commission shall investigate the proposed incorporation and report their recommendations of approval or disapproval to the county executive at least ten [10] days before the hearing required by section 5 [36-5-1-5] of this chapter. In making their investigations, they may use the services of any other state or local government agency, and in making their report and recommendations, they shall be guided by the requirements for incorporation set out in section 8 [36-5-1-8] of this chapter. [IC 18-3-1-6, recodified as IC 36-5-1-4 by Acts 1980, P.L. 212, § 4.]

**36-5-1-5. Hearing — Notice.** — The county executive shall hold a public hearing on a petition for incorporation not less than sixty [60] nor more than ninety [90] days after the date of the filing of the petition, and shall require the petitioners to send notice of the hearing by certified mail to:

(1) The residents and landowners of the territory as listed in the petition;

(2) The legislative body of each municipality having any corporate boundary

within three [3] miles of the perimeter of the proposed new town;

(3) The executive of any other county in which a part of the proposed new town is located; and

(4) The executive of a township in which all or a part of the proposed new town is located. [IC 18-3-1-7, recodified as IC 36-5-1-5 by Acts 1980, P.L. 212, § 4.]

**36-5-1-6. Parties — Remonstrance — Dismissal of petition.** —

The recipients of the notice required by section 5 [36-5-1-5] of this chapter are parties to and are entitled to be heard at the public hearing. The petition for incorporation shall be dismissed if at any time during the incorporation proceedings, including an appeal, the county executive or a court hearing an appeal is presented with a verified remonstrance against incorporation, signed by at least:

(1) Fifty-one percent [51%] of the owners of a fee simple interest in real property in the affected territory; or

(2) The owners of seventy-five percent [75%], in assessed valuation, of the real property in the affected territory.

The executive or court may determine the validity of the remonstrance by submitting it to the county auditor for verification. [IC 18-3-1-8, recodified as IC 36-5-1-6 by Acts 1980, P.L. 212, § 4.]

**36-5-1-7. Limitation on incorporation of town near city.** —

(a) The county executive must obtain the consent by ordinance of the legislative body of a consolidated city before incorporating a town if any part of the proposed town is within four (4) miles of the corporate boundaries of the city.

(b) The county executive must obtain the consent by ordinance of the legislative body of a second or third class city before incorporating a town if any part of the proposed town is within three (3) miles of the corporate boundaries of the city.

(c) Subsection (b) does not apply to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). [IC 18-3-1-9, recodified as IC 36-5-1-7 by Acts 1980, P.L. 212, § 4; 1982, P.L. 1, § 58; P.L.195-1984, § 2; P.L.5-1988, § 212; P.L.12-1992, § 161.]

**36-5-1-7.1. Exemption from requirements of IC 36-5-1-7.** —

The executive of a county having a population of more than forty-five thousand (45,000) but less than forty-seven thousand (47,000), is exempt from:

(1) The requirements of section 7(a) [IC 36-5-1-7(a)] of this chapter; and  
 (2) The requirements of section 7(b) [IC 36-5-1-7(b)] of this chapter if the second or third class city is within a county containing a consolidated city. [IC 36-5-1-7.1, as added by Acts 1982, P.L. 210, § 1; P.L.12-1992, § 162.]

**36-5-1-8. Conditions to be met before approval of incorporation by county executive.** — The county executive may approve a petition for incorporation only if it finds all of the following:

(1) That the proposed town is used or will, in the reasonably foreseeable future, be used generally for commercial, industrial, residential, or similar purposes.

(2) That the proposed town is reasonably compact and contiguous.

(3) That the proposed town includes enough territory to allow for reasonable growth in the foreseeable future.

(4) That a substantial majority of the property owners in the proposed town have agreed that at least six [6] of the following municipal services should be provided on an adequate basis:

(A) Police protection.

(B) Fire protection.

(C) Street construction, maintenance, and lighting.

(D) Sanitary sewers.

(E) Storm sewers.

(F) Health protection.

(G) Parks and recreation.

(H) Schools and education.

(I) Planning, zoning, and subdivision control.

(J) One or more utility services.

(K) Stream pollution control or water conservation.

(5) That the proposed town could finance the proposed municipal services with a reasonable tax rate, using the current assessed valuation of properties as a basis for calculation.

(6) That incorporation is in the best interest of the territory involved. This finding must include a consideration of:

(A) The expected growth and governmental needs of the area surrounding the proposed town;

(B) The extent to which another unit can more adequately and economically provide essential services and functions; and

(C) The extent to which the incorporators are willing to enter into agreements under IC 36-1-7 with the largest neighboring municipality, if that municipality has pro-

posed such agreements. [IC 18-3-1-10, recodified as IC 36-5-1-8 by Acts 1980, P.L. 212, § 4; P.L.195-1984, § 3.]

**36-5-1-9. Petition for incorporation precluded within 1 year of denial of a petition.** — A petition for incorporation that is denied may not be resubmitted within one [1] year after the date of final denial. [IC 18-3-1-8, recodified as IC 36-5-1-9 by Acts 1980, P.L. 212, § 4.]

**36-5-1-10. [Repealed.]**

**36-5-1-10.1. Ordinance of incorporation of town.** — (a) If the county executive makes the findings required by section 8 [IC 36-5-1-8] of this chapter, it may adopt an ordinance incorporating the town. The ordinance must:

(1) Divide the town into not less than three (3) nor more than seven (7) districts; and

(2) Direct the county election board to conduct an election in the town on the date of the next general or municipal election to be held in any precincts in the county.

An election conducted under this section must comply with IC 3 concerning town elections. However, a primary election may not be conducted before an election conducted under this section, regardless of the population of the town.

(b) Districts established by an ordinance adopted under this section must:

(1) Be composed of contiguous territory, except for territory that is not contiguous to any other part of the town;

(2) Be reasonably compact;

(3) Not cross precinct boundary lines, except as provided in subsection (c); and

(4) Contain, as nearly as is possible, equal population.

(c) The boundary of a town legislative body district established under subsection (b) may cross a precinct boundary line if the districts would not otherwise contain, as nearly as is possible, equal population. A legislative body district with a boundary described by this subsection may not cross a census block boundary line except:

(1) When following a precinct boundary line; or

(2) The county executive certifies in the ordinance that the census block has no population, and is not likely to ever have population.

(d) If any territory in the town is not included in one (1) of the districts established under this section, the territory is included in the district that:

- (1) Is contiguous to that territory; and
- (2) Contains the least population of all districts contiguous to that territory.

(e) If any territory in the town is included in more than one (1) of the districts established under this section, the territory is included in the district that:

- (1) Is one (1) of the districts in which the territory is described in the ordinance adopted under this section;
- (2) Is contiguous to that territory; and
- (3) Contains the least population of all districts contiguous to that territory.

(f) Except as provided in subsection (g), an ordinance adopted under this section becomes effective when filed with:

- (1) The state certifying official designated under IC 6-1.1-30-15; and
- (2) The circuit court clerk of each county in which the town is located.

(g) An ordinance incorporating a town under this section may not take effect during the year preceding a year in which a federal decennial census is conducted. An ordinance under this section that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted. [IC 36-5-1-10.1, as added by Acts 1980, P.L. 2, § 16; P.L.5-1983, § 12; P.L.5-1986, § 54; P.L.13-1988, § 19; P.L.5-1989, § 106; P.L.7-1990, § 61; P.L.3-1993, § 268.]

**36-5-1-11. Apportionment of debt of township.** — (a) If the township in which a new town is incorporated is indebted or has outstanding unpaid bonds or other obligations at the time of the incorporation, the town is liable for and shall pay that indebtedness in the same ratio as the assessed valuation of the property in the town bears to the assessed valuation of all property in the township, as shown by the most recent assessment for taxation before the incorporation, unless the assessed property within the town is already liable for the indebtedness.

(b) The town shall pay its indebtedness under this section to the township executive. If the indebtedness consists of outstanding unpaid bonds or notes of the township, the payments to the township executive shall be made as the principal or interest on the bonds or notes becomes due. [IC 18-5-10-28, recodified as IC 36-5-1-11 by Acts 1980, P.L. 212, § 4.]

**36-5-1-11.5. Towns incorporating after August 31, 1988.** — A locality that:

- (1) Has elected town officers and has governed itself as a town for at least ten (10) years preceding September 1, 1988; or

- (2) Has been incorporated under this chapter after August 31, 1988;

is a town for all purposes unless the town has been dissolved under this chapter or IC 36-5-1.1. [P.L.1-1989, § 69.]

#### [DISSOLUTION OR CHANGE OF NAME]

**36-5-1-12. Petition for dissolution or change of name — Current census.** —

(a) Proceedings to dissolve a town may be instituted under either this section or IC 36-5-1.1.

(b) A proceeding under this section may be instituted to either dissolve the town or change its name. The proceeding is instituted by filing a petition with the town clerk. The petition must be signed by at least two-thirds ( $\frac{2}{3}$ ) of the voters of the town, must be verified by at least one (1) of the petitioners, and must include the reasons for the dissolution or change of name.

(c) A census of all of the voters of the town, taken within ten (10) days before the filing of the petition, must be filed with the petition. The person who prepared the census must, by affidavit attached to the census, verify that the census is correct. [IC 18-3-1-22, recodified as IC 36-5-1-12 by Acts 1980, P.L. 212, § 4; P.L.342-1987, § 1.]

**36-5-1-13. Bond for costs and expenses must accompany petition for dissolution or change of name.** — A petition and census filed under section 12 [36-5-1-12] of this chapter must be accompanied by a bond for costs and expenses, payable to and approved by the town legislative body. The petitioners shall pay all costs and expenses incurred under this chapter, including the expenses of an election, if their petition is not successful. [IC 18-3-1-25, recodified as IC 36-5-1-13 by Acts 1980, P.L. 212, § 4.]

**36-5-1-14. Notice of hearing on petition of dissolution or change of name.** —

When a petition and census are filed under section 12 [36-5-1-12] of this chapter, the town clerk shall give notice of the filing and of the day of a hearing on the petition and census, in the manner prescribed by IC 5-3-1 [5-3-1-1 — 5-3-1-9]. [IC 18-3-1-23, recodified as IC 36-5-1-14 by Acts 1980, P.L. 212, § 4.]

**36-5-1-15. Hearing on petition for dissolution or change of name of town — Withdrawal of petitioner's name.** —

(a) On the date named in the notice given

under section 14 [36-5-1-14] of this chapter, the town legislative body shall hear and consider:

- (1) The petition and census; and
- (2) All statements presented in favor of or in opposition to granting the petition. The legislative body shall then decide whether there is sufficient cause to submit the question of dissolving the town or changing its name to the voters of the town.

(b) A petitioner who wants to withdraw his name from the petition must do so before the legislative body makes its decision. The legislative body may not count names withdrawn from the petition as part of the total required by section 12 [36-5-1-12] of this chapter. [IC 18-3-1-22, 18-3-1-23, recodified as IC 36-5-1-15 by Acts 1980, P.L. 212, § 4.]

**36-5-1-16. Certification of question — Date of election — Notice.** — If the town legislative body decides to submit the question of dissolving the town or changing its name to the voters of the town, it shall certify the question to the county election board. The election board shall fix the date of an election for that purpose. The town clerk shall give notice of the election in the manner prescribed by IC 5-3-1. [IC 18-3-1-24, recodified as IC 36-5-1-16 by Acts 1980, P.L. 212, § 4; 1981, P.L. 45, § 15; P.L.3-1987, § 559.]

**36-5-1-17. Election — Form on ballot.** — (a) An election under section 16 [IC 36-5-1-16] of this chapter shall be held in the town. The voters shall, by ballot, vote on the question submitted to them. The question shall be placed on the ballot in the form prescribed by IC 3-10-9-4 and must state "Shall the town of \_\_\_\_\_ dissolve?" or "Shall the town of \_\_\_\_\_ change its name to \_\_\_\_\_?"

(b) Within four (4) days after the canvass of the vote by the county election board, the town clerk shall prepare and attest a statement of all the votes cast at the election, to be signed by the members of the county election board and filed with:

- (1) The clerk of the county in which the greatest percentage of the population of the town is located; and
- (2) The state certifying official designated under IC 6-1.1-30-15. [IC 18-3-1-24, recodified as IC 36-5-1-17 by Acts 1980, P.L. 212, § 4; P.L.3-1987, § 560; P.L.5-1989, § 107.]

**36-5-1-18. Requirements for approval of question on election — Effect of approval.** — (a) If at least two-thirds

( $\frac{2}{3}$ ) of the votes cast in an election under section 16 [IC 36-5-1-16] of this chapter are affirmative, and at least four-fifths ( $\frac{4}{5}$ ) of all the voters listed in the census voted in the election, the dissolution or change of name takes effect in the manner prescribed by this section.

(b) A change of name takes effect thirty (30) days after the filing of the statement required by section 17 [IC 36-5-1-17] of this chapter.

(c) Except as provided in subsection (d), a dissolution takes effect six (6) months after the filing of the statement required by section 17 of this chapter. The property owned by the town after payment of debts and liabilities shall be disposed of in the manner chosen by a majority of the voters of the town at a special election for that purpose. Dissolution of a town does not affect the validity of a contract to which the town is a party.

(d) A dissolution under this chapter may not take effect during the year preceding a year in which a federal decennial census is conducted. A dissolution that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted. [IC 18-3-1-24, 18-3-1-25, recodified as IC 36-5-1-18 by Acts 1980, P.L. 212, § 4; P.L.5-1989, § 108.]

**36-5-1-19. Judicial appeal of decisions on question of dissolution or name change.** — (a) A person aggrieved by a decision made by the town legislative body under section 15 [36-5-1-15] of this chapter or by the result of an election under section 16 [36-5-1-16] of this chapter may, within thirty (30) days, appeal that decision or result to the circuit court for the county in which the town is located. The appeal is instituted by giving written notice to the town legislative body and filing with the town clerk a bond in the sum of five hundred dollars [\$500], with surety approved by the legislative body. The bond must provide that the appeal will be duly prosecuted and that the appellants will pay all costs if the appeal is decided against them.

(b) When an appeal is instituted, the town clerk shall file with the clerk of the circuit court a transcript of all proceedings in the case, together with all papers filed in the case. The town legislative body may not take further action in the case until the appeal is heard and determined.

(c) An appeal under this section shall be heard by the circuit court without a jury. Change of venue from the judge may be



granted, but change of venue from the county may not be granted. [IC 18-3-1-26, recodified as IC 36-5-1-19 by Acts 1980, P.L. 212, § 4.]

**36-5-1-20. Dissolution of town.** — (a) This section does not apply to a town described by IC 36-5-1-11.5.

(b) A town subject to this chapter may be dissolved if the county election board of the county in which the greatest percentage of population of the town is located conducts a public hearing and finds that the town has not elected town officers or had a functioning town government during the preceding ten (10) years.

(c) The county election board shall certify the board's findings to the county executive, who may adopt an ordinance or (in a county subject to IC 36-2-3.5) issue an order to dissolve the town. [P.L.3-1993, § 269.]

## CHAPTER 2

### TOWN LEGISLATIVE BODY AND EXECUTIVE

#### SECTION.

- 36-5-2-1. Application of chapter.
- 36-5-2-2. Designation of town legislative body and town executive.
- 36-5-2-3. Terms of members of board of trustees.
- 36-5-2-4. [Repealed.]
- 36-5-2-4.1. Election districts — Decennial redistricting.
- 36-5-2-4.2. Alteration of number of legislative body members.
- 36-5-2-5. Election of members of board.
- 36-5-2-6. Residence requirement of members of board.
- 36-5-2-7. Election of president of board — Term of office.
- 36-5-2-8. Clerk of legislative body — Tie-breaking vote authorized.
- 36-5-2-9. Powers and duties of board.
- 36-5-2-9.2. Quorum.
- 36-5-2-9.4. Requirements defined — Majority vote — Two-thirds vote.
- 36-5-2-9.6. Majority vote — When required.
- 36-5-2-9.8. Two-thirds vote — When required.
- 36-5-2-10. Publication and notice of ordinances prescribing penalties — Exceptions.
- 36-5-2-10.2. Record of ordinance.
- 36-5-2-11. Issue and sale of bonds authorized.
- 36-5-2-12. Temporary loans in anticipation of current revenues.

**36-5-2-1. Application of chapter.** — This chapter applies to all towns. [IC 36-5-2-1, as added by Acts 1980, P.L. 212, § 4.]

**36-5-2-2. Designation of town legislative body and town executive.** — The town council elected under IC 3-10-6 or IC 3-10-7 is the town legislative body. The president of the town council selected

under section 7 [IC 36-5-2-7] of this chapter is the town executive. [IC 36-5-2-2, as added by Acts 1980, P.L. 212, § 4; P.L.5-1986, § 55; P.L.8-1989, § 97.]

**36-5-2-3. Terms of members of board of trustees.** — (a) Except as provided in subsection (b), (c), (d), or (e), the term of office of a member of the legislative body is four (4) years, beginning at noon January 1 after the member's election and continuing until the member's successor is elected and qualified.

(b) The term of office of a member of the legislative body appointed to fill a vacancy resulting from an increase in the number of town legislative body members under section 4.2 [IC 36-5-2-4.2] of this chapter:

- (1) Begins when the ordinance increasing the number of legislative body members takes effect, or when the member is appointed under IC 3-13-9-4, if the appointment is made after the ordinance takes effect; and
- (2) Continues until noon January 1 following the next municipal election scheduled under IC 3-10-6-5 or IC 3-10-7-6 and until the member's successor is elected and qualified.

(c) The term of office of a member of the legislative body elected under IC 36-5-1-10.1 following the incorporation of the town:

- (1) Begins at noon November 30 following the election; and
- (2) Continues until noon January 1 following the next municipal election scheduled under IC 3-10-6-5 or IC 3-10-7-6 and until the member's successor is elected and qualified.

(d) The term of office of a member of the legislative body subject to IC 3-10-6-2.5(d)(1) is three (3) years, beginning at noon January 1 after the member's election and continuing until the member's successor is elected and qualified.

(e) The term of office of a member of a legislative body subject to an ordinance described by IC 3-10-6-2.6 is one (1) year, beginning at noon January 1 after the member's election and continuing until the member's successor is elected and qualified. [IC 18-3-1-16, recodified as IC 36-5-2-3 by Acts 1980, P.L. 212, § 4; P.L.3-1993, § 272.]

**36-5-2-4. [Repealed.]**

**36-5-2-4.1. Election districts — Decennial redistricting.** — (a) The legislative body may, by ordinance, divide the town into districts for the purpose of conducting elections of town officers. Except as provided in subsection (b), the

ordinance must divide the town in the manner prescribed in IC 36-5-1-10.1.

(b) The boundary of a town legislative body district established under subsection (a) may cross a precinct boundary line if the legislative body provides by ordinance under section 5 [IC 36-5-2-5] of this chapter that all legislative body members are to be elected at large by the voters of the whole town.

(c) If any territory in the town is not included in one (1) of the districts established under this section, the territory is included in the district that:

- (1) Is contiguous to that territory; and
- (2) Contains the least population of all districts contiguous to that territory.

(d) If any territory in the town is included in more than one (1) of the districts established under this section, the territory is included in the district that:

- (1) Is one (1) of the districts in which the territory is described in the ordinance adopted under this section;
- (2) Is contiguous to that territory; and
- (3) Contains the least population of all districts contiguous to that territory.

(e) The ordinance may be appealed in the manner prescribed by IC 34-4-17.5. If the town is located in two (2) or more counties, the appeal may be filed in the circuit or superior court of any of those counties.

(f) This subsection does not apply to a town with an ordinance described by subsection (g). The division permitted by subsection (a) shall be made in 2002, every ten (10) years after that, subject to IC 3-11-1.5-32, and when required to assign annexed territory to a municipal legislative body district. The division may also be made in any other year.

(g) This subsection applies to a town having a population of less than three thousand five hundred (3,500). The town legislative body may adopt an ordinance providing that:

- (1) Town legislative body districts are abolished; and
- (2) All members of the legislative body are elected at large.

(h) An ordinance described by subsection (g):

- (1) May not be adopted or repealed during a year in which a municipal election is scheduled to be conducted in the town under IC 3-10-6 or IC 3-10-7; and
- (2) Is effective upon passage.

(i) A copy of the ordinance establishing districts under this section must be filed with the circuit court clerk of the county that contains the greatest population of

the city not later than thirty (30) days after the ordinance is adopted. [IC 36-5-2-4.1, as added by Acts 1980, P.L. 2, § 17; P.L.13-1988, § 20; P.L.5-1989, § 115; P.L.7-1990, § 62; P.L.4-1991, § 146; P.L.3-1993, § 273.]

**36-5-2-4.2. Alteration of number of legislative body members.** — (a) This section applies to the alteration of the number of members of a legislative body.

(b) The legislative body may adopt a resolution to submit a public question on the number of legislative body members to the voters of the town. The resolution must state the following:

(1) The proposed number of legislative body members, which must be at least three (3) and not more than seven (7).

(2) The date of the general, municipal, or special election at which the public question will appear on the ballot.

(3) That the following question will be placed on the ballot in the form provided by IC 3-10-9-4:

"Shall the number of town council members be increased (or decreased, if applicable) from \_\_\_\_\_ (insert the current number of members provided for) to \_\_\_\_\_ (insert the number of members proposed in the resolution)?"

(c) IC 3 applies to an election conducted under subsection (b). If the county election board will conduct the election at which the public question will be submitted, the question must be certified to the board under IC 3-10-9-3.

(d) If a majority of the votes cast on the question under subsection (b) are in the negative, the legislative body may not adopt a resolution under subsection (b) for at least one (1) year following the date the prior resolution was adopted.

(e) If a majority of votes cast on the question under subsection (b) are in the affirmative, the legislative body shall adopt an ordinance at its next regular meeting following the election altering the number of legislative body members to the number specified in the public question. The legislative body may also alter existing districts and establish new districts in the manner prescribed by IC 36-5-1-10.1. An ordinance adopted under this subsection becomes effective January 1 following its adoption.

(f) If the number of legislative body members is increased, the legislative body shall fill any resulting vacancy under IC 3-13-9-4. The legislative body may fill the

vacancy before the ordinance described in subsection (e) takes effect. However, a town legislative body member appointed under this subsection does not assume office until the beginning of the term specified in section 3 [IC 36-5-2-3] of this chapter. [P.L.11-1988, § 12; P.L.8-1989, § 98; P.L.1-1990, § 359; P.L.3-1993, § 274.]

**36-5-2-5. Election of members of board.** — (a) The legislative body has:

(1) One (1) member for each district established under:

(A) IC 36-5-1-10.1; or

(B) Section 4.1 or 4.2 [IC 36-5-2-4.1 or IC 36-5-2-4.2] of this chapter; or

(2) The number of members provided for when the town adopted an ordinance under section 4.1 of this chapter abolishing town legislative body districts.

(b) The legislative body shall provide by ordinance that its members:

(1) Are to be elected by the voters of the district in which they reside;

(2) Are to be elected at large by the voters of the whole town; or

(3) Are to be elected both by districts and at-large.

(c) If a town legislative body adopts an ordinance under this section providing that its members are to be elected both by districts and at-large, the ordinance must:

(1) Specify which seats on the legislative body are elected by the voters of a district and which are elected by the voters of the whole town; and

(2) Provide that the ordinance is effective on January 1 following its adoption. [IC 18-3-1-16, recodified as IC 36-5-2-5 by Acts 1980, P.L. 212, § 4; 1982, P.L. 33, § 27; P.L.11-1988, § 13; P.L.7-1990, § 63.]

**36-5-2-6. Residence requirements of members of board.** — (a) A member of the legislative body must reside within:

(1) The town as provided in Article 6, Section 6 of the Constitution of the State of Indiana; and

(2) The district from which the member was elected, if applicable.

(b) A member of the legislative body who is elected by the voters of a district forfeits office if the member ceases to be a resident of the district.

(c) A member of the legislative body who is elected by the voters of the entire town but is elected or selected as a candidate from a district forfeits office if the member ceases to be a resident of the district.

(d) An at-large member of the legislative body forfeits office if the member ceases to be a resident of the town. [IC 18-3-1-16, recodified as IC 36-5-2-6 by Acts 1980, P.L. 212, § 4; P.L.3-1987, § 561; P.L.3-1993, § 275.]

**36-5-2-7. Election of president of board — Term of office.** — The legislative body shall select one [1] of its members to be its president for a definite term, which may not exceed his term of office as a member of the legislative body. [IC 18-3-1-20, 18-3-1-35, recodified as IC 36-5-2-7 by Acts 1980, P.L. 212, § 4.]

**36-5-2-8. Clerk of legislative body — Tie-breaking vote authorized.** — (a) The town clerk-treasurer is the clerk of the legislative body.

(b) Whenever the legislative body has an even number of members for any reason, the clerk-treasurer is an ex officio member for the purpose of casting the deciding vote to break a tie. [IC 18-3-1-31, 18-3-1-35, recodified as IC 36-5-2-8 by Acts 1980, P.L. 212, § 4.]

**36-5-2-9. Powers and duties of board.** — The legislative body may:

(1) Adopt ordinances and resolutions for the performance of functions of the town;

(2) Purchase, hold, and convey any interest in property, for the use of the town; and

(3) Adopt and use a common seal. [IC 18-3-1-35, 18-3-1-48, recodified as IC 36-5-2-9 by Acts 1980, P.L. 212, § 4.]

**36-5-2-9.2. Quorum.** — A majority of all the elected members of the legislative body constitutes a quorum. [IC 36-5-2-9.2, as added by Acts 1980, P.L. 73, § 14.]

**36-5-2-9.4. Requirements defined — Majority vote — Two-thirds vote.** — (a) A requirement that an ordinance, resolution, or other action of the legislative body be passed by a majority vote means at least a majority vote of all the elected members.

(b) A requirement that an ordinance, resolution, or other action of the legislative body be passed by a two-thirds [ $\frac{2}{3}$ ] vote means at least a two-thirds [ $\frac{2}{3}$ ] vote of all the elected members. [IC 36-5-2-9.4, as added by Acts 1980, P.L. 73, § 15.]

**36-5-2-9.6. Majority vote — When required.** — A majority vote of the legislative body is required to pass an ordinance, unless a greater vote is required by

statute. [IC 36-5-2-9.6, as added by Acts 1980, P.L. 73, § 16.]

**36-5-2-9.8. Two-thirds vote — When required.** — (a) A two-thirds ( $\frac{2}{3}$ ) vote of all the elected members, after unanimous consent of the members present to consider the ordinance, is required to pass an ordinance of the legislative body on the same day or at the same meeting at which it is introduced.

(b) Subsection (a) does not apply to the following:

(1) A zoning ordinance or amendment to a zoning ordinance adopted under IC 36-7.

(2) An ordinance to increase the number of town legislative body members adopted under section 4.2 [IC 36-5-2-4.2] of this chapter, unless the ordinance also establishes new legislative body districts. [IC 36-5-2-9.8, as added by Acts 1980, P.L. 73, § 17; 1982, P.L. 33, § 28; P.L.335-1985, § 37; P.L.3-1993, § 276.]

**36-5-2-10. Publication and notice of ordinances prescribing penalties — Exceptions.** — (a) An ordinance, order, or resolution passed by the legislative body is considered adopted when it is signed by the executive. If required by statute, an adopted ordinance, order, or resolution must be promulgated or published before it takes effect.

(b) An ordinance prescribing a penalty for a violation must, before it takes effect, be published in the manner prescribed by IC 5-3-1, unless:

(1) It is published under IC 36-1-5; or  
(2) It declares an emergency requiring its immediate effectiveness and is posted in:

(A) One (1) public place in each district in the town; or

(B) A number of public places in the town equal to the number of town legislative body members, if the town has abolished legislative body districts under section 4.1 [IC 36-5-2-4.1] of this chapter.

(c) This section does not apply to a zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under IC 36-7. [IC 18-3-1-48, recodified as IC 36-5-2-10 by Acts 1980, P.L. 212, § 4; 1980, P.L. 73, § 18; P.L.335-1985, § 38; P.L.7-1990, § 64.]

**36-5-2-10.2. Record of ordinance.** — Within a reasonable time after an ordinance of the legislative body is adopted, the clerk-treasurer shall record it in a

book kept for that purpose. The record must include:

(1) The signature of the executive;  
(2) The attestation of the clerk-treasurer; and  
(3) The date of each recorded item.

The record or a certified copy of it constitutes presumptive evidence of the adoption of the ordinance. [IC 36-5-2-10.2, as added by Acts 1980, P.L. 73, § 19.]

**36-5-2-11. Issue and sale of bonds authorized.** — (a) The legislative body may issue bonds for the purpose of procuring money to be used in the exercise of the powers of the town and for the payment of town debts. However, a town may not issue bonds to procure money to pay current expenses.

(b) Bonds issued under this section are payable in the amounts and at the times determined by the legislative body.

(c) Bonds issued under this section are subject to the provisions of IC 5-1 and IC 6-1.1-20 relating to the filing of a petition requesting the issuance of bonds and giving notice of the petition, the giving of notice of a hearing on the appropriation of the proceeds of bonds, the right of taxpayers to appear and be heard on the proposed appropriation, the approval of the appropriation by the state board of tax commissioners, the right of taxpayers to remonstrate against the issuance of bonds, and the sale of bonds at public sale for not less than their par value.

(d) The legislative body may, by ordinance, make loans of money for not more than five (5) years and issue notes for the purpose of refunding those loans. The loans may be made only for the purpose of procuring money to be used in the exercise of the powers of the town, and the total amount of outstanding loans under this subsection may not exceed five percent (5%) of the town's total tax levy in the current year (excluding amounts levied to pay debt service and lease rentals). Loans under this subsection shall be made as follows:

(1) The ordinance authorizing the loans must pledge to their payment a sufficient amount of tax revenues over the ensuing five (5) years to provide for refunding the loans.

(2) The loans must be evidenced by notes of the town in terms designating the nature of the consideration, the time and place payable, and the revenues out of which they will be payable.

(3) The interest accruing on the notes to the date of maturity may be added to and included in their face value or

be made payable periodically, as provided in the ordinance.

Notes issued under this subsection are not bonded indebtedness for purposes of IC 6-1.1-18.5. [IC 18-5-24-2, recodified as IC 36-5-2-11 by Acts 1980, P.L. 212, § 4; P.L.37-1988, § 24.]

**36-5-2-12. Temporary loans in anticipation of current revenues.** — (a) The legislative body may, by ordinance, make temporary loans in anticipation of current revenues of the town that have been levied and are being collected for the fiscal year in which the loans are made. Loans under this section shall be made in the same manner as loans made under section 11(b) and 11(c) [IC 36-5-2-11(b) or IC 36-5-2-11(c)] of this chapter, except that:

(1) The ordinance authorizing the loans must appropriate and pledge to the payment of the loans a sufficient amount of the revenues in anticipation of which the loans are issued and out of which the loans are payable; and

(2) The loans must be evidenced by time warrants of the town in terms designating the nature of the consideration, the time and place payable, and the revenues in anticipation of which the loans are issued and out of which the loans are payable.

(b) An action to contest the validity of a loan made under this section must be brought within fifteen (15) days from the day on which the ordinance is adopted. [P.L.35-1990, § 45.]



## User's Guide to the Index

This index contains treatment of the laws compiled in the *Indiana Election Code*, 1993 Edition. Statutory provisions from Burns Indiana Statutes Annotated are referred to in the index by section number (e.g., §3-8-7-27).

This index is a topical index, not a random word index. Random entries in an index to statutes are misleading since they result in split or partial treatment. Therefore, the systematic use of main topics or headings has been employed. Main headings treat the subject matter exhaustively unless references are made to other headings. Although the same subject matter is frequently repeated under different headings in the index, cross references are employed extensively to prevent the index from becoming too large and unwieldy. Many cross references carry statute section numbers indicating the main treatment of the subject; however, where a subject is dealt with in numerous unconnected sections, no section numbers are carried with the index cross reference.

Main headings were derived from the language of Burns Indiana Statutes Annotated or from the phraseology commonly used in the courts of Indiana. In addition, an effort was made to employ phrases and terms commonly applied to Burns Indiana Statutes Annotated sections, such as frequently used nonlegal terms.

We solicit your help in keeping this index as usable as possible and ask that you inform us of any popular names that may have eluded us and tell us of any errors we have made or improvements you think we should make. The Michie Company maintains a toll-free telephone number (1-800-446-3410) for use by those needing immediate help in locating a particular section or by those desiring to make comments or suggestions. All suggestions, questions and comments receive serious consideration, and all communications receive a reply.

The index does not attempt to cover each topic in the vast field of law but refers only to the material contained in the *Indiana Election Code*. A thorough knowledge of the format and terminology of this book is essential to the use of this index as a guide to subject matter.

A few basic rules for using this index are:

(1) *Gain familiarity with the contents of the Indiana Election Code and the index.* Knowledge of the arrangement, terminology, topical treatment, analyses and reference system of both this book and the index is essential and must be acquired through examination and study.

(2) *Consult the principal subject and not the secondary subject.* Thus, for registration of voters, look under registration and not under voters.

(3) *Look for the noun and not the adjective.* Thus, for presidential candidates, look under candidates and not under presidential. An exception to this rule is made for commonly used phrases that are expressed in unitary phrases. Thus, for absentee voting, look under that heading and not under voting.

(4) *Consult the most pertinent subject.* Thus, for establishment of precincts, look under precincts and not under establishment.

(5) *Consult allied headings.* If your search under one heading is to no avail, try another allied heading. Thus, if a search under the heading ballot card voting systems is fruitless, try voting machines or electronic voting systems or other related headings. Each section has itemized entries, but perhaps the entries appear under headings that may not have initially occurred to you.

(6) *Use cross references.* Pay close attention to and make full use of the index cross references.

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