2012 Indiana Election Legislation Summary

Prepared by the Indiana Election Division

This document summarizes the election-related legislation that passed the Indiana General Assembly and became law in 2012. Bills may be obtained by contacting the Legislative Information Center at 200 West Washington Street, Room 230, Indianapolis, Indiana 46204-2731; (317) 232-9856, or by downloading documents from the General Assembly's website at www.in.gov/legislative.

This document is intended to serve as an overview of information concerning Indiana election laws. Although the Election Division takes every effort to ensure the accuracy of the information in this document, **where your legal rights are involved, do not rely on this document. Instead, review the law yourself or consult with your attorney.**

The 2012 Regular Session of the Indiana General Assembly enacted the following election-related bills:

Public Law 90-2012 (Senate Enrolled Act 193): Statement of Economic Interest for Local and School Board Offices
Public Law 96-2012 (House Enrolled Act 1004): Miscellaneous Election Matters
Public Law 121-2012 (Senate Enrolled Act 175): Absentee Ballot Applications
Public Law 124-2012 (Senate Enrolled Act 233): Miscellaneous Election Matters
Public Law 135-2012 (House Enrolled Act 1005): Nepotism; Conflict of Interest
Public Law 146-1012 (House Enrolled Act 1195): County Assessor Candidate Qualifications

The following bills made technical or non-election related amendments to election statutes:

Public Law 6-2012 (House Enrolled Act 1009): Technical Corrections
Public Law 34-2012 (Senate Enrolled Act 119): Technical Corrections to Legislative Districts
Public Law 74-2012 (House Enrolled Act 1092): Courts
Public Law 100-2012 (House Enrolled Act 1207): Repeal of Campaign Finance Restriction
Public Law 114-2012 (Senate Enrolled Act 26): Crimes Outside of Title 35
Public Law 119-2012 (Senate Enrolled Act 115): Changes in Population Parameters in State Law
Public Law 126-2012 (Senate Enrolled Act 262): Crimes against Public Administration
Public Law 134-2012 (House Enrolled Act 1003): Open Door Law and Public Record Law Changes

ELECTION ADMINISTRATION

Candidate Must File with Correct Election Office

A county election board, circuit court clerk, county voter registration office, or town election board may not accept a candidate's declaration or a document certifying the candidacy of a person on behalf of the

secretary of state or the election division when state law requires that the declaration or document be filed with the secretary of state or election division to be effective.

If a county election board, circuit court clerk, county voter registration office, or town election board that accepts a candidate's declaration or document required to be filed with the secretary of state or election division to be effective, then the following rules apply:

1) The board, clerk or office may not act as an agent of the secretary of state or election division;
2) The board, clerk or office is not required to transmit the filing to the secretary of state or election division; and
3) The filing is void and the name of the candidate set forth in the filing may not appear on the ballot unless the filing is made with the secretary of state or the election division in the manner required by state law.

(SEA 233 § 1; Effective date: March 19, 2012; Citation affected: IC 3-5-4-1.2 [New])

Petition Candidate Must Timely File both Petition and Consent to be Effective

An independent or minor party (other than the Libertarian Party) candidate required by state law to file petitions (current state form CAN-19) and written consent (current state form CAN-20) must timely file both petitions and a written consent in order to be placed on the ballot as a candidate by a county election board or certified for placement on the ballot as a candidate by the election division. A filing of petitions without a written consent, or the filing of a written consent without petitions, is not a sufficient filing to place a candidate on the ballot.

(SEA 233 § 3; Effective date: March 19, 2012; Citation affected: IC 3-8-6-12.5 [New])

Minor Party Petition Candidate Vacancies

The deadline for a minor political party (other than the Libertarian Party) to substitute a new candidate for a candidate named on petitions is noon July 3 before the election. (This deadline was the second Tuesday in September under prior law).

(SEA 233 § 5; Effective date: July 1, 2012; Citation affected: IC 3-8-6-17)

Filing Deadline for Petition Candidate for a Special Election

In a special election called by the governor a petition of nomination must be filed with the circuit court clerk or other public official with whom a petition is required to be filed any time after the election is called but no later than noon 74 days before the special election. (This deadline was noon 50 days before the special election under prior law.)

(SEA 233 § 4; Effective date: March 19, 2012; Citation affected: IC 3-8-6-13)

All Filings Related to Ballot Vacancy Candidate Must be Timely Filed to be Effective

The election division, circuit court clerk, or any other official responsible for receiving a certificate of candidate selection to fill an early ballot vacancy may not receive a certificate of candidate selection if any of the following documents related to the ballot vacancy are offered to be filed after the deadline provided in

state law applicable to the document: 1) Notice of caucus or meeting; 2) declaration of candidacy filed by the individual selected as the candidate to fill the ballot vacancy; or 3) the certificate of candidate selection.

(SEA 233 § 8; Effective date: March 19, 2012; Citation affected: IC 3-13-1-21 [New])

Open Door Law Changes

Beginning January 1, 2013, one or more members of the governing bodies of **state agencies** may, under certain circumstances, be considered present, be counted for purposes of establishing a quorum, and vote by electronic communication in a meeting held under the Open Door Law if the state agency adopts a policy that meets the requirements of state law that permits electronic communication in a meeting.

The provisions that permit members of governing bodies of state agencies to participate in a meeting under the Open Door Law by electronic communication **do not apply to the governing bodies of local political subdivisions or local public agencies (including a county election board)**. A member of the governing body of a local political subdivision or public agency who is not physically present at a meeting of the governing body but who communicates with members of the governing body during the meeting by telephone, computer, video conferencing, or any other electronic means of communication:

1) May not be considered to be present at the meeting unless considering the member to be present at the meeting is expressly authorized by state law; and
2) May not participate in final action taken at the meeting unless the member's participation is expressly authorized by state law.

(Currently no state law permits a member of a county election board communicating by electronic means to be considered present at a meeting of the board or to participate in any final action taken in a meeting by the board)

The minutes prepared for a meeting at which a member participates by electronic communication must state the name of each member who was physically present at the meeting, each member who participated in the meeting by electronic communication, and each member who was absent.

(HEA 1003 §§ 10, 11, 12 and 13; Effective date: January 1, 2013; Citation affected: IC 5-14-1.5-3; IC 5-14-1.5-3.5 [New]; IC 5-14-1.5-3.6 [New]; IC 5-14-1.5-4)

In a successful lawsuit proving a violation of the Open Door Law, the court may impose a civil penalty against an officer of a public agency, an individual employed in a management-level position with a public agency, or the public agency if the Public Access Counselor has issued an advisory opinion that finds that a violation of the Open Door Law occurred before the lawsuit is filed and the court finds that an individual, with the specific intent to violate the Open Door Law, failed to perform a duty imposed by the Open Door Law by:

1) Failing to give proper notice of a regular meeting, special meeting, or executive session;
2) Taking final action outside a regular meeting or special meeting;
3) Participating in a secret ballot during a meeting;
4) Discussing in an executive session subjects not eligible for discussion in an executive session;
5) Failing to prepare a memorandum (minutes) of a meeting as required; or
6) Participating in at least one (1) gathering of a series of "serial" meetings in violation of IC 5-14-1.5-3.1.

In addition to any other civil or criminal penalty authorized by state law, a court may impose a civil penalty of not more than one hundred dollars ($100) for the first violation and not more than five hundred dollars

($500) for each additional violation against the officer, management-level employee, and the public agency named in the lawsuit. A court may impose only one civil penalty against an individual in any one lawsuit brought, even if the court finds in that lawsuit that the individual committed multiple violations of the Open Door Law.

It is a defense to the imposition of a civil penalty that the individual failed to perform a duty under the Open Door Law in reliance on either an opinion of the public agency's legal counsel or an opinion of the attorney general. In addition, if an officer of a public agency directs a management level employee to fail to give proper notice of a regular or special meeting, the management level employee is not subject to civil penalties for failing to give such notice.

(HEA 1003 §§ 15 and 16; Effective date: July 1, 2012; Citation affected: IC 5-14-1.5-7; IC 5-14-1.5-7.5 [New])

Public Record Law Changes

In a successful lawsuit proving a violation of the Public Records Law a court may impose a civil penalty against an officer of a public agency, an individual employed in a management level position with the public agency, or the public agency if the court finds the following: 1) before the lawsuit was filed the officer, management-level employee, or agency continued to deny a request for a public record after the Public Access Counselor issued an advisory opinion that instructs the agency to allow access to the public record; and 2) the officer, management-level employee, or agency had specific intent to unlawfully withhold a public record subject to disclosure.

In a successful lawsuit against an officer or management level employee a court may impose a civil penalty against the officer or management level employee if the court finds as follows: (1) the Public Access Counselor issued an advisory opinion before the lawsuit was filed; and (2) the officer or management level employee intentionally charged a copying fee that the individual knew exceeds the amount set by statute, fee schedule, ordinance, or court order.

It is a defense to the imposition of a civil penalty that the individual denied access to a public record in reliance on either an opinion of the public agency's legal counsel or an opinion of the attorney general. In addition, if an officer of a public agency directs a management level employee to deny a request for access to a public record the management level employee is not subject to civil penalties for failing to allow access to the record.

In addition to any other civil or criminal penalty authorized by state law, a court may impose a civil penalty of not more than one hundred dollars ($100) for the first violation and not more than five hundred dollars ($500) for each additional violation against the officer, management-level employee, and the public agency named in the lawsuit. A court may impose only one civil penalty against an individual in any one lawsuit brought, even if the court finds in that lawsuit that the individual committed multiple violations of the Public Records Law.

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(HEA 1003 §§ 19 and 20; Effective date: July 1, 2012; Citation affected: IC 5-14-3-9; IC 5-14-3-9.5 [New])

ABSENTEE VOTING

Circuit Court Clerk Required to Enter Absentee Ballot Application Information into SVRS

The circuit court clerk is required to enter absentee ballot application information into the statewide voter registration system.

(HEA 1004 § 3; Effective date: March 16, 2012; Citations affected: IC 3-11-4-17)
(SEA 175 § 3; Effective date: July 1, 2012; Citations affected: IC 3-11-4-17)

Absentee Ballot Applications

A person other than the voter may not pre-complete an absentee ballot application with the voter's voter identification number before providing the absentee ballot application to the voter.

The Indiana Election Commission (IEC) shall, not later than June 30, 2012, modify the absentee ballot application form to request that the voter provide the last four digits of the voter's Social Security Number or state that the voter does not have a Social Security Number. The form must indicate that providing the requested information is optional. An absentee ballot application form submitted by a voter after June 30, 2012 must be submitted on a form which complies with this requirement or be on an earlier approved version of an application form authorized for use on June 30, 2012.

The voter's absentee ballot application may not be denied based on the voter's failure to provide the requested information concerning the last 4 digits of the voter's Social Security number, or a statement that the voter does not have a Social Security number.

If the voter provides the last four digits of the voter's Social Security Number or state that the voter does not have a Social Security Number, the circuit court clerk shall enter this information into the statewide voter registration system.

(SEA 175 §§1, 2, 3 and 4; Effective date: July 1, 2012; Citations affected: IC 3-11-4-2; IC 3-11-4-5.1; IC 3-11-4-17; IC 3-11-4-17.5)

Securing Absentee Ballots; County Election Board Member Keys

During the period when absentee ballots are being received, the appointed county election board members, or their designees, must be present with the key to lock the cabinet, boxes, or room containing absentee ballots both when the lock is secured and at the time the lock is opened the next day. The key of each appointed member of the county election board shall be kept secure in the manner determined by that appointed member.

(SEA 175 § 5; Effective date: July 1, 2012; Citations affected: IC 3-11-10-10)

Interim Study Committee

The legislative council is urged to assign the following issues to a study committee during the 2012 legislative interim:

1) Ballot security for an absentee ballot transmitted to and from a voter by mail;
2) Connection between the statewide voter registration system and files maintained by the Indiana department of revenue.

If the topics are assigned to a study committee, the study committee shall issue a final report to the legislative council containing the study committee's findings and recommendations, including any recommended legislation concerning these issues.

(SEA 175 § 6; Effective date: July 1, 2012; Citations affected: Noncode)

BALLOTS AND VOTING SYSTEMS

Uncontested Candidates Placed on Ballot; Exception

When candidates have filed for municipal offices but there are no contests for any municipal office, the municipality must conduct an election and place all uncontested candidates on the ballot unless the county election board adopts a resolution by a unanimous vote of the entire membership of the board to hold no election in the municipality. If a resolution is adopted, no municipal election will be held and the resolution expires on January 1 of the year following the year the resolution was adopted.

When there is at least one contest for an office of a municipality (*for example, a write-in candidate opposing another candidate would result in a contest*), all candidates must be placed on the ballot whether the candidates are contested or not. The only exception to this general rule occurs when:

1) There is a contest for at least one council seat;
2) Only the voters of the council district(s) may vote for their council member; and
3) There is no election for an office to be voted on by all the voters of the municipality.

In these circumstances, the county election board may, by unanimous vote of all its members, adopt a resolution providing that a municipal election will occur only in those council districts in which voters will elect council members as described in 1) through 3) above. If the county election board unanimously passes the resolution, then the names of unopposed candidates that could be voted on by all the voters of the municipality may be left off the ballot. Only the names of opposed and unopposed council members in districts where only the voters of the council district may vote for their council member are required to be placed on the ballot under these circumstances.

(SEA 233 §§ 6 and 7; Effective date: March 19, 2012; Citations affected: 3-10-6-7.5; 3-8-7-6)
(HEA 1004 §§ 1 and 2; Effective date: March 16, 2012; Citations affected: 3-10-6-7.5; 3-8-7-6)

CANDIDATES AND OFFICEHOLDERS

Candidate Must File with Correct Election Office

A county election board, circuit court clerk, county voter registration office, or town election board may not accept a candidate's declaration or a document certifying the candidacy of a person on behalf of the secretary of state or the election division when state law requires that the declaration or document be filed with the secretary of state or election division to be effective.

If a county election board, circuit court clerk, county voter registration office, or town election board that accepts a candidate's declaration or document required to be filed with the secretary of state or election division to be effective, then the following rules apply:

1) The board, clerk or office may not act as an agent of the secretary of state or election division;
2) The board, clerk or office is not required to transmit the filing to the secretary of state or election division; and
3) The filing is void and the name of the candidate set forth in the filing may not appear on the ballot unless the filing is made with the secretary of state or the election division in the manner required by state law.

(SEA 233 § 1; Effective date: March 19, 2012; Citation affected: IC 3-5-4-1.2 [New])

Statement of Economic Interests for Local Offices and School Board Offices

Beginning January 1, 2013, a candidate for a local or school board office must file a statement of economic interests with the candidate's declaration of candidacy, petition of nomination, declaration of intent to be a write-in candidate, or certificate of candidate selection. The circuit court clerk shall reject a declaration of candidacy, petition of nomination, declaration of intent to be a write-in candidate, or certificate of candidate selection that does not include statement of economic interests.

Beginning January 1, 2013, an individual selected to fill a vacancy in an elected local or school board office must file a statement of economic interests not later than sixty (60) days after the individual assumes office.

The requirement for filing a statement of economic interests do not apply to candidates or individuals selected to fill an office vacancy for the local offices of judge or prosecuting attorney. Candidates for these local offices file with the Indiana election division and are subject to a different requirement to file a statement of economic interests with State Court Administration before filing candidacy documents.

The statement of economic interests must be made under affirmation and contain the following information for the preceding calendar year:

(1) The following information for each employer of the filer and each employer of the filer's spouse:
(A) The name of the employer.
(B) The nature of the employer's business.
For purposes of this subdivision, "employer" means any person from whom the filer or the filer's spouse received more than thirty-three percent (33%) of the filer's or the filer's spouse's income.

(2) The following information about any sole proprietorship owned or professional practice operated by the filer:
(A) The name of the sole proprietorship or professional practice.
(B) The nature of the business of the sole proprietorship or professional practice.

(3) The name of any partnership or limited liability company in which the filer or the filer's spouse is a member and the nature of the business of the partnership or limited liability company.

(4) The name of a corporation (other than a church) of which the filer or the filer's spouse is an officer or a director and the nature of the corporation's business.

The Indiana Election Commission shall prescribe the form of the statement.

(SEA 193 §§ 1, 2 and 3; Effective date: January 1, 2013; Citations affected: IC 3-8-1-33; IC 3-8-2-11; IC 3-8-9 [New])

Dual Lucrative Office

The following are not lucrative offices for purposes of determining whether someone holds more than one lucrative office in violation of the Indiana Constitution Article 2 § 9: (1) Notary public. (2) Membership on a board administered by the Professional Licensing Agency. A person holding either of these positions may hold another elective or appointed "lucrative office."

(HEA 1005 §§ 3, 4 and 5; Effective date: July 1, 2012; Citations affected: IC 25-1-5-3.5 [NEW]; IC 25-1-6-3.5 [NEW]; IC 33-42-2-7)

Prohibition on Government Employment for Some Officeholders

An employee of a county, township, city, or town ("unit") is considered to have resigned from employment with the unit if the employee assumes an elected executive office (county commissioner or mayor, for example), or assumes an elected office on the legislative or fiscal body (county council, township board, or city or town council, for example), of the ***same unit*** where the person is employed.

A full-time paid firefighter or a volunteer firefighter may not assume or hold a position on the executive, legislative, or fiscal body of a unit that receives fire protection services from the department in which the firefighter serves.

An employee of one unit may assume or hold an elected office of a unit other than the unit that employs the employee. In addition, a firefighter (including a full-time paid firefighter or a volunteer firefighter of a unit that receives fire protection services from the department in which the firefighter serves) may hold office in a unit other than the unit that receives fire protection services from department that employs the firefighter.

Further, an elected officer of a unit may serve on a ***board, commission, or committee of the same unit***.

Finally, an employee or firefighter (including a full-time paid firefighter or a volunteer firefighter of a unit that receives fire protection services from the department in which the firefighter serves) who assumes or holds an elected office of a unit on January 1, 2013 may continue to hold the office and be employed by the same unit until the term of the elected office that the employee or firefighter is serving on January 1, 2013 expires.

(HEA 1005 §§ 1, 6, 9, 10, 11 and 12; Effective date: July 1, 2012 and January 1, 2013; Citations affected: IC 3-5-9 [New]; IC 36-1-8-10.5; IC 36-4-4-2; IC 36-8-3-12; IC 36-8-5-2; IC 36-8-10-11)

Nepotism and Contracting Law

A relative may not be employed by a county, township, city, or town ("unit") in a position that results in one relative being in the direct line of supervision of the other relative. The performance of the duties of a precinct election officer or a volunteer firefighter is not considered employment by a unit.

"Relative" means a spouse, parent or stepparent, child (including an adopted child), stepchild, brother or sister (including a brother or sister by the half blood), stepbrother, stepsister, niece, nephew, aunt, uncle, daughter-in-law, and son-in-law.

"Employed" means an individual who is employed by a unit on a full-time, part-time, temporary, intermittent, or hourly basis. The term does not include an individual who holds only an elected office. The term includes an individual who is a party to an employment contract with the unit.

"Direct line of supervision" means an elected officer or employee who is in a position to affect the terms and conditions of another individual's employment, including making decisions about work assignments, compensation, grievances, advancement, or performance evaluation. The term does not include the responsibilities of the executive, legislative body or fiscal body of a unit, as provided by law, to make decisions regarding salary ordinances, budgets or personnel policies of the unit.

An individual who is employed by a unit on July 1, 2012, is not subject to this restriction unless the individual has a break in employment with the unit. The following are not considered a "break" in employment with the unit:

1) The individual is absent from the workplace while on paid or unpaid leave, including vacation, sick, or family medical leave, or worker's compensation.

2) The individual's employment with the unit is terminated followed by immediate reemployment by the unit, without loss of payroll time.

A unit shall adopt a nepotism policy that includes at least the minimum requirements regarding nepotism as set forth in state law. The policy may be stricter than state law and include requirements that are more stringent and detailed and prohibit the employment of others the unit defines as relatives not otherwise prohibited by IC 36-1-20.2 (the state law regarding nepotism).

The following are additional exceptions to the nepotism law, which apply unless the unit adopts a stricter nepotism policy than the minimum nepotism policy required by state law:

1) An individual who is employed by a unit (or a party to an existing employment contract with a unit) on the date the individual's relative begins serving a term of an elected office of the unit may remain as employee or contractor for the unit. Under this exception, an individual may maintain their position or rank even if the individual would be in the direct line of supervision of the individual's relative. However, the individual may not be promoted to a position if the new position would place the individual in the direct line of supervision of the individual's relative except for an individual who is a member of a merit police department or merit fire department. In the case of an individual who is a member of a merit police department or merit fire department, the individual may not be promoted to a position that is not within the merit ranks if the new position would place the individual in the direct line of supervision of the individual's relative.

2) A township trustee whose office is located in the trustee's personal residence may employ one relative to work in the township trustee's office and be in the trustee's line of supervision so long as the employee does not receive total salary, benefits, and compensation that exceeds Five Thousand Dollars ($5,000) per year.

3) An individual who served as coroner, but is ineligible for another term of office due to term limits, may be hired by the coroner's successor even though the successor is a relative and will result in the coroner working in the successor's direct line of supervision so long as the individual received certification under IC 36-2-14-22.3 as coroner.

4) A sheriff may hire the sheriff's spouse as prison matron for the county and work in the sheriff's direct line of supervision.

A unit may enter into or renew a contract for the procurement of goods and services or a contract for public works with a relative (as defined above) of an elected official of the unit, or with a business wholly or partially owned by a relative of an elected official of the unit, if the elected official does not violate the criminal conflict

of interest statute (IC 35-44-1-3) and the elected official makes a full, written disclosure, affirmed under the penalties of perjury, that contains a description of the contract or purchase and the relationship that the elected official has to the individual or business. This written disclosure must be filed with the state board of accounts and the circuit court clerk of county where the unit takes final action on the contract or purchase not later than fifteen (15) days after final action on the contract or purchase.

The appropriate agency of the unit must also make a certified statement that the contract amount or purchase price was the lowest bid or offered or state the reasons why the vendor or contractor was selected. The unit must also satisfy any other requirement of procurement law (IC 5-22 or 36-1-12).

A unit shall adopt a nepotism contracting policy that includes at least the minimum requirements regarding contracting with a unit summarized above as set forth in state law (IC 36-1-21). The policy may be stricter than state law and include requirements that are more stringent and detailed and may apply to individuals who are otherwise exempted or excluded under state law so as to prohibit or restrict an individual, not otherwise prohibited or restricted under state law, from entering into a contract with the unit.

The annual report filed by the executive of a unit with the state board of accounts under IC 5-11-13-1 must include a statement by the executive of the unit stating whether the unit has implemented a nepotism personnel policy that complies with IC 36-1-20.2 and a nepotism contracting policy that complies with IC 36-1-21. If a unit has not implemented a policy under IC 36-1-20.2 and IC 36-1-21, the state board of accounts shall forward the information to the department of local government finance and the department of local government finance may not approve the unit's budget or any additional appropriations for the unit for the ensuing calendar year until the state board of accounts certifies to the department of local government finance that the unit is in compliance with IC 36-1-20.2 and IC 36-1-21.

Each elected official of a unit shall submit a written certification under penalties of perjury not later than December 31 of each year to the executive of the unit that the official is in compliance with the nepotism and contracting law.

(HEA 1005 §§ 2, 7 and 8; Effective date: July 1, 2012; Citations affected: IC 5-11-13-1.1 [New]; IC 36-1-20.2 {New]; IC 36-1-21 [New])

Major Party County Chair Shall Fill Office or Ballot Vacancy if No Quorum Present

When a major party fails to achieve a quorum of precinct committeemen under the rules of the meeting held for the purpose of filling an office vacancy or a ballot vacancy pursuant to state law, the county chairman shall fill the office or ballot vacancy by making the appointment to fill the office of ballot vacancy.

When the county chairmen of a major party in more than one county are authorized to meet to fill a late ballot vacancy in a state legislative office, or a late ballot vacancy for the office of judge or prosecuting attorney in a circuit consisting of more than one county, and a quorum of county chairmen required under the rules of the meeting is not established, the state chairman of the party shall fill the late ballot vacancy by making the appointment to fill the office or ballot vacancy.

(HEA 1004 § 4, 5 and 6; Effective date: January 1, 2013; Citations affected: IC 3-13-1-12; IC 3-13-2-6; IC 3-13-11-8)

County Assessor Candidate Qualifications

A candidate for county assessor who held office as county assessor on January 1, 2012 is not required to have attained the certification of a level three assessor-appraiser to be a candidate for the November 6, 2012 election but will be required to attain the certification of a level three assessor-appraiser to run in an election after January 1, 2016. Prior law required that all candidates for county assessor, including those who held office as county on January 1, 2012, to have attained the certification of a level three assessor-appraiser to run in an election after January 1, 2012.

(HEA 1195 § 1; Effective date: Retroactive; Citations affected: IC 3-8-1-23)

CITY AND TOWN ELECTIONS

Uncontested Candidates Placed on Ballot; Exception

When candidates have filed for municipal offices but there are no contests for any municipal office, the municipality must conduct an election and place all uncontested candidates on the ballot unless the county election board adopts a resolution by a unanimous vote of the entire membership of the board to hold no election in the municipality. If a resolution is adopted, no municipal election will be held and the resolution expires on January 1 of the year following the year the resolution was adopted.

When there is at least one contest for an office of a municipality (*for example, a write-in candidate opposing another candidate would result in a contest*), all candidates must be placed on the ballot whether the candidates are contested or not. The only exception to this general rule occurs when:

1) There is a contest for at least one council seat;
2) Only the voters of the council district(s) may vote for their council member; and
3) There is no election for an office to be voted on by all the voters of the municipality.

In these circumstances, the county election board may, by unanimous vote of all its members, adopt a resolution providing that a municipal election will occur only in those council districts in which voters will elect council members as described in 1) through 3) above. If the county election board unanimously passes the resolution, then the names of unopposed candidates that could be voted on by all the voters of the municipality may be left off the ballot. Only the names of opposed and unopposed council members in districts where only the voters of the council district may vote for their council member are required to be placed on the ballot under these circumstances.

(SEA 233 §§ 6 and 7; Effective date: March 19, 2012; Citations affected: 3-10-6-7.5; 3-8-7-6)
(HEA 1004 §§ 1 and 2; Effective date: March 16, 2012; Citations affected: 3-10-6-7.5; 3-8-7-6)

MISCELLANEOUS TECHNICAL CHANGES

Legislation Affecting Courts or Creating New Courts

A fourth judge is added to Johnson Superior Court as of January 1, 2015. The initial election of the judge of Johnson Superior Court 4 will be at the November 4, 2014 general election. The term of the judge elected will begin January 1, 2015.

(HEA 1092 §§ 1, 2 and 3; Effective date: July 1, 2012; Citation affected: IC 33-33-41-3; 33-33-41-4; IC 33-41-4.1 [New])

Technical Corrections to the 2011 Indiana House of Representatives Redistricting Plan

Minor technical changes were made to the 2011 Redistricting Plan affecting Indiana House Districts 48 and 49. The actions to implement this technical change taken by the Elkhart County Circuit Court Clerk, Elkhart County Commissioners, and other Elkhart County officials are legalized.

(SEA 119 §§ 1 and 2; Effective date: March 14, 2012; Citation affected: IC 2-1-12.5 [New])

Correcting or Removing Obsolete References and Cross-References

A cross-reference to a statute regarding the election of Republican Party precinct committeemen is added to current law.

(SEA 233 § 2; Effective date: March 19, 2012; Citation affected: IC 3-6-2-1)

A reference to the terms of elected school board members in a county with a population of more than 400,000 is changed to conform to amendments made during the 2011 session of the General Assembly providing for all elected school board members to be elected at a general election.

(HEA 1004 § 7; Effective date; March 19, 2012; Citations affected: IC 20-26-4-4)

Changes to the law governing primary election ballot format (IC 3-10-1-19) during the 2011 session of the General Assembly to change the order in which to list a public question on the primary ballot, to eliminate school board elections during a primary, and to eliminate references to the office of county court judge are all reconciled into one amended and corrected version of IC 3-10-1-19.

(HEA 1009 § 8; Effective date: February 22, 2012; Citations affected: IC 3-10-1-19)

The law governing the format of paper ballots is changed to reflect the elimination of the office of judge of the county court.

(HEA 1009 § 9; Effective date: February 22, 2012; Citations affected: IC 3-11-2-12)

Cross-references in definitions of “contribution,” “expenditure,” and “lawful detention” in the election code to the definition of “property” in the criminal code are corrected. In addition, cross-references in the election code to criminal code definitions for “law enforcement officer” and “forcible felony” are corrected.

(HEA 1003 §§ 2, 3, 4, 5 and 6; Effective date: July 1, 2012; Citations affected: IC 3-5-2-15; IC 3-5-2-23; IC 3-5-2-26.8; IC 3-6-6-35; IC 3-14-3-18)

Crimes against general public administration (bribery, official misconduct, conflict of interest, profiteering from public service, perjury, and ghost employment) are relocated in a new article of the Indiana criminal code.

(SEA 262 §§ 53 and 54; Effective date: July 1, 2012; Citations affected: IC 35-44[repealed]; IC 35-44.1 [New])

A state law that allows a member of a county executive or a county fiscal body to remain in office when the member was relocated outside the member's district as the result of the state's acquisition of the member's residence but remained a resident of the county is repealed.

(SEA 193 §§ 4 and 5; Effective date: March 16, 2012; Citations affected: IC 36-2-2-5; IC 36-2-3-5)

Population parameters in various statutes were changed to reflect the population counts determined by the 2010 decennial census. These changes in population parameters take effect April 1, 2012.

(SEA 115 §§ 1-252; Effective Date: April 1, 2012 except § 1 [effective March 19, 2012] and §§ 80, 219, 238 [effective July 1, 2012]; Title 3 Citations affected: IC 3-6-5-1; IC 3-6-5.4-1; IC 3-8-1-1.5; IC 3-8-1-28.5; IC 3-10-6-2.5; IC 3-10-7-2.5)

Obsolete cross-references in the Indiana election code to laws restricting certain persons from soliciting or receiving campaign contributions are repealed.

(HEA 1207 §; Effective Date: July 1, 2012; Citations affected: IC 3-9-2-13)