

# HOUSE BILL No. 1381

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 3-10-8; IC 3-11-4-4; IC 3-13-1-1; IC 3-13-1-17; IC 3-13-2-1.

**Synopsis:** Runoff elections for local offices. Authorizes holding a runoff election as a special election if none of the candidates for nomination for a local office receives more than 50% of the votes cast in a primary election. Authorizes holding a runoff election as a special election if none of the candidates for election to a local office receives more than 50% of the votes cast in a general or municipal election. Requires a municipality's legislative body to adopt an ordinance to authorize runoff elections for municipal offices. Requires a county legislative body to adopt an ordinance to authorize runoff elections for local offices other than municipal offices.

**Effective:** July 1, 1999.

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**Smith V, Brown C**

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January 12, 1999, read first time and referred to Committee on Elections and Apportionment.

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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

## HOUSE BILL No. 1381

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A BILL FOR AN ACT to amend the Indiana Code concerning elections.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 3-10-8-1 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 1999]: Sec. 1. A special election shall be held  
3 in the following cases:  
4 (1) Whenever two (2) or more candidates for a federal, state,  
5 legislative, circuit, or school board office receive the highest and  
6 an equal number of votes for the office, except as provided in  
7 Article 5, Section 5 of the Constitution of the State of Indiana or  
8 in IC 20.  
9 (2) Whenever a vacancy occurs in the office of United States  
10 Senator as provided in IC 3-13-3-1.  
11 (3) Whenever a vacancy occurs in the office of United States  
12 Representative, unless the vacancy occurs less than thirty (30)  
13 days before a general election.  
14 (4) Whenever a vacancy occurs in any local office the filling of  
15 which is not otherwise provided by law.  
16 (5) Whenever required by law for a public question.  
17 (6) Whenever ordered by a court under IC 3-12-8-17 or the state



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1 recount commission under IC 3-12-11-18.

2 **(7) Whenever required under section 10 of this chapter.**

3 SECTION 2. IC 3-10-8-3 IS AMENDED TO READ AS FOLLOWS  
4 [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) **Except as provided in**  
5 **section 10 of this chapter**, the governor, court, or state recount  
6 commission shall order a special election under this chapter by issuing  
7 a writ of election directed to the circuit court clerk of each county  
8 located wholly or partially within the election district.

9 (b) The writ must specify:

- 10 (1) the election district in which the election is to be held;  
11 (2) the cause and object of the election;  
12 (3) the name of the person whose office is vacant; and  
13 (4) the day on which the election will be held.

14 (c) A special election to be held in an election district situated in  
15 two (2) or more counties shall be held on the same day in each county.

16 SECTION 3. IC 3-10-8-5 IS AMENDED TO READ AS FOLLOWS  
17 [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) Special elections are  
18 governed by other provisions of this title as far as applicable.

19 (b) Except as provided in section 7 **or 10** of this chapter,  
20 IC 3-12-8-17, or IC 3-12-11-18, candidates in special elections shall be  
21 nominated in the same manner as candidates are nominated:

- 22 (1) to fill vacancies on the ballot under IC 3-13-1 or IC 3-13-2; or  
23 (2) under IC 3-8-6, if a candidate does not intend to affiliate with  
24 a regular political party or represents a political party not  
25 qualified to nominate candidates at a primary election or by  
26 convention.

27 SECTION 4. IC 3-10-8-10 IS ADDED TO THE INDIANA CODE  
28 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY  
29 1, 1999]: **Sec. 10. (a) As used in this section, "legislative body"**  
30 **refers to either of the following:**

- 31 **(1) The legislative body of a municipality with respect to a**  
32 **municipal office.**  
33 **(2) The legislative body of a county with respect to all local**  
34 **offices in the county other than municipal offices.**

35 **(b) A legislative body may adopt an ordinance to provide that**  
36 **a special election will be held under this chapter whenever all of**  
37 **the following apply:**

38 **(1) Either of the following applies:**

- 39 **(A) There has been a primary election to nominate**  
40 **candidates for election to a municipal or other local office.**  
41 **(B) There has been a general or municipal election to fill a**  
42 **municipal or other local office.**



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- 1           (2) No candidate in the election has received more than fifty  
2           percent (50%) of the votes cast in the election.
- 3           (c) The ordinance must apply to all:
- 4           (1) municipal offices if the ordinance is adopted by a  
5           municipal legislative body; and
- 6           (2) local offices other than municipal offices if the ordinance  
7           is adopted by a county legislative body.
- 8           (d) The legislative body may repeal an ordinance adopted under  
9           this section.
- 10          (e) If a recount of the votes cast in the primary, general, or  
11          municipal election does not change the result of the primary,  
12          general, or municipal election as described in subsection (b)(2), the  
13          special election held under this section shall be held on the ninth  
14          Tuesday after the primary, general, or municipal election. The  
15          circuit court clerk of the county containing the greatest percentage  
16          of the population of the election district shall issue a writ of election  
17          directed to the circuit court clerk of each county containing any  
18          part of the election district. The writ must contain the information  
19          required to be contained in a writ of election under section 3(b) of  
20          this chapter.
- 21          (f) Only candidates who received the greatest number of votes  
22          and the next greatest number of votes in the primary, general, or  
23          municipal election may be candidates in a special election held  
24          under this section.
- 25          (g) The candidate who receives the greatest number of votes in  
26          a special election held under this section is considered to be:
- 27               (1) the candidate nominated by the candidate's party in the  
28               primary election; or
- 29               (2) the candidate elected to the office in the general or  
30               municipal election.
- 31          (h) If a candidate vacancy among the candidates on the ballot in  
32          a special election held under this section leaves only one (1)  
33          candidate remaining, the remaining candidate is considered to be:
- 34               (1) the candidate nominated by the candidate's party in the  
35               primary election; or
- 36               (2) the candidate elected to the office in the general or  
37               municipal election.
- 38          (i) The following shall pay the costs of a special election held  
39          under this section:
- 40               (1) The municipality if the special election is held for a  
41               municipal office.
- 42               (2) The county if the special election is held for an office other

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1 **than described in subdivision (1).**

2 SECTION 5. IC 3-11-4-4 IS AMENDED TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) Applications may be made:

- 4 (1) in person;  
5 (2) by FAX transmission; or  
6 (3) by mail;

7 on application forms furnished by the county election board or  
8 approved by the commission.

9 (b) Application forms shall:

10 (1) be furnished to all central committees in the county no later  
11 than:

12 (A) June 15, for a general election or a special election ordered  
13 under **IC 3-10-8-10**, IC 3-12-8-17, or IC 3-12-11-18 following  
14 the primary election;

15 **(B) December 15, for a special election ordered under**  
16 **IC 3-10-8-10 following the general or municipal election;**

17 or

18 ~~(B)~~ (C) January 15, for a primary election or a special election  
19 ordered under IC 3-12-8-17 or IC 3-12-11-18 following the  
20 general election;

21 (2) be:

22 (A) mailed; or

23 (B) except as provided in subsection (c), transmitted by FAX  
24 machine;

25 upon request, to a voter applying by mail, by telephone, or by  
26 FAX transmission; and

27 (3) be delivered to a voter in person who applies at the circuit  
28 court clerk's office.

29 (c) The county election board shall:

30 (1) accept; and

31 (2) transmit;

32 applications for absentee ballots under subsection (a) using a facsimile  
33 (FAX) machine only if the county election board owns or has access to  
34 a FAX machine. However, a county election board shall accept an  
35 application for an absentee ballot transmitted by FAX machine even  
36 though the application is delivered to the county election board by a  
37 person other than the person submitting the application.

38 SECTION 6. IC 3-13-1-1 IS AMENDED TO READ AS FOLLOWS  
39 [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) Except as provided in

40 **subsection (b) or** section 18 or 20 of this chapter, this chapter applies  
41 to the filling of a candidate vacancy that arises for any reason if the  
42 vacancy leaves a major political party without a candidate for the office



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1 and occurs before the thirtieth day before a general, special, or  
2 municipal election.

3 **(b) This chapter does not apply when there is a candidate**  
4 **vacancy in a special election held under IC 3-10-8-10.**

5 SECTION 7. IC 3-13-1-17 IS AMENDED TO READ AS  
6 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 17. **(a) This section**  
7 **does not apply if a special election is required under IC 3-10-8-10.**

8 **(b)** A candidate vacancy exists when a tie vote occurs for an office  
9 in a primary election. The candidate vacancy shall be filled under  
10 section 3, 4, 5, or 6 of this chapter.

11 SECTION 8. IC 3-13-2-1 IS AMENDED TO READ AS FOLLOWS  
12 [EFFECTIVE JULY 1, 1999]: Sec. 1. **(a) Except as provided in**  
13 **subsection (b)**, this chapter applies to the filling of a candidate vacancy  
14 that exists due to the:

- 15 (1) death of a political party's candidate;  
16 (2) withdrawal of a candidate who has moved from the election  
17 district;  
18 (3) disqualification of a candidate under IC 3-8-1-5; or  
19 (4) issuance of a court order under IC 3-8-7-29(d);

20 for nomination or election to an office at a general, municipal, or  
21 special election after the thirty-first day before a general, municipal, or  
22 special election.

23 **(b) This chapter does not apply to a candidate vacancy that**  
24 **exists in a special election held under IC 3-10-8-10.**

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