



February 6, 2009

HOUSE BILL No. 1235

DIGEST OF HB 235 (Updated February 4, 2009 5:37 pm - DI 75)

Citations Affected: IC 3-6; IC 3-11; IC 3-11.5; IC 3-12.

Synopsis: Poll closing time. Requires the polls in each precinct to close at 8 p.m. rather than 6 p.m. on election day. Provides that the time at which half-day precinct election officers change is 1 p.m. rather than noon on election day. Makes conforming amendments.

Effective: July 1, 2009.

Bartlett

January 12, 2009, read first time and referred to Committee on Elections and Apportionment.
February 5, 2009, amended, reported — Do Pass.

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HB 1235—LS 6163/DI 102+



February 6, 2009

First Regular Session 116th General Assembly (2009)

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 2008 Regular Session of the General Assembly.

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HOUSE BILL No. 1235



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 3-6-6-0.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2009]: **Sec. 0.5. As used in this chapter, "mid election day" refers**
4 **to 1 p.m. on election day.**

5 SECTION 2. IC 3-6-6-10 IS AMENDED TO READ AS FOLLOWS
6 [EFFECTIVE JULY 1, 2009]: Sec. 10. (a) A county chairman may
7 make nominations for precinct election offices by filing the
8 nominations in writing with the circuit court clerk not later than noon
9 twenty-one (21) days before the election.

10 (b) This subsection does not apply to the office of precinct
11 inspector. A county chairman may specify in the nomination of an
12 individual for a precinct election office that the individual is nominated
13 to serve until ~~noon on~~ **mid** election day and that another individual is
14 nominated to serve in the same precinct election office beginning at
15 ~~noon on~~ **mid** election day until the expiration of the term of the office
16 under section 37(b) of this chapter.

17 SECTION 3. IC 3-6-6-11 IS AMENDED TO READ AS FOLLOWS

HB 1235—LS 6163/DI 102+



1 [EFFECTIVE JULY 1, 2009]: Sec. 11. (a) A county election board
2 shall appoint the individuals who are nominated for precinct election
3 offices by the county chairmen if the individuals are otherwise eligible
4 under this chapter to serve in the precinct election offices for which
5 they are nominated.

6 (b) This subsection does not apply to the office of precinct
7 inspector. This subsection applies to an appointment to a precinct
8 election office made following a nomination by a county chairman
9 under this chapter. The county election board shall provide that an
10 appointment of an individual to a precinct election office:

- 11 (1) expires at ~~noon on~~ **mid** election day; or
- 12 (2) begins at ~~noon on~~ **mid** election day and expires under section
13 37(b) of this chapter;

14 if the nomination made by the county chairman specifies that the
15 nomination is made for a term that begins or expires at those times.

16 (c) This subsection does not apply to the office of precinct inspector.
17 This subsection applies to an appointment to a precinct election office
18 made by a county election board under section 13(b) of this chapter.
19 The county election board may appoint an individual to a precinct
20 election office for a term that:

- 21 (1) expires at ~~noon on~~ **mid** election day; or
- 22 (2) begins at ~~noon on~~ **mid** election day and expires under section
23 37(b) of this chapter.

24 SECTION 4. IC 3-11-4-18, AS AMENDED BY P.L.164-2006,
25 SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2009]: Sec. 18. (a) If a voter satisfies any of the qualifications
27 described in IC 3-11-10-24 that entitle a voter to cast an absentee ballot
28 by mail, the county election board shall, at the request of the voter, mail
29 the official ballot, postage fully prepaid, to the voter at the address
30 stated in the application.

31 (b) If the county election board mails an absentee ballot to a voter
32 required to file additional documentation with the county voter
33 registration office before voting by absentee ballot under this chapter,
34 the board shall include a notice to the voter in the envelope mailed to
35 the voter under section 20 of this chapter. The notice must inform the
36 voter that the voter must file the additional documentation required
37 under IC 3-7-33-4.5 with the county voter registration office not later
38 than noon on election day for the absentee ballot to be counted as an
39 absentee ballot, and that, if the documentation required under
40 IC 3-7-33-4.5 is filed after noon and before ~~6 p.m.~~ **the time the polls**
41 **are required to close** on election day **under IC 3-11-8-8**, the ballot
42 will be processed as a provisional ballot. The commission shall

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1 prescribe the form of this notice under IC 3-5-4-8.
 2 (c) Except as provided in section 18.5 of this chapter, the ballot
 3 shall be mailed:
 4 (1) on the day of the receipt of the voter's application; or
 5 (2) not more than five (5) days after the date of delivery of the
 6 ballots under section 15 of this chapter;
 7 whichever is later.
 8 (d) In addition to the ballot mailed under subsection (c), the county
 9 election board shall mail a special absentee ballot for overseas voters.
 10 (e) Except as provided in section 18.5 of this chapter, the ballot
 11 described in subsection (d):
 12 (1) must be mailed:
 13 (A) on the day of the receipt of the voter's application; or
 14 (B) not more than five (5) days after the latest date for delivery
 15 of the ballots under section 13(b) of this chapter applicable to
 16 that election;
 17 whichever is later; and
 18 (2) may not be mailed after the absentee ballots described by
 19 section 13(a) of this chapter have been delivered to the circuit
 20 court clerk or the clerk's authorized deputy.
 21 (f) As required by 42 U.S.C. 15481, an election board shall establish
 22 a voter education program (specific to a paper ballot or optical scan
 23 ballot card provided as an absentee ballot under this chapter) to notify
 24 a voter of the effect of casting multiple votes for a single office.
 25 (g) As provided by 42 U.S.C. 15481, when an absentee ballot is
 26 mailed under this section, the mailing must include:
 27 (1) information concerning the effect of casting multiple votes for
 28 an office; and
 29 (2) instructions on how to correct the ballot before the ballot is
 30 cast and counted, including the issuance of replacement ballots.
 31 SECTION 5. IC 3-11-8-8 IS AMENDED TO READ AS FOLLOWS
 32 [EFFECTIVE JULY 1, 2009]: Sec. 8. The polls in each precinct open
 33 at 6 a.m. and close at ~~6 p.m.~~ **8 p.m.** on election day.
 34 SECTION 6. IC 3-11-10-11, AS AMENDED BY P.L.221-2005,
 35 SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2009]: Sec. 11. (a) On election day each circuit court clerk (or
 37 an agent of the clerk) shall visit the appropriate post office to accept
 38 delivery of absentee envelopes at the latest possible time that will
 39 permit delivery of the ballots to the appropriate precinct election boards
 40 before ~~6 p.m.~~ **the time the polls are required to close on election day**
 41 **under IC 3-11-8-8.**
 42 (b) Not later than noon on election day, the county voter registration

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1 office shall visit the appropriate post office to accept delivery of mail
2 containing documentation submitted by a voter to comply with
3 IC 3-7-33-4.5. The office shall immediately notify the county election
4 board regarding the filing of this documentation to permit the board to
5 provide certification of this filing to the appropriate precinct election
6 boards before ~~6 p.m.~~ **the time the polls are required to close on**
7 **election day under IC 3-11-8-8.**

8 SECTION 7. IC 3-11-10-24, AS AMENDED BY P.L.103-2005,
9 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2009]: Sec. 24. (a) Except as provided in subsection (b), a
11 voter who satisfies any of the following is entitled to vote by mail:

- 12 (1) The voter has a specific, reasonable expectation of being
13 absent from the county on election day during the entire ~~twelve~~
14 ~~(12) hours time~~ that the polls are open.
- 15 (2) The voter will be absent from the precinct of the voter's
16 residence on election day because of service as:
 - 17 (A) a precinct election officer under IC 3-6-6;
 - 18 (B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;
 - 19 (C) a challenger or pollbook holder under IC 3-6-7; or
 - 20 (D) a person employed by an election board to administer the
21 election for which the absentee ballot is requested.
- 22 (3) The voter will be confined on election day to the voter's
23 residence, to a health care facility, or to a hospital because of an
24 illness or injury during the entire ~~twelve~~ ~~(12) hours time~~ that the
25 polls are open.
- 26 (4) The voter is a voter with disabilities.
- 27 (5) The voter is an elderly voter.
- 28 (6) The voter is prevented from voting due to the voter's care of
29 an individual confined to a private residence because of illness or
30 injury during the entire ~~twelve~~ ~~(12) hours time~~ that the polls are
31 open.
- 32 (7) The voter is scheduled to work at the person's regular place of
33 employment during the entire ~~twelve~~ ~~(12) hours time~~ that the
34 polls are open.
- 35 (8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.
- 36 (9) The voter is prevented from voting due to observance of a
37 religious discipline or religious holiday during the entire ~~twelve~~
38 ~~(12) hours time~~ that the polls are open.
- 39 (10) The voter is an address confidentiality program participant
40 (as defined in IC 5-26.5-1-6).
- 41 (b) A voter with disabilities who:
 - 42 (1) is unable to make a voting mark on the ballot or sign the

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1 absentee ballot secrecy envelope; and
 2 (2) requests that the absentee ballot be delivered to an address
 3 within Indiana;
 4 must vote before an absentee voter board under section 25(b) of this
 5 chapter.
 6 (c) If a voter receives an absentee ballot by mail, the voter shall
 7 personally mark the ballot in secret and seal the marked ballot inside
 8 the envelope provided by the county election board for that purpose.
 9 The voter shall:
 10 (1) deposit the sealed envelope in the United States mail for
 11 delivery to the county election board; or
 12 (2) authorize a member of the voter's household or the individual
 13 designated as the voter's attorney in fact to:
 14 (A) deposit the sealed envelope in the United States mail; or
 15 (B) deliver the sealed envelope in person to the county
 16 election board.
 17 (d) If a member of the voter's household or the voter's attorney in
 18 fact delivers the sealed envelope containing a voter's absentee ballot to
 19 the county election board, the individual delivering the ballot shall
 20 complete an affidavit in a form prescribed by the commission. The
 21 affidavit must contain the following information:
 22 (1) The name and residence address of the voter whose absentee
 23 ballot is being delivered.
 24 (2) A statement of the full name, residence and mailing address,
 25 and daytime and evening telephone numbers (if any) of the
 26 individual delivering the absentee ballot.
 27 (3) A statement indicating whether the individual delivering the
 28 absentee ballot is a member of the voter's household or is the
 29 attorney in fact for the voter. If the individual is the attorney in
 30 fact for the voter, the individual must attach a copy of the power
 31 of attorney for the voter, unless a copy of this document has
 32 already been filed with the county election board.
 33 (4) The date and location at which the absentee ballot was
 34 delivered by the voter to the individual delivering the ballot to the
 35 county election board.
 36 (5) A statement that the individual delivering the absentee ballot
 37 has complied with Indiana laws governing absentee ballots.
 38 (6) A statement that the individual delivering the absentee ballot
 39 is executing the affidavit under the penalties of perjury.
 40 (7) A statement setting forth the penalties for perjury.
 41 (e) The county election board shall record the date and time that the
 42 affidavit under subsection (d) was filed with the board.

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1 (f) After a voter has mailed or delivered an absentee ballot to the
2 office of the circuit court clerk, the voter may not recast a ballot, except
3 as provided in:

- 4 (1) section 1.5 of this chapter; or
- 5 (2) section 33 of this chapter.

6 SECTION 8. IC 3-11-14-19 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 19. Each county
8 election board shall be at its office from 5 a.m. until ~~6 p.m.~~ **the time**
9 **the polls are required to close** on election day **under IC 3-11-8-8.**
10 Upon notice that an electronic voting system is out of order or fails to
11 work, the board shall be ready between those hours to deliver to any
12 precinct in the county:

- 13 (1) necessary paper ballots;
- 14 (2) election booths with an adequate number of stalls;
- 15 (3) ballot boxes; and
- 16 (4) all necessary supplies and equipment as required by law.

17 SECTION 9. IC 3-11.5-4-13, AS AMENDED BY P.L.198-2005,
18 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2009]: Sec. 13. (a) If the absentee ballot counters find under
20 section 11 of this chapter that any of the following applies, the ballots
21 shall be rejected:

- 22 (1) The affidavit is insufficient or that the ballot has not been
23 endorsed with the initials of:
 - 24 (A) the two (2) members of the absentee voter board in the
25 office of the clerk of the circuit court under IC 3-11-4-19 or
26 IC 3-11-10-27;
 - 27 (B) the two (2) members of the absentee voter board visiting
28 the voter under IC 3-11-10-25; or
 - 29 (C) the two (2) appointed members of the county election
30 board or their designated representatives under IC 3-11-4-19.
- 31 (2) The signatures do not correspond or there is no signature.
- 32 (3) The absentee voter is not a qualified voter in the precinct.
- 33 (4) The absentee voter has voted in person at the election.
- 34 (5) The absentee voter has not registered.
- 35 (6) The ballot is open or has been opened and resealed. This
36 subdivision does not permit an absentee ballot transmitted by fax
37 or electronic mail under IC 3-11-4-6 to be rejected because the
38 ballot was sealed in the absentee ballot envelope by the individual
39 designated by the circuit court to receive absentee ballots
40 transmitted by fax or electronic mail.
- 41 (7) The ballot envelope contains more than one (1) ballot of any
42 kind for the same office or public question.

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1 (8) In case of a primary election, if the absentee voter has not
 2 previously voted, the voter failed to execute the proper
 3 declaration relative to age and qualifications and the political
 4 party with which the voter intends to affiliate.

5 (9) The ballot has been challenged and not supported.

6 (b) Subsection (c) applies whenever a voter with a disability is
 7 unable to make a signature:

8 (1) on an absentee ballot application that corresponds to the
 9 voter's signature in the records of the county voter registration
 10 office; or

11 (2) on an absentee ballot security envelope that corresponds with
 12 the voter's signature:

13 (A) in the records of the county voter registration office; or

14 (B) on the absentee ballot application.

15 (c) The voter may request that the voter's signature or mark be
 16 attested to by any of the following:

17 (1) The absentee voter board under section 22 of this chapter.

18 (2) A member of the voter's household.

19 (3) An individual serving as attorney in fact for the voter.

20 (d) An attestation under subsection (c) provides an adequate basis
 21 for the absentee ballot counters to determine that a signature or mark
 22 complies with subsection (a)(2).

23 (e) If the absentee ballot counters are unable to agree on a finding
 24 described under this section or section 12 of this chapter, the county
 25 election board shall make the finding.

26 (f) The absentee ballot counters or county election board shall issue
 27 a certificate to a voter whose ballot has been rejected under this section
 28 if the voter appears in person before the board not later than ~~5 p.m.~~ **one**
 29 **(1) hour before the time the polls are required to close** on election
 30 day **under IC 3-11-8-8**. The certificate must state that the voter's
 31 absentee ballot has been rejected and that the voter may vote in person
 32 under section 21 of this chapter if otherwise qualified to vote.

33 SECTION 10. IC 3-12-4-6 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) At ~~6 p.m.~~ **the**
 35 **time the polls are required to close** on each election day **under**
 36 **IC 3-11-8-8**, the county election board shall assemble in a room to:

37 (1) canvass the certificates, poll lists, and tally papers returned by
 38 each inspector in the county; and ~~to~~

39 (2) declare the results of the election as provided in this chapter.

40 (b) The canvassing must be performed in public under IC 5-14-1.5.
 41 However, the board may restrict access to parts of the room where
 42 election material is being handled or transported to safeguard the

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1 material.

2 (c) Except as provided in section 7 of this chapter, the county
3 executive shall provide a room in the courthouse that contains adequate
4 space to permit members of the public to witness the canvassing of
5 votes.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred House Bill 1235, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 4, delete "1:30 p.m." and insert "**1 p.m.**".

Page 3, line 33, delete "9 p.m." and insert "**8 p.m.**".

and when so amended that said bill do pass.

(Reference is to HB 1235 as introduced.)

BATTLES, Chair

Committee Vote: yeas 6, nays 3.

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