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# HOUSE BILL No. 1712

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 3-8; IC 3-10-4; IC 3-11-7.5-10; IC 3-12-5; IC 3-14-3-25.

**Synopsis:** Distribution of Indiana electoral votes. Provides that electors for President and Vice President of the United States are chosen so that the candidate for President: (1) receiving the greatest number of votes in a congressional district receives the vote of one Indiana presidential elector; and (2) receiving the greatest number of votes statewide receives the vote of two at-large presidential electors. Requires a presidential elector representing a congressional district and voting for President and Vice President of the United States to vote for the candidates who receive the greatest number of votes in the congressional district. Requires an at-large presidential elector voting for President and Vice President of the United States to vote for the candidates who receive the greatest number of votes statewide. Provides that an elector who fails to vote for the candidates for President and Vice President of the United States for whom the elector is required to vote commits a Class B misdemeanor.

**Effective:** July 1, 2009.

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January 22, 2009, read first time and referred to Committee on Elections and Apportionment.

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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. 1712



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 3-8-2-2.5 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2.5. (a) A person who  
3 desires to be a write-in candidate for a federal, state, legislative, or  
4 local office or school board office in a general, municipal, or school  
5 board election must file a declaration of intent to be a write-in  
6 candidate with the officer with whom a declaration of candidacy must  
7 be filed under sections 5 and 6 of this chapter.

8 (b) The declaration of intent to be a write-in candidate required  
9 under subsection (a) must be signed before a person authorized to  
10 administer oaths and must certify the following information:

- 11 (1) The candidate's name must be printed or typewritten as:  
12 (A) the candidate wants the candidate's name to be certified;  
13 and  
14 (B) the candidate's name is permitted to appear under IC 3-5-7.  
15 (2) A statement that the candidate is a registered voter and the  
16 location of the candidate's precinct and township (or ward and  
17 city or town), county, and state.



- 1 (3) The candidate's complete residence address, and if the
- 2 candidate's mailing address is different from the residence
- 3 address, the mailing address.
- 4 (4) The candidate's party affiliation or a statement that the
- 5 candidate is an independent candidate (not affiliated with any
- 6 party). For purposes of this subdivision, a candidate is affiliated
- 7 with a political party only if the candidate satisfies section 7(a)(4)
- 8 of this chapter.
- 9 (5) A statement of the candidate's intention to be a write-in
- 10 candidate, the name of the office, including the district, and the
- 11 date and type of election.
- 12 (6) If the candidate is a candidate for the office of President or
- 13 Vice President of the United States, a statement declaring the
- 14 names of the individuals who have consented and are eligible to
- 15 be the candidate's candidates for presidential electors. **The**
- 16 **statement must indicate the following:**
- 17 (A) **The individuals designated to be at-large presidential**
- 18 **electors.**
- 19 (B) **The individuals designated to represent Indiana**
- 20 **congressional districts as presidential electors and which**
- 21 **congressional district each individual is designated to**
- 22 **represent.**
- 23 (7) A statement that the candidate:
- 24 (A) is aware of the provisions of IC 3-9 regarding campaign
- 25 finance and the reporting of campaign contributions and
- 26 expenditures; and
- 27 (B) agrees to comply with the provisions of IC 3-9.
- 28 The candidate must separately sign the statement required by this
- 29 subdivision.
- 30 (8) A statement as to whether the candidate has:
- 31 (A) been a candidate for state or local office in a previous
- 32 primary or general election; and
- 33 (B) filed all reports required by IC 3-9-5-10 for all previous
- 34 candidacies.
- 35 (9) If the candidate is subject to IC 3-9-1-5, a statement that the
- 36 candidate has filed a campaign finance statement of organization
- 37 for the candidate's principal committee or is aware that the
- 38 candidate may be required to file a campaign finance statement of
- 39 organization not later than noon seven (7) days after the final date
- 40 to file the declaration of intent to be a write-in candidate under
- 41 section 4 of this chapter.
- 42 (10) If the candidate is subject to IC 3-9-1-5.5, a statement that

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1 the candidate is required to file a campaign finance statement of  
 2 organization under IC 3-9 after the first of either of the following  
 3 occurs:  
 4 (A) The candidate receives more than five hundred dollars  
 5 (\$500) in contributions.  
 6 (B) The candidate makes more than five hundred dollars  
 7 (\$500) in expenditures.  
 8 (11) A statement that the candidate complies with all  
 9 requirements under the laws of Indiana to be a candidate for the  
 10 above named office, including any applicable residency  
 11 requirements, and that the candidate is not ineligible to be a  
 12 candidate due to a criminal conviction that would prohibit the  
 13 candidate from serving in the office.  
 14 (12) The candidate's signature and telephone number.  
 15 (c) At the time of filing the declaration of intent to be a write-in  
 16 candidate, the write-in candidate is considered a candidate for all  
 17 purposes.  
 18 (d) A write-in candidate must comply with the requirements under  
 19 IC 3-8-1 that apply to the office to which the write-in candidate seeks  
 20 election.  
 21 (e) A person may not be a write-in candidate in a contest for  
 22 nomination or for election to a political party office.  
 23 (f) A write-in candidate for the office of President or Vice President  
 24 of the United States must list at least one (1) candidate for presidential  
 25 elector and may not list more than the total number of presidential  
 26 electors to be chosen in Indiana.  
 27 (g) The commission shall provide that the form of a declaration of  
 28 intent to be a write-in candidate includes the following information  
 29 near the separate signature required by subsection (b)(7):  
 30 (1) The dates for filing campaign finance reports under IC 3-9.  
 31 (2) The penalties for late filing of campaign finance reports under  
 32 IC 3-9.  
 33 (h) A declaration of intent to be a write-in candidate must include  
 34 a statement that the candidate requests the name on the candidate's  
 35 voter registration record be the same as the name the candidate uses on  
 36 the declaration of intent to be a write-in candidate. If there is a  
 37 difference between the name on the candidate's declaration of intent to  
 38 be a write-in candidate and the name on the candidate's voter  
 39 registration record, the officer with whom the declaration of intent to  
 40 be a write-in candidate is filed shall forward the information to the  
 41 voter registration officer of the appropriate county as required by  
 42 IC 3-5-7-6(e). The voter registration officer of the appropriate county

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1 shall change the name on the candidate's voter registration record to be  
 2 the same as the name on the candidate's declaration of intent to be a  
 3 write-in candidate.

4 SECTION 2. IC 3-8-4-2 IS AMENDED TO READ AS FOLLOWS  
 5 [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) A political party shall conduct  
 6 a state convention to nominate the candidates of the political party for  
 7 the following offices to be voted on at the next general election:

- 8 (1) Lieutenant governor.
- 9 (2) Secretary of state.
- 10 (3) Auditor of state.
- 11 (4) Treasurer of state.
- 12 (5) Attorney general.
- 13 (6) Superintendent of public instruction.

14 (b) The convention shall also **do the following:**

- 15 (1) Nominate candidates for presidential electors and alternate  
 16 electors. ~~and~~ **When nominating candidates for presidential**  
 17 **electors, a political party shall designate the following:**

18 (A) **The candidates nominated to be at-large presidential**  
 19 **electors.**

20 (B) **The candidates nominated to represent an Indiana**  
 21 **congressional district as a presidential elector and which**  
 22 **congressional district each candidate is nominated to**  
 23 **represent.**

- 24 (2) Elect the delegates and alternate delegates to the national  
 25 convention of the political party.

26 SECTION 3. IC 3-10-4-3 IS AMENDED TO READ AS FOLLOWS  
 27 [EFFECTIVE JULY 1, 2009]: Sec. 3. The device, title, and names of  
 28 nominees appearing on a ballot or ballot label shall be accompanied by  
 29 a statement that a ballot cast for the named candidates for President and  
 30 Vice President of the United States is considered a ballot cast for ~~the~~  
 31 **state of each of the following:**

32 (1) **The presidential electors elector** nominated by that political  
 33 party or independent candidate **to represent the Indiana**  
 34 **congressional district in which the ballot is cast.**

35 (2) **The two (2) at-large presidential electors nominated by**  
 36 **that political party or independent candidate.**

37 SECTION 4. IC 3-10-4-4 IS AMENDED TO READ AS FOLLOWS  
 38 [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) Each vote cast or registered  
 39 for the nominees for President and Vice President of the United States  
 40 of a political party **or** group of petitioners **or for** a write-in candidate  
 41 for President or Vice President of the United States **in an Indiana**  
 42 **congressional district** is a vote cast or registered, **and shall be**

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**counted as a vote, for ~~all~~ of each of the following:**

- (1) The ~~candidate~~ candidate for presidential electors ~~of~~ elector nominated by the party, group of petitioners, or write-in candidate and shall be so counted: to represent the Indiana congressional district in which the vote is cast or registered.**
- (2) The two (2) at-large presidential electors nominated by that political party, group of petitioners, or write-in candidate.**

**(b) Except as provided in subsection (c),** these votes shall be counted, canvassed, and certified in the same manner as the votes for candidates for other offices.

**(c) When votes are counted, canvassed, and certified, the total number of votes for each of the candidates for President and Vice President in each Indiana congressional district must be reported.**

SECTION 5. IC 3-10-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) This subsection applies to a major political party and to a political party subject to IC 3-8-4-10. The state chairman of each political party shall certify to the election division 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 or a party subject to IC 3-8-4-10, the petitioners shall certify with the list of names of electors **the following information:**

- (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) This subsection applies to a political party described in subsection (a) and to candidates nominated by petitioners under subsection (b). **The following information shall be certified to the election division not later than noon on the second Tuesday in September before the general election:**

- (1) The names of ~~(1)~~ all:
  - (A) candidates for presidential electors; and
  - ~~(2)~~ **(B)** nominees for President and Vice President of the United States.

~~shall be certified to the election division not later than noon on the second Tuesday in September before the general election.~~

- (2) **For each presidential elector, one (1) of the following:**

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1           **(A) The congressional district the elector is nominated to**  
2           **represent.**

3           **(B) That the elector is an at-large elector.**

4           The election division shall certify to each county election board not  
5           later than noon on the next following Thursday in September before the  
6           general election the names of the nominees for President and Vice  
7           President of the United States certified to the election division under  
8           this subsection.

9           (d) The names of all candidates for presidential electors for a  
10          write-in candidate shall be included on the declaration for candidacy  
11          filed by a write-in candidate for the office of President or Vice  
12          President of the United States filed under IC 3-8-2.

13          SECTION 6. IC 3-10-4-9 IS AMENDED TO READ AS FOLLOWS  
14          [EFFECTIVE JULY 1, 2009]: Sec. 9. **(a)** The presidential electors,  
15          when assembled and after vacancies are filled, shall then vote by paper  
16          ballot for President and Vice President of the United States and  
17          perform the duties imposed upon them by the Constitution and statutes  
18          of the United States and of this state.

19          **(b) Each elector representing an Indiana congressional district**  
20          **shall vote for the candidates for President and Vice President of the**  
21          **United States who have been certified to have received the greatest**  
22          **number of votes in the congressional district the elector represents.**

23          **(c) An at-large elector shall vote for the candidates for President**  
24          **and Vice President of the United States who have been certified to**  
25          **have received the greatest number of votes in Indiana.**

26          SECTION 7. IC 3-11-7.5-10 IS AMENDED TO READ AS  
27          FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. An electronic  
28          voting system must permit a voter to vote:

29               (1) except at a primary election, for all the candidates of one (1)  
30               political party, for one (1) or more candidates of each political  
31               party, or for one (1) or more candidates nominated by petition;

32               (2) for as many candidates for an office as the voter may vote for,  
33               but no more; **and**

34               (3) for or against a public question on which the voter may vote,  
35               but no other. ~~and~~

36               ~~(4) for all the candidates for presidential electors of a political~~  
37               ~~party or an independent ticket at one (1) time.~~

38          SECTION 8. IC 3-12-5-6, AS AMENDED BY P.L.221-2005,  
39          SECTION 112, IS AMENDED TO READ AS FOLLOWS  
40          [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) Not later than noon on the  
41          second Monday following an election, each circuit court clerk shall  
42          prepare a certified statement under the clerk's seal of the number of

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1 votes received by each candidate for **each of the following:**

2 (1) **Each** federal office. **When reporting the statement of votes**  
 3 **for President and Vice President of the United States, a circuit**  
 4 **court clerk shall report separately the votes that each**  
 5 **candidate received in each congressional district in the**  
 6 **county.**

7 (2) **Each** state office.

8 (3) **Each** legislative office. ~~and~~

9 (4) ~~a~~ **Each** local office for which a declaration of candidacy must  
 10 be filed with the election division under IC 3-8-2.

11 (b) The clerk shall send the statements by certified mail, return  
 12 receipt requested, or hand deliver the statements to the election  
 13 division.

14 (c) The election division shall provide a copy of each statement to  
 15 the office.

16 SECTION 9. IC 3-12-5-7 IS AMENDED TO READ AS FOLLOWS  
 17 [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) Upon receipt of the certified  
 18 statements from the circuit court clerks under section 6 of this chapter  
 19 and not later than noon of the last Tuesday in November, the election  
 20 division shall tabulate the number of votes cast for each candidate for  
 21 **each of the following:**

22 (1) ~~presidential electors;~~ **President and Vice President of the**  
 23 **United States. When tabulating votes for President and Vice**  
 24 **President of the United States, the election division shall**  
 25 **report the following:**

26 (A) **The total number of votes that each candidate for**  
 27 **President and Vice President of the United States received**  
 28 **in each Indiana congressional district.**

29 (B) **The total number of votes that each candidate for**  
 30 **President and Vice President of the United States received**  
 31 **in Indiana.**

32 (2) ~~a~~ **Each** state office other than governor and lieutenant  
 33 governor. ~~and~~

34 (3) ~~a~~ **Each** local office for which a declaration of candidacy must  
 35 be filed with the election division under IC 3-8-2.

36 (b) Immediately following the election division's tabulation, the  
 37 secretary of state shall certify to the governor the **following:**

38 (1) **The** candidate receiving the highest number of votes for each  
 39 office.

40 (2) **The names of the at-large presidential electors elected.**

41 (3) **The name of each of the presidential electors elected to**  
 42 **represent an Indiana congressional district and the**

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1                   **congressional district each elector represents.**  
2                   SECTION 10. IC 3-14-3-25 IS ADDED TO THE INDIANA CODE  
3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
4 1, 2009]: **Sec. 25. A person who:**  
5                   **(1) is an elector for President and Vice President of the United**  
6                   **States; and**  
7                   **(2) knowingly or intentionally fails to vote for the candidates**  
8                   **for President and Vice President of the United States for**  
9                   **whom the elector is required to vote under IC 3-10-4-9;**  
10                   **commits a Class B misdemeanor.**

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