



February 17, 2010

**ENGROSSED  
HOUSE BILL No. 1106**

DIGEST OF HB 1106 (Updated February 15, 2010 12:25 pm - DI 102)

**Citations Affected:** IC 3-10; IC 3-11; IC 3-11.7; IC 36-4.

**Synopsis:** Various election law matters. Requires the circuit court clerk to seal provisional ballots and election material related to provisional ballots during the time allowed to file a verified petition or cross-petition for a recount of votes or to contest an election. Requires that election material related to provisional ballots (excluding the provisional ballots themselves) be made available for copying and inspection under the access to public records law in the same manner as other election material. Extends the expiration date of the vote center pilot project to December 31, 2013. Requires the county election board of a vote center county to provide preliminary election results, broken down by precinct, not later than noon the day after election day. Requires a vote center pilot county to establish at least one satellite  
(Continued next page)

**Effective:** July 1, 2010; January 1, 2011.

**Battles**

(SENATE SPONSORS — LAWSON C, ALTING, LANANE, HUME,  
ERRINGTON, BREAUX)

January 5, 2010, read first time and referred to Committee on Elections and Apportionment.

January 7, 2010, reported — Do Pass.

January 11, 2010, read second time, amended, ordered engrossed.

January 12, 2010, engrossed.

January 13, 2010, read third time, passed. Yeas 52, nays 44.

**SENATE ACTION**

February 1, 2010, read first time and referred to Committee on Elections.

February 16, 2010, amended, reported favorably — Do Pass.

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office for absentee voting. Requires that a county's vote center plan must incorporate certain elements. Allows a county to seek reimbursement from the election division for expenses incurred in complying with provisions concerning the establishment of at least one satellite office in a vote center pilot county. Allows the legislative body of a third class city having a population of less than 10,000 to adopt an ordinance, after June 30, 2010, and during a year in which an election of the city legislative body will not occur, to redistrict or reduce the number of members of the legislative body. Provides that the legislative body districts created by the ordinance apply to the first election of the legislative body held after the date the ordinance is adopted.

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February 17, 2010

Second Regular Session 116th General Assembly (2010)

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 2009 Regular and Special Sessions of the General Assembly.

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## ENGROSSED HOUSE BILL No. 1106

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 3-10-1-31.1, AS AMENDED BY P.L.230-2005,  
2 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JANUARY 1, 2011]: Sec. 31.1. (a) This section applies only to election  
4 materials for elections held after December 31, 2003.

5 (b) The inspector of each precinct shall deliver the bags required by  
6 section 30(a) and 30(c) of this chapter in good condition, together with  
7 poll lists, tally sheets, and other forms, to the circuit court clerk when  
8 making returns.

9 (c) Except for unused ballots disposed of under IC 3-11-3-31 or  
10 affidavits received by the county election board under IC 3-14-5-2 for  
11 delivery to the foreman of a grand jury, the circuit court clerk shall seal  
12 the ballots (**including provisional ballots**) and other material  
13 (**including election material related to provisional ballots**) during  
14 the time allowed to file a verified petition or cross-petition for a recount  
15 of votes or to contest the election. Except as provided in subsection (d)

**EH 1106—LS 6774/DI 75+**



1 **and notwithstanding any other provision of Indiana law**, after the  
 2 recount or contest filing period, the election material, **including**  
 3 **election material related to provisional ballots** (except for ballots  
 4 **and provisional ballots**, which remain confidential), shall be made  
 5 available for copying and inspection under IC 5-14-3. The circuit court  
 6 clerk shall carefully preserve the sealed ballots and other material for  
 7 twenty-two (22) months, as required by 42 U.S.C. 1974, after which the  
 8 sealed ballots and other material are subject to IC 5-15-6 unless an  
 9 order issued under:

10 (1) IC 3-12-6-19 or IC 3-12-11-16; or

11 (2) 42 U.S.C. 1973;

12 requires the continued preservation of the ballots or other material.

13 (d) If a petition for a recount or contest is filed, the material for that  
 14 election remains confidential until completion of the recount or contest.

15 (e) Upon delivery of the poll lists, the county voter registration  
 16 office may unseal the envelopes containing the poll lists. For the  
 17 purposes of:

18 (1) a cancellation of registration conducted under IC 3-7-43  
 19 through IC 3-7-46;

20 (2) a transfer of registration conducted under IC 3-7-39,  
 21 IC 3-7-40, or IC 3-7-42;

22 (3) a change of name made under IC 3-7-41;

23 (4) adding the registration of a voter under IC 3-7-48-8; or

24 (5) recording that a voter subject to IC 3-7-33-4.5 submitted the  
 25 documentation required under 42 U.S.C. 15483 and IC 3-11-8 or  
 26 IC 3-11-10;

27 the county voter registration office may inspect the poll lists and update  
 28 the registration record of the county. The county voter registration  
 29 office shall use the poll lists to update the registration record to include  
 30 the voter's voter identification number if the voter's voter identification  
 31 number is not already included in the registration record. Upon  
 32 completion of the inspection, the poll list shall be preserved with the  
 33 ballots and other materials in the manner prescribed by subsection (c)  
 34 for the period prescribed by subsections (c) and (d).

35 (f) This subsection does not apply to ballots, **including provisional**  
 36 **ballots**. Notwithstanding subsection (c), if a county voter registration  
 37 office determines that the inspection and copying of precinct election  
 38 material would reveal the political parties, candidates, and public  
 39 questions for which an individual cast an absentee ballot, the county  
 40 voter registration office shall keep confidential only that part of the  
 41 election material necessary to protect the secrecy of the voter's ballot.

42 (g) After the expiration of the period described in subsection (c) or

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1 (d), the ballots may be destroyed in the manner provided by  
2 IC 3-11-3-31 or transferred to a state educational institution as  
3 provided by IC 3-12-2-12.

4 SECTION 2. IC 3-11-18-1.5 IS ADDED TO THE INDIANA CODE  
5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
6 JANUARY 1, 2011]: **Sec. 1.5. (a) A county designated as a vote  
7 center pilot county shall establish at least one (1) satellite office  
8 under IC 3-11-10-26.3.**

9 **(b) A vote center pilot county may seek reimbursement from the  
10 election division for expenses incurred in complying with  
11 subsection (a).**

12 SECTION 3. IC 3-11-18-11, AS ADDED BY P.L.164-2006,  
13 SECTION 119, IS AMENDED TO READ AS FOLLOWS  
14 [EFFECTIVE JANUARY 1, 2011]: **Sec. 11. (a) Except as otherwise  
15 provided by this chapter, the county shall administer an election  
16 conducted at a vote center in accordance with federal law, this title, and  
17 the plan submitted with the application under section 4 of this chapter.**

18 **(b) In accordance with Indiana and federal law, each vote center  
19 county shall adopt a plan that provides for voters to vote using the  
20 following provisions:**

- 21 **(1) Voting after a change of residence within the same**
- 22 **precinct as provided in IC 3-7-39-7.**
- 23 **(2) Voting after a change of name as provided in IC 3-7-41-3.**
- 24 **(3) Certificates of error issued under IC 3-7-48.**
- 25 **(4) Voting after affirming residency as provided in**
- 26 **IC 3-7-48-5.**
- 27 **(5) Voting with a registration receipt as provided in**
- 28 **IC 3-7-48-7.**
- 29 **(6) Voting after signing an affidavit as provided in IC 3-10-10.**
- 30 **(7) Voting with a transfer affidavit as provided in IC 3-10-11**
- 31 **or IC 3-10-12.**

32 SECTION 4. IC 3-11-18-16, AS ADDED BY P.L.164-2006,  
33 SECTION 119, IS AMENDED TO READ AS FOLLOWS  
34 [EFFECTIVE JANUARY 1, 2011]: **Sec. 16. The precinct election  
35 board administering an election at a vote center shall keep the ballots  
36 cast in each precinct separate from the ballots cast in any other precinct  
37 whose election is administered at the vote center, so that the votes cast  
38 for each candidate and on each public question in each of the precincts  
39 administered by the board may be determined. The county election  
40 board shall provide preliminary election results, broken down by  
41 precinct, not later than noon the day after election day.**

42 SECTION 5. IC 3-11-18-20, AS AMENDED BY P.L.108-2008,

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1 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
2 JULY 1, 2010]: Sec. 20. This chapter expires December 31, ~~2010~~  
3 **2013.**

4 SECTION 6. IC 3-11.7-6-3 IS AMENDED TO READ AS  
5 FOLLOWS [EFFECTIVE JANUARY 1, 2011]: Sec. 3. (a) As required  
6 by 42 U.S.C. 15482, a county election board shall establish a free  
7 access system such as a toll-free telephone number or an Internet web  
8 site that enables a provisional voter to determine:

- 9 (1) whether the individual's provisional ballot was counted; and  
10 (2) if the provisional ballot was not counted, the reason the  
11 provisional ballot was not counted.

12 (b) As required by 42 U.S.C. 15482, the county election board shall  
13 establish and maintain reasonable procedures to protect the security,  
14 confidentiality, and integrity of personal information collected, stored,  
15 or otherwise used on the free access system established by the board  
16 under subsection (a).

17 (c) As required by 42 U.S.C. 15482, the county election board shall  
18 restrict access to the ~~information available~~ **free access system**  
19 **established** under subsection (a) ~~about a provisional voter's ballot~~  
20 ~~to the individual voter who cast the provisional ballot.~~ **This subsection**  
21 **does not restrict access to election materials available under**  
22 **IC 3-10-1-31.1.**

23 (d) The county election board shall prescribe written instructions to  
24 inform a provisional voter how the provisional voter can determine  
25 whether the provisional voter's ballot has been counted.

26 SECTION 7. IC 36-4-6-5, AS AMENDED BY P.L.230-2005,  
27 SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
28 JULY 1, 2010]: Sec. 5. (a) This section applies to third class cities  
29 having a population of less than ten thousand (10,000). The legislative  
30 body of such a city may, by ordinance adopted ~~before September 1,~~  
31 ~~1982,~~ **after June 30, 2010, and during a year in which an election**  
32 **of the legislative body will not occur,** decide to be governed by this  
33 section instead of section 4 of this chapter. ~~If this ordinance is repeated~~  
34 ~~after August 31, 1982, except as a part of a codification of ordinances~~  
35 ~~that reenacts the ordinance under IC 36-1-5-6, then section 4 of this~~  
36 ~~chapter again applies to the city.~~ **The legislative body districts**  
37 **created by an ordinance adopted under this subsection apply to the**  
38 **first election of the legislative body held after the date the**  
39 **ordinance is adopted.** The clerk of the legislative body shall send a  
40 certified copy of any ordinance adopted under this subsection to the  
41 secretary of the county election board.

42 (b) This subsection does not apply to a city with an ordinance

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1 described by subsection (j). The legislative body shall adopt an  
2 ordinance to divide the city into four (4) districts that:

- 3 (1) are composed of contiguous territory, except for territory that  
4 is not contiguous to any other part of the city;  
5 (2) are reasonably compact;  
6 (3) do not cross precinct boundary lines except as provided in  
7 subsection (c) or (d); and  
8 (4) contain, as nearly as is possible, equal population.

9 (c) The boundary of a city legislative body district may cross a  
10 precinct boundary line if:

- 11 (1) more than one (1) member of the legislative body elected from  
12 the districts established under subsection (b) or (j) resides in one  
13 (1) precinct established under IC 3-11-1.5 after the most recent  
14 municipal election; and  
15 (2) following the establishment of a legislative body district  
16 whose boundary crosses a precinct boundary line, not more than  
17 one (1) member of the legislative body elected from the districts  
18 resides within the same city legislative body district.

19 (d) The boundary of a city legislative body district may cross a  
20 precinct line if the districts would not otherwise contain, as nearly as  
21 is possible, equal population.

22 (e) A city legislative body district with a boundary described by  
23 subsection (c) or (d) may not cross a census block boundary line:

- 24 (1) except when following a precinct boundary line; or  
25 (2) unless the city legislative body certifies in the ordinance that  
26 the census block has no population, and is not likely to ever have  
27 population.

28 (f) The legislative body may not adopt an ordinance dividing the city  
29 into districts with boundaries described by subsection (c) or (d) unless  
30 the clerk of the city mails a written notice to the circuit court clerk. The  
31 notice must:

- 32 (1) state that the legislative body is considering the adoption of an  
33 ordinance described by this subsection; and  
34 (2) be mailed not later than ten (10) days before the legislative  
35 body adopts the ordinance.

36 (g) The division under subsection (b) or (j) shall be made:

- 37 (1) during the second year after a year in which a federal  
38 decennial census is conducted; and  
39 (2) when required to assign annexed territory to a district.

40 This division may be made at any other time, subject to IC 3-11-1.5-32.

41 (h) This subsection does not apply to a city with an ordinance  
42 described by subsection (j). The legislative body is composed of four

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1 (4) members elected from the districts established under subsection (b)  
2 and one (1) at-large member.

3 (i) This subsection does not apply to a city with an ordinance  
4 described by subsection (j). Each voter may vote for one (1) candidate  
5 for at-large membership and one (1) candidate from the district in  
6 which the voter resides. The at-large candidate receiving the most votes  
7 from the whole city and the district candidates receiving the most votes  
8 from their respective districts are elected to the legislative body.

9 (j) A city may adopt an ordinance under this subsection to divide the  
10 city into three (3) districts that:

- 11 (1) are composed of contiguous territory, except for territory that
- 12 is not contiguous to any other part of the city;
- 13 (2) are reasonably compact;
- 14 (3) do not cross precinct boundary lines, except as provided in
- 15 subsection (c) or (d); and
- 16 (4) contain, as nearly as is possible, equal population.

17 (k) This subsection applies to a city with an ordinance described by  
18 subsection (j). The legislative body is composed of three (3) members  
19 elected from the districts established under subsection (j) and two (2)  
20 at-large members.

21 (l) This subsection applies to a city with an ordinance described by  
22 subsection (j). Each voter of the city may vote for two (2) candidates  
23 for at-large membership and one (1) candidate from the district in  
24 which the voter resides. The two (2) at-large candidates receiving the  
25 most votes from the whole city and the district candidates receiving the  
26 most votes from their respective districts are elected to the legislative  
27 body.

28 (m) This subsection applies to a city having a population of less than  
29 seven thousand (7,000). A legislative body of such a city that has, by  
30 resolution adopted before May 7, 1991, decided to continue an election  
31 process that permits each voter of the city to vote for one (1) candidate  
32 at large and one (1) candidate from each of its four (4) council districts  
33 may hold elections using that voting arrangement. The at-large  
34 candidate and the candidate from each district receiving the most votes  
35 from the whole city are elected to the legislative body. The districts  
36 established in cities adopting such a resolution may cross precinct  
37 boundary lines.

38 (n) A copy of the ordinance establishing districts under this section  
39 must be filed with the circuit court clerk of the county that contains the  
40 greatest population of the city not later than thirty (30) days after the  
41 ordinance is adopted.

42 (o) If any territory in the city is not included in one (1) of the

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1 districts established under this section, the territory is included in the  
2 district that:  
3 (1) is contiguous to that territory; and  
4 (2) contains the least population of all districts contiguous to that  
5 territory.  
6 (p) If any territory in the city is included in more than one (1) of the  
7 districts established under this section, the territory is included in the  
8 district that:  
9 (1) is one (1) of the districts in which the territory is described in  
10 the ordinance adopted under this section;  
11 (2) is contiguous to that territory; and  
12 (3) contains the least population of all districts contiguous to that  
13 territory.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred House Bill 1106, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

BATTLES, Chair

Committee Vote: yeas 7, nays 5.

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 HOUSE MOTION

Mr. Speaker: I move that House Bill 1106 be amended to read as follows:

Page 8, between lines 36 and 37, begin a new paragraph and insert:

**"(g) A county may seek reimbursement from the election division for expenses incurred in complying with subsections (e) and (f)."**

Page 12, between lines 20 and 21, begin a new paragraph and insert:

**"(k) A county may seek reimbursement from the election division for expenses incurred in complying with subsection (j)."**

Page 12, line 41, after "Sec. 1.5." insert **"(a)"**.

Page 13, between lines 1 and 2, begin a new paragraph and insert:

**" (b) A vote center pilot county may seek reimbursement from the election division for expenses incurred in complying with subsection (a)."**

Page 14, between lines 22 and 23, begin a new paragraph and insert:

**"(e) A county may seek reimbursement from the election division for expenses incurred in complying with subsection (d)."**

Page 15, between lines 13 and 14, begin a new paragraph and insert:

**"(f) A county may seek reimbursement from the election division for expenses incurred in complying with subsection (e)."**

Page 16, between lines 3 and 4, begin a new paragraph and insert:

**"(e) A county may seek reimbursement from the election division for expenses incurred in complying with this section."**

Page 16, between lines 27 and 28, begin a new paragraph and insert:

**"(c) A circuit court clerk may seek reimbursement from the election division for expenses incurred in complying with subsections (a) and (b)."**

Page 16, line 28, delete **"(c)"** and insert **"(d)"**.

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Page 16, line 38, delete "(d)" and insert "(e)".

Page 16, line 40, delete "(e)" and insert "(f)".

(Reference is to HB 1106 as printed January 8, 2010.)

HINKLE

COMMITTEE REPORT

Madam President: The Senate Committee on Elections, to which was referred House Bill No. 1106, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 12, after "ballots" insert "**(including provisional ballots)**".

Page 1, line 12, after "material" insert "**(including election material related to provisional ballots)**".

Page 2, line 12, delete "following apply:".

Page 2, line 13, delete "(1) The".

Page 2, run in lines 12 through 13.

Page 2, delete lines 15 through 18.

Page 3, delete lines 4 through 7.

Page 3, delete lines 12 through 42.

Delete pages 4 through 12.

Page 14, delete lines 1 through 31.

Page 15, delete lines 12 through 42.

Delete page 16.

Page 17, delete lines 1 through 30, begin a new paragraph and insert:

"SECTION 7. IC 36-4-6-5, AS AMENDED BY P.L.230-2005, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (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;~~ **after June 30, 2010, and during a year in which an election of the legislative body will not occur,** decide to be governed by this section instead of section 4 of this chapter. ~~If this ordinance is repeated 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 legislative body districts created by an ordinance adopted under this subsection apply to the**

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**first election of the legislative body held after the date the ordinance is adopted.** 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:

- (1) except when following a precinct boundary line; or
- (2) unless 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:

- (1) during the second year after a year in which a federal

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decennial census is conducted; and

(2) 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 subsection (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.

COPY



(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."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB1106 as reprinted January 12, 2010.)

LANDSKE, Chairperson

Committee Vote: Yeas 7, Nays 2.

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