



March 29, 2011

**ENGROSSED
HOUSE BILL No. 1190**

DIGEST OF HB 1190 (Updated March 28, 2011 10:25 am - DI 102)

Citations Affected: IC 3-10; IC 3-11.

Synopsis: Ballots and voting systems. Provides that school board offices must be placed on the ballot under a nonpartisan title. Requires that: (1) local public questions be placed on a primary election ballot after the voting instructions and before the offices with candidates for nomination; and (2) public questions be placed on a general election ballot after the voting instructions and before the offices on the ballot. For ballot card voting systems and electronic voting systems, removes a requirement that school board offices, public questions concerning the retention of a justice or judge, local nonpartisan judicial offices, and local public questions be placed at the beginning of separate columns or pages on a general election ballot. Removes the requirement that a sample ballot must be an exact copy of the official ballot and requires a sample ballot to be altered so that marks on the sample ballot cannot be counted as votes. Provides that a county election board may require its voting system to display a ballot number or other designation that uniquely identifies the candidates. (Under current law, voting systems are required to display such a unique number or designation.) Repeals an obsolete statute relating to voting machines.

Effective: July 1, 2011.

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**Richardson, Behning, Yarde,
Bartlett**

(SENATE SPONSORS — LANDSKE, LAWSON C, LANANE)

January 10, 2011, read first time and referred to Committee on Elections and Apportionment.

January 20, 2011, amended, reported — Do Pass.

January 25, 2011, read second time, amended, ordered engrossed.

January 26, 2011, engrossed.

January 31, 2011, read third time, passed. Yeas 96, nays 0.

SENATE ACTION

February 17, 2011, read first time and referred to Committee on Elections.

March 28, 2011, amended, reported favorably — Do Pass.

EH 1190—LS 7207/DI 75+



March 29, 2011

First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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ENGROSSED HOUSE BILL No. 1190

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 3-10-1-19, AS AMENDED BY P.L.146-2008,
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]: Sec. 19. (a) The ballot for a primary election shall be
4 printed in substantially the following form for all the offices for which
5 candidates have qualified under IC 3-8:

OFFICIAL PRIMARY BALLOT

6
7 _____ Party
8 For paper ballots, print: To vote for a person, make a voting mark
9 (X or ✓) on or in the box before the person's name in the proper
10 column. For optical scan ballots, print: To vote for a person, darken or
11 shade in the circle, oval, or square (or draw a line to connect the arrow)
12 that precedes the person's name in the proper column. For optical scan
13 ballots that do not contain a candidate's name, print: To vote for a
14 person, darken or shade in the oval that precedes the number assigned
15 to the person's name in the proper column. For electronic voting
16 systems, print: To vote for a person, touch the screen (or press the
17 button) in the location indicated.

EH 1190—LS 7207/DI 75+



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Vote for one (1) only
Representative in Congress

- (1) AB _____
- (2) CD _____
- (3) EF _____
- (4) GH _____

(b) Local public questions shall be placed on the primary election ballot after the voting instructions described in subsection (a) and before the offices described in subsection (e).

(c) The local public questions described in subsection (b) shall be placed:

- (1) in a separate column on the ballot if voting is by paper ballot;**
- (2) after the voting instructions described in subsection (a) and before the offices described in subsection (e), in the form specified in IC 3-11-13-11 if voting is by ballot card; or**
- (3) either of the following if voting is by an electronic voting system:**

- (A) On a separate screen for a public question.**
- (B) After the voting instructions described in subsection (a) and before the offices described in subsection (e), in the form specified in IC 3-11-14-3.5.**

(d) A public question shall be placed on the primary election ballot in the following form:

**(The explanatory text for the public question,
if required by law.)
"Shall (insert public question)?"**

- YES**
- NO**

(~~b~~) (e) The offices with candidates for nomination shall be placed on the primary election ballot in the following order:

- (1) Federal and state offices:**
 - (A) President of the United States.**
 - (B) United States Senator.**
 - (C) Governor.**
 - (D) United States Representative.**
- (2) Legislative offices:**
 - (A) State senator.**
 - (B) State representative.**
- (3) Circuit offices and county judicial offices:**
 - (A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than**

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- 1 one (1) judge of the circuit court.
- 2 (B) Judge of the superior court, and unless otherwise specified
- 3 under IC 33, with each division separate if there is more than
- 4 one (1) judge of the superior court.
- 5 (C) Judge of the probate court.
- 6 (D) Judge of the county court, with each division separate, as
- 7 required by IC 33-30-3-3.
- 8 (E) Prosecuting attorney.
- 9 (F) Circuit court clerk.
- 10 (4) County offices:
- 11 (A) County auditor.
- 12 (B) County recorder.
- 13 (C) County treasurer.
- 14 (D) County sheriff.
- 15 (E) County coroner.
- 16 (F) County surveyor.
- 17 (G) County assessor.
- 18 (H) County commissioner.
- 19 (I) County council member.
- 20 (5) Township offices:
- 21 (A) Township assessor (only in a township referred to in
- 22 IC 36-6-5-1(d)).
- 23 (B) Township trustee.
- 24 (C) Township board member.
- 25 (D) Judge of the small claims court.
- 26 (E) Constable of the small claims court.
- 27 (6) City offices:
- 28 (A) Mayor.
- 29 (B) Clerk or clerk-treasurer.
- 30 (C) Judge of the city court.
- 31 (D) City-county council member or common council member.
- 32 (7) Town offices:
- 33 (A) Clerk-treasurer.
- 34 (B) Judge of the town court.
- 35 (C) Town council member.
- 36 ~~(c)~~ (f) The political party offices with candidates for election shall
- 37 be placed on the primary election ballot in the following order after the
- 38 offices described in subsection ~~(b)~~: (e):
- 39 (1) Precinct committeeman.
- 40 (2) State convention delegate.
- 41 ~~(d)~~ (g) The following offices and public questions shall be placed on
- 42 the primary election ballot in the following order after the offices

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1 described in subsection ~~(c)~~ (f):

2 (1) School board offices to be elected at the primary election.

3 (2) Other local offices to be elected at the primary election.

4 ~~(3) Local public questions:~~

5 ~~(c)~~ (h) The offices and public questions described in subsection ~~(d)~~

6 (g) shall be placed:

7 (1) in a separate column on the ballot if voting is by paper ballot;

8 (2) after the offices described in subsection ~~(c)~~ (f) in the form

9 specified in IC 3-11-13-11 if voting is by ballot card; or

10 (3) either:

11 (A) on a separate screen for each office or public question; or

12 (B) after the offices described in subsection ~~(c)~~ (f) in the form

13 specified in IC 3-11-14-3.5;

14 if voting is by an electronic voting system.

15 (f) A public question shall be placed on the primary election ballot

16 in the following form:

17 (The explanatory text for the public question,

18 if required by law.)

19 "Shall (insert public question)?"

20 YES

21 NO

22 SECTION 2. IC 3-10-1-19.5, AS AMENDED BY P.L.1-2009,

23 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

24 JULY 1, 2011]: Sec. 19.5. Notwithstanding section 19 of this chapter,

25 the county election board may alter the prescribed ballot order to place

26 the names of the candidates for the following offices before the names

27 of the candidates for county judicial offices:

28 (1) Prosecuting attorney.

29 (2) Clerk of the circuit court.

30 (3) The county offices listed in section ~~19(b)(4)~~ 19(e)(4) of this

31 chapter.

32 SECTION 3. IC 3-10-7-32, AS AMENDED BY P.L.58-2005,

33 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

34 JULY 1, 2011]: Sec. 32. (a) A town election board shall determine

35 what voting method will be used in a municipal election.

36 (b) The town election board and its precinct election officers shall

37 perform the duties of the county election board and its precinct election

38 officers under IC 3-11 for each voting method used.

39 (c) The town election board shall prepare the ballots in the form

40 prescribed by IC 3-11 and distribute them to the precincts in the town.

41 (d) This subsection applies only to paper ballots. Notwithstanding

42 subsection (c), the town election board, by unanimous consent of the

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1 board's entire membership, may authorize the printing or reproduction
2 of ballots on equipment under the control of the town clerk-treasurer.
3 If the town election board acts under this subsection, the ballots are not
4 required to conform to the precise dimensions concerning the size of
5 political party devices under IC 3-11-2-9 or the placement of a
6 candidate's name under ~~IC 3-11-2-10(c)~~ **IC 3-11-2-10(f)**. However, the
7 ballots must otherwise substantially conform with IC 3-11-2.

8 SECTION 4. IC 3-11-2-10, AS AMENDED BY P.L.58-2005,
9 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2011]: Sec. 10. **(a) Public questions shall be placed on the
11 general election ballot in the following order after the statement
12 described in section 7 of this chapter, and the instructions
13 described in subsections (d) and (e) and section 8 of this chapter:**

- 14 **(1) Ratification of a state constitutional amendment.**
- 15 **(2) Local public questions.**

16 **Each public question shall be placed in a separate column on the
17 ballot.**

18 ~~(a)~~ **(b)** The name or title of the political party or independent ticket
19 described in section 6 of this chapter shall be placed ~~at the top of~~ **on the**
20 **general election ballot after the public questions described in**
21 **subsection (a).** The device of the political party or independent ticket
22 shall be placed immediately under the name of the political party or
23 independent ticket. The instructions for voting a straight party ticket
24 shall be placed to the right of the device.

25 ~~(b)~~ **(c)** The instructions for voting a straight party ticket must
26 conform as nearly as possible to the following: "To vote a straight
27 (insert political party name) ticket for all (political party name)
28 candidates on this ballot, make a voting mark on or in this circle and do
29 not make any other marks on this ballot. If you wish to vote for a
30 candidate seeking a nonpartisan office or on a public question, you
31 must make another voting mark on the appropriate place on this
32 ballot."

33 ~~(c)~~ **(d)** If the ballot contains an independent ticket described in
34 section 6 of this chapter and at least one (1) other independent
35 candidate, the ballot must also contain a statement that reads
36 substantially as follows: "A vote cast for an independent ticket will
37 only be counted for the candidates for President and Vice President or
38 governor and lieutenant governor comprising that independent ticket.
39 This vote will NOT be counted for any OTHER independent candidate
40 appearing on the ballot."

41 ~~(d)~~ **(e)** The ballot must also contain a statement that reads
42 substantially as follows: "A write-in vote will NOT be counted unless

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1 the vote is for a DECLARED write-in candidate. To vote for a write-in
 2 candidate, you must make a voting mark on or in the square to the left
 3 of the name you have written in or your vote will not be counted.".

4 (e) (f) The list of candidates of the political party shall be placed
 5 immediately under the instructions for voting a straight party ticket.
 6 The names of the candidates shall be placed three-fourths (3/4) of an
 7 inch apart from center to center of the name. The name of each
 8 candidate must have, immediately on its left, a square three-eighths
 9 (3/8) of an inch on each side.

10 (f) (g) The election division or the circuit court clerk may authorize
 11 the printing of ballots containing a ballot variation code to ensure that
 12 the proper version of a ballot is used within a precinct.

13 SECTION 5. IC 3-11-2-12, AS AMENDED BY P.L.146-2008,
 14 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2011]: Sec. 12. The following offices shall be placed on the
 16 general election ballot in the following order **after the public**
 17 **questions described in section 10(a) of this chapter:**

18 (1) Federal and state offices:

- 19 (A) President and Vice President of the United States.
- 20 (B) United States Senator.
- 21 (C) Governor and lieutenant governor.
- 22 (D) Secretary of state.
- 23 (E) Auditor of state.
- 24 (F) Treasurer of state.
- 25 (G) Attorney general.
- 26 (H) Superintendent of public instruction.
- 27 (I) United States Representative.

28 (2) Legislative offices:

- 29 (A) State senator.
- 30 (B) State representative.

31 (3) Circuit offices and county judicial offices:

- 32 (A) Judge of the circuit court, and unless otherwise specified
 33 under IC 33, with each division separate if there is more than
 34 one (1) judge of the circuit court.
- 35 (B) Judge of the superior court, and unless otherwise specified
 36 under IC 33, with each division separate if there is more than
 37 one (1) judge of the superior court.
- 38 (C) Judge of the probate court.
- 39 (D) Judge of the county court, with each division separate, as
 40 required by IC 33-30-3-3.
- 41 (E) Prosecuting attorney.
- 42 (F) Clerk of the circuit court.

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- 1 (4) County offices:
- 2 (A) County auditor.
- 3 (B) County recorder.
- 4 (C) County treasurer.
- 5 (D) County sheriff.
- 6 (E) County coroner.
- 7 (F) County surveyor.
- 8 (G) County assessor.
- 9 (H) County commissioner.
- 10 (I) County council member.
- 11 (5) Township offices:
- 12 (A) Township assessor (only in a township referred to in
- 13 IC 36-6-5-1(d)).
- 14 (B) Township trustee.
- 15 (C) Township board member.
- 16 (D) Judge of the small claims court.
- 17 (E) Constable of the small claims court.
- 18 (6) City offices:
- 19 (A) Mayor.
- 20 (B) Clerk or clerk-treasurer.
- 21 (C) Judge of the city court.
- 22 (D) City-county council member or common council member.
- 23 (7) Town offices:
- 24 (A) Clerk-treasurer.
- 25 (B) Judge of the town court.
- 26 (C) Town council member.

27 SECTION 6. IC 3-11-2-12.9, AS AMENDED BY P.L.58-2005,
 28 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2011]: Sec. 12.9. (a) School board offices to be elected at the
 30 general election shall be placed on the general election ballot after the
 31 offices described in section 12 of this chapter **under a nonpartisan**
 32 **title.**

33 ~~(b)~~ School board offices shall be placed in a separate column on the
 34 ballot:

35 ~~(c)~~ (b) If the ballot contains a candidate for a school board office,
 36 the ballot must also contain a statement that reads substantially as
 37 follows: "To vote for a candidate for this office, make a voting mark on
 38 or in the square to the left of the candidate's name."

39 SECTION 7. IC 3-11-2-13, AS AMENDED BY P.L.58-2005,
 40 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2011]: Sec. 13. (a) The following offices ~~and public questions~~
 42 shall be placed on the general election ballot in the following order

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1 after the offices described in section 12.9 of this chapter:
 2 (1) Retention of a justice of the supreme court.
 3 (2) Retention of a judge of the court of appeals.
 4 (3) Retention of the judge of the tax court.
 5 ~~(4) Ratification of a state constitutional amendment.~~
 6 (b) Whenever more than one (1) justice of the supreme court is
 7 subject to retention, the name of each justice must appear on the ballot
 8 in alphabetical order. However, if the justice serving as chief justice is
 9 subject to retention, the chief justice's name must appear first.
 10 (c) Whenever more than one (1) judge of the court of appeals is
 11 subject to retention, the name of each judge must appear on the ballot
 12 in alphabetical order. However, if the judge serving as chief judge is
 13 subject to retention, the chief judge's name must appear first.
 14 (d) These offices ~~and public questions~~ shall be placed in a separate
 15 column on the ballot.
 16 SECTION 8. IC 3-11-2-14, AS AMENDED BY P.L.58-2005,
 17 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2011]: Sec. 14. (a) The following offices ~~and public questions~~
 19 shall be placed on the general election ballot in the following order
 20 after the offices ~~and public questions~~ described in section 13 of this
 21 chapter:
 22 (1) Retention of a local judge.
 23 (2) Local nonpartisan judicial offices.
 24 ~~(3) Local public questions.~~
 25 (b) These offices ~~and public questions~~ shall be placed in a separate
 26 column on the ballot.
 27 (c) If the ballot contains a candidate for a local nonpartisan judicial
 28 office, the ballot must also contain a statement that reads substantially
 29 as follows: "To vote for a candidate for this office, make a voting mark
 30 on or in the square to the left of the candidate's name."
 31 (d) If more than one (1) ~~local public~~ question concerning the
 32 retention of a local judge is to be placed on a ballot, the ~~public~~
 33 questions shall be placed on the ballot:
 34 (1) in alphabetical order according to the surname of the local
 35 judge; and
 36 (2) identifying the court (including division or room) in which the
 37 judge serves.
 38 SECTION 9. IC 3-11-13-9 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 9. The public officials
 40 charged with the duty of providing ballot cards or ballot labels shall
 41 also provide sample ballots. ~~The A sample ballots ballot~~ must be:
 42 (1) ~~exact copies~~ **a copy** of the official ballot cards or ballot labels;

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~~and~~

(2) arranged in the form of a diagram showing the front of the marking device as it will appear ~~on at the election; day; and~~ **(3) altered so marks on the sample ballot cannot be counted as votes.**

SECTION 10. IC 3-11-13-11, AS AMENDED BY P.L.164-2006, SECTION 114, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 11. (a) The ballot information, whether placed on the ballot card or on the marking device, must be in the order of arrangement provided for ballots under this section.

(b) Each county election board shall have the names of all candidates for all elected offices, political party offices, and public questions printed on a ballot card as provided in this chapter. The county may:

(1) print all offices and questions on a single ballot card; and

(2) include a ballot variation code to ensure that the proper version of a ballot is used within a precinct.

(c) Each type of ballot card must be of uniform size and of the same quality and color of paper (except as permitted under IC 3-10-1-17).

(d) The nominees of a political party or an independent candidate or independent ticket (described in IC 3-11-2-6) nominated by petitioners shall be listed on the ballot with the name and device set forth on the certification or petition. The circle containing the device may be of any size that permits a voter to readily identify the device. IC 3-11-2-5 applies if the certification or petition does not include a name or device, or if the same device is selected by two (2) or more parties or petitioners.

(e) The offices **and public questions** on the general election ballot must be placed on the ballot in the order listed in IC 3-11-2-12, IC 3-11-2-12.2, IC 3-11-2-12.5, IC 3-11-2-12.7(b), IC 3-11-2-12.9(a), IC 3-11-2-13(a) through IC 3-11-2-13(c), IC 3-11-2-14(a), and IC 3-11-2-14(d). The offices and public questions may be listed in a continuous column either vertically or horizontally and on a number of separate pages. ~~However, school board offices, public questions concerning the retention of a justice or judge, local nonpartisan judicial offices and local public questions must be placed at the beginning of separate columns.~~

(f) The name of each office must be printed in a uniform size in bold type. A statement reading substantially as follows must be placed immediately below the name of the office and above the name of the first candidate: "Vote for not more than (insert the number of candidates to be elected) candidate(s) for this office."

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- 1 (g) Below the name of the office and the statement required by
- 2 subsection (f), the names of the candidates for each office must be
- 3 grouped together in the following order:
- 4 (1) The major political party whose candidate received the highest
- 5 number of votes in the county for secretary of state at the last
- 6 election is listed first.
- 7 (2) The major political party whose candidate received the second
- 8 highest number of votes in the county for secretary of state is
- 9 listed second.
- 10 (3) All other political parties listed in the order that the parties'
- 11 candidates for secretary of state finished in the last election are
- 12 listed after the party listed in subdivision (2).
- 13 (4) If a political party did not have a candidate for secretary of
- 14 state in the last election or a nominee is an independent candidate
- 15 or independent ticket (described in IC 3-11-2-6), the party or
- 16 candidate is listed after the parties described in subdivisions (1),
- 17 (2), and (3).
- 18 (5) If more than one (1) political party or independent candidate
- 19 or ticket described in subdivision (4) qualifies to be on the ballot,
- 20 the parties, candidates, or tickets are listed in the order in which
- 21 the party filed its petition of nomination under IC 3-8-6-12.
- 22 (6) A space for write-in voting is placed after the candidates listed
- 23 in subdivisions (1) through (5), if required by law.
- 24 (7) The name of a write-in candidate may not be listed on the
- 25 ballot.
- 26 (h) The names of the candidates grouped in the order established by
- 27 subsection (g) must be printed in type with uniform capital letters and
- 28 have a uniform space between each name. The name of the candidate's
- 29 political party, or the word "Independent" if the:
- 30 (1) candidate; or
- 31 (2) ticket of candidates for:
- 32 (A) President and Vice President of the United States; or
- 33 (B) governor and lieutenant governor;
- 34 is independent, must be placed immediately below or beside the name
- 35 of the candidate and must be printed in a uniform size and type.
- 36 (i) All the candidates of the same political party for election to
- 37 at-large seats on the fiscal or legislative body of a political subdivision
- 38 must be grouped together:
- 39 (1) under the name of the office that the candidates are seeking;
- 40 (2) in the order established by subsection (g); and
- 41 (3) within the political party, in alphabetical order according to
- 42 surname.

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1 A statement reading substantially as follows must be placed
2 immediately below the name of the office and above the name of the
3 first candidate: "Vote for not more than (insert the number of
4 candidates to be elected) candidate(s) of ANY party for this office."

5 (j) Candidates for election to at-large seats on the governing body
6 of a school corporation must be grouped:

- 7 (1) under the name of the office that the candidates are seeking;
- 8 and
- 9 (2) in alphabetical order according to surname.

10 A statement reading substantially as follows must be placed
11 immediately below the name of the office and above the name of the
12 first candidate: "Vote for not more than (insert the number of
13 candidates to be elected) candidate(s) for this office."

14 (k) The following information must be placed at the top of the ballot
15 before the first ~~office~~ **public question** is listed:

- 16 (1) The cautionary statement described in IC 3-11-2-7.
- 17 (2) The instructions described in IC 3-11-2-8, ~~IC 3-11-2-10(e);~~
18 ~~and IC 3-11-2-10(d), and IC 3-11-2-10(e).~~

19 (l) The ballot must include a single connectable arrow, circle, oval,
20 or square, or a voting position for voting a straight party or an
21 independent ticket (described in IC 3-11-2-6) by one (1) mark as
22 required by section 14 of this chapter, and the single connectable
23 arrow, circle, oval, or square, or the voting position for casting a
24 straight party or an independent ticket ballot must be identified by:

- 25 (1) the name of the political party or independent ticket
26 (described in IC 3-11-2-6); and
- 27 (2) immediately below or beside the political party's or
28 independent ticket's name, the device of that party or ticket
29 (described in IC 3-11-2-5).

30 The name and device of each political party or independent ticket must
31 be of uniform size and type and arranged in the order established by
32 subsection (g) for listing candidates under each office. The instructions
33 described in ~~IC 3-11-2-10(b)~~ **IC 3-11-2-10(c)** for voting a straight party
34 ticket and the statement concerning presidential electors required under
35 IC 3-10-4-3 may be placed on the ballot beside or above the names and
36 devices within the voting booth in a location that permits the voter to
37 easily read the instructions.

38 (m) A public question must be in the form described in
39 IC 3-11-2-15(a) and IC 3-11-2-15(b), except that a single connectable
40 arrow, a circle, or an oval may be used instead of a square. Except as
41 expressly authorized or required by statute, a county election board
42 may not print a ballot card that contains language concerning the public

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1 question other than the language authorized by a statute.
 2 (n) The requirements in this section:
 3 (1) do not replace; and
 4 (2) are in addition to;
 5 any other requirements in this title that apply to optical scan ballots.
 6 (o) The procedure described in IC 3-11-2-16 must be used when a
 7 ballot does not comply with the requirements imposed by this title or
 8 contains another error or omission that might result in confusion or
 9 mistakes by voters.
 10 (p) This subsection applies to an optical scan ballot that does not
 11 list:
 12 (1) the names of political parties or candidates; or
 13 (2) the text of public questions;
 14 on the face of the ballot. The ballot must be prepared in accordance
 15 with this section, except that the ballot must include a numbered circle
 16 or oval to refer to each political party, candidate, or public question.
 17 SECTION 11. IC 3-11-14-3.5, AS ADDED BY P.L.58-2005,
 18 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2011]: Sec. 3.5. (a) Each county election board shall have the
 20 names of all candidates for all elected offices, political party offices,
 21 and public questions printed on ballot labels for use in an electronic
 22 voting system as provided in this chapter.
 23 (b) The county may:
 24 (1) print all offices and public questions on a single ballot label;
 25 and
 26 (2) include a ballot variation code to ensure that the proper
 27 version of a ballot label is used within a precinct.
 28 (c) Each type of ballot label or paster must be of uniform size and
 29 of the same quality and color of paper (except as permitted under
 30 IC 3-10-1-17).
 31 (d) The nominees of a political party or an independent candidate
 32 or independent ticket (described in IC 3-11-2-6) nominated by
 33 petitioners must be listed on the ballot label with the name and device
 34 set forth on the certification or petition. The circle containing the
 35 device may be of any size that permits a voter to readily identify the
 36 device. IC 3-11-2-5 applies if the certification or petition does not
 37 include a name or device, or if the same device is selected by two (2)
 38 or more parties or petitioners.
 39 (e) The ballot labels must list the offices **and public questions** on
 40 the general election ballot in the order listed in IC 3-11-2-12,
 41 IC 3-11-2-12.2, IC 3-11-2-12.5, IC 3-11-2-12.7(b), IC 3-11-2-12.9(a),
 42 IC 3-11-2-13(a) through IC 3-11-2-13(c), IC 3-11-2-14(a), and

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1 IC 3-11-2-14(d). Each office and public question may have a separate
2 screen, or the offices and public questions may be listed in a
3 continuous column either vertically or horizontally. ~~However, school~~
4 ~~board offices, public questions concerning the retention of a justice or~~
5 ~~judge, local nonpartisan judicial offices and local public questions shall~~
6 ~~be placed at the beginning of separate columns or pages.~~

7 (f) The name of each office must be printed in a uniform size in bold
8 type. A statement reading substantially as follows must be placed
9 immediately below the name of the office and above the name of the
10 first candidate: "Vote for not more than (insert the number of
11 candidates to be elected) candidate(s) for this office."

12 (g) Below the name of the office and the statement required by
13 subsection (f), the names of the candidates for each office must be
14 grouped together in the following order:

15 (1) The major political party whose candidate received the highest
16 number of votes in the county for secretary of state at the last
17 election is listed first.

18 (2) The major political party whose candidate received the second
19 highest number of votes in the county for secretary of state is
20 listed second.

21 (3) All other political parties listed in the order that the parties'
22 candidates for secretary of state finished in the last election are
23 listed after the party listed in subdivision (2).

24 (4) If a political party did not have a candidate for secretary of
25 state in the last election or a nominee is an independent candidate
26 or independent ticket (described in IC 3-11-2-6), the party or
27 candidate is listed after the parties described in subdivisions (1),
28 (2), and (3).

29 (5) If more than one (1) political party or independent candidate
30 or ticket described in subdivision (4) qualifies to be on the ballot,
31 the parties, candidates, or tickets are listed in the order in which
32 the party filed its petition of nomination under IC 3-8-6-12.

33 (6) A space for write-in voting is placed after the candidates listed
34 in subdivisions (1) through (5), if required by law.

35 (7) The name of a write-in candidate may not be listed on the
36 ballot.

37 (h) The names of the candidates grouped in the order established by
38 subsection (g) must be printed in type with uniform capital letters and
39 have a uniform space between each name. The name of the candidate's
40 political party, or the word "Independent", if the:

- 41 (1) candidate; or
- 42 (2) ticket of candidates for:

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1 (A) President and Vice President of the United States; or
 2 (B) governor and lieutenant governor;
 3 is independent, must be placed immediately below or beside the name
 4 of the candidate and must be printed in uniform size and type.
 5 (i) All the candidates of the same political party for election to
 6 at-large seats on the fiscal or legislative body of a political subdivision
 7 must be grouped together:
 8 (1) under the name of the office that the candidates are seeking;
 9 (2) in the party order established by subsection (g); and
 10 (3) within the political party, in alphabetical order according to
 11 surname.
 12 A statement reading substantially as follows must be placed
 13 immediately below the name of the office and above the name of the
 14 first candidate: "Vote for not more than (insert the number of
 15 candidates to be elected) candidate(s) of ANY party for this office."
 16 (j) Candidates for election to at-large seats on the governing body
 17 of a school corporation must be grouped:
 18 (1) under the name of the office that the candidates are seeking;
 19 and
 20 (2) in alphabetical order according to surname.
 21 A statement reading substantially as follows must be placed
 22 immediately below the name of the office and above the name of the
 23 first candidate: "Vote for not more than (insert the number of
 24 candidates to be elected) candidate(s) for this office."
 25 (k) The cautionary statement described in IC 3-11-2-7 must be
 26 placed at the top or beginning of the ballot label before the first **office**
 27 **public question** is listed.
 28 (l) The instructions described in IC 3-11-2-8, ~~IC 3-11-2-10(c)~~, and
 29 IC 3-11-2-10(d), **and IC 3-11-2-10(e)** may be:
 30 (1) placed on the ballot label; or
 31 (2) posted in a location within the voting booth that permits the
 32 voter to easily read the instructions.
 33 (m) The ballot label must include a touch sensitive point or button
 34 for voting a straight political party or independent ticket (described in
 35 IC 3-11-2-6) by one (1) touch, and the touch sensitive point or button
 36 must be identified by:
 37 (1) the name of the political party or independent ticket; and
 38 (2) immediately below or beside the political party's or
 39 independent ticket's name, the device of that party or ticket
 40 (described in IC 3-11-2-5).
 41 The name and device of each party or ticket must be of uniform size
 42 and type, and arranged in the order established by subsection (g) for

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1 listing candidates under each office. The instructions described in
2 ~~IC 3-11-2-10(b)~~ **IC 3-11-2-10(c)** for voting a straight party ticket and
3 the statement concerning presidential electors required under
4 IC 3-10-4-3 may be placed on the ballot label or in a location within the
5 voting booth that permits the voter to easily read the instructions.

6 (n) A public question must be in the form described in
7 IC 3-11-2-15(a) and IC 3-11-2-15(b), except that a touch sensitive
8 point or button must be used instead of a square. Except as expressly
9 authorized or required by statute, a county election board may not print
10 a ballot label that contains language concerning the public question
11 other than the language authorized by a statute.

12 (o) The requirements in this section:
13 (1) do not replace; and
14 (2) are in addition to;
15 any other requirements in this title that apply to ballots for electronic
16 voting systems.

17 (p) The procedure described in IC 3-11-2-16 must be used when a
18 ballot label does not comply with the requirements imposed by this title
19 or contains another error or omission that might result in confusion or
20 mistakes by voters.

21 SECTION 12. IC 3-11-15-13.1 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13.1. **(a)** If a voting
23 system has the capability, the voting system must display on the
24 medium used by the voter to cast the voter's ballot the ~~following~~
25 **information for name of** each candidate.

26 ~~(1) The name of the candidate.~~
27 ~~(2)~~ **(b) A county election board (or a board of elections and**
28 **registration established under IC 3-6-5.2 or IC 3-6-5.4) may**
29 **require a voting system to display on the medium used by the voter**
30 **to cast the voter's ballot a ballot number or other candidate**
31 **designation uniquely associated with the candidate.**

32 SECTION 13. IC 3-11-11-1.5 IS REPEALED [EFFECTIVE JULY
33 1, 2011].

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred House Bill 1190, 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, delete lines 13 through 17.

Page 2, delete lines 1 through 5.

Page 2, after line 24, begin a new paragraph and insert:

"SECTION 4. IC 3-11-11-1.5 IS REPEALED [EFFECTIVE JULY 1, 2011]."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1190 as introduced.)

KOCH, Chair

Committee Vote: yeas 10, nays 0.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1190 be amended to read as follows:

Page 2, line 12, after "A" insert "**county election board (or a board of elections and registration established under IC 3-6-5.2 or IC 3-6-5.4) may require a**".

Page 2, line 12, delete "may" and insert "to".

(Reference is to HB 1190 as printed January 21, 2011.)

RICHARDSON

COMMITTEE REPORT

Madam President: The Senate Committee on Elections, to which was referred House Bill No. 1190, 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, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 3-10-1-19, AS AMENDED BY P.L.146-2008,

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SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 19. (a) The ballot for a primary election shall be printed in substantially the following form for all the offices for which candidates have qualified under IC 3-8:

OFFICIAL PRIMARY BALLOT

_____ Party

For paper ballots, print: To vote for a person, make a voting mark (X or ✓) on or in the box before the person's name in the proper column. For optical scan ballots, print: To vote for a person, darken or shade in the circle, oval, or square (or draw a line to connect the arrow) that precedes the person's name in the proper column. For optical scan ballots that do not contain a candidate's name, print: To vote for a person, darken or shade in the oval that precedes the number assigned to the person's name in the proper column. For electronic voting systems, print: To vote for a person, touch the screen (or press the button) in the location indicated.

Vote for one (1) only

Representative in Congress

(1) AB _____

(2) CD _____

(3) EF _____

(4) GH _____

(b) Local public questions shall be placed on the primary election ballot after the voting instructions described in subsection (a) and before the offices described in subsection (e).

(c) The local public questions described in subsection (b) shall be placed:

(1) in a separate column on the ballot if voting is by paper ballot;

(2) after the voting instructions described in subsection (a) and before the offices described in subsection (e), in the form specified in IC 3-11-13-11 if voting is by ballot card; or

(3) either of the following if voting is by an electronic voting system:

(A) On a separate screen for a public question.

(B) After the voting instructions described in subsection (a) and before the offices described in subsection (e), in the form specified in IC 3-11-14-3.5.

(d) A public question shall be placed on the primary election ballot in the following form:

**(The explanatory text for the public question,
if required by law.)**

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"Shall (insert public question)?"

YES

NO

~~(b)~~ **(e)** The offices with candidates for nomination shall be placed on the primary election ballot in the following order:

- (1) Federal and state offices:
 - (A) President of the United States.
 - (B) United States Senator.
 - (C) Governor.
 - (D) United States Representative.
- (2) Legislative offices:
 - (A) State senator.
 - (B) State representative.
- (3) Circuit offices and county judicial offices:
 - (A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the circuit court.
 - (B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the superior court.
 - (C) Judge of the probate court.
 - (D) Judge of the county court, with each division separate, as required by IC 33-30-3-3.
 - (E) Prosecuting attorney.
 - (F) Circuit court clerk.
- (4) County offices:
 - (A) County auditor.
 - (B) County recorder.
 - (C) County treasurer.
 - (D) County sheriff.
 - (E) County coroner.
 - (F) County surveyor.
 - (G) County assessor.
 - (H) County commissioner.
 - (I) County council member.
- (5) Township offices:
 - (A) Township assessor (only in a township referred to in IC 36-6-5-1(d)).
 - (B) Township trustee.
 - (C) Township board member.
 - (D) Judge of the small claims court.
 - (E) Constable of the small claims court.

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- (6) City offices:
 - (A) Mayor.
 - (B) Clerk or clerk-treasurer.
 - (C) Judge of the city court.
 - (D) City-county council member or common council member.
- (7) Town offices:
 - (A) Clerk-treasurer.
 - (B) Judge of the town court.
 - (C) Town council member.

~~(c)~~ (f) The political party offices with candidates for election shall be placed on the primary election ballot in the following order after the offices described in subsection ~~(b)~~: (e):

- (1) Precinct committeeman.
- (2) State convention delegate.

~~(d)~~ (g) The following offices and public questions shall be placed on the primary election ballot in the following order after the offices described in subsection ~~(c)~~: (f):

- (1) School board offices to be elected at the primary election.
- (2) Other local offices to be elected at the primary election.
- ~~(3) Local public questions.~~

~~(e)~~ (h) The offices and public questions described in subsection ~~(d)~~ (g) shall be placed:

- (1) in a separate column on the ballot if voting is by paper ballot;
- (2) after the offices described in subsection ~~(c)~~ (f) in the form specified in IC 3-11-13-11 if voting is by ballot card; or
- (3) either:
 - (A) on a separate screen for each office or public question; or
 - (B) after the offices described in subsection ~~(c)~~ (f) in the form specified in IC 3-11-14-3.5;

if voting is by an electronic voting system.

~~(f) A public question shall be placed on the primary election ballot in the following form:~~

~~(The explanatory text for the public question,
if required by law.)~~

~~"Shall (insert public question)?"~~

- ~~YES~~
- ~~NO~~

SECTION 2. IC 3-10-1-19.5, AS AMENDED BY P.L.1-2009, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 19.5. Notwithstanding section 19 of this chapter, the county election board may alter the prescribed ballot order to place the names of the candidates for the following offices before the names



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of the candidates for county judicial offices:

- (1) Prosecuting attorney.
- (2) Clerk of the circuit court.
- (3) The county offices listed in section ~~19(b)(4)~~ **19(e)(4)** of this chapter.

SECTION 3. IC 3-10-7-32, AS AMENDED BY P.L.58-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 32. (a) A town election board shall determine what voting method will be used in a municipal election.

(b) The town election board and its precinct election officers shall perform the duties of the county election board and its precinct election officers under IC 3-11 for each voting method used.

(c) The town election board shall prepare the ballots in the form prescribed by IC 3-11 and distribute them to the precincts in the town.

(d) This subsection applies only to paper ballots. Notwithstanding subsection (c), the town election board, by unanimous consent of the board's entire membership, may authorize the printing or reproduction of ballots on equipment under the control of the town clerk-treasurer. If the town election board acts under this subsection, the ballots are not required to conform to the precise dimensions concerning the size of political party devices under IC 3-11-2-9 or the placement of a candidate's name under ~~IC 3-11-2-10(e)~~ **IC 3-11-2-10(f)**. However, the ballots must otherwise substantially conform with IC 3-11-2.

SECTION 4. IC 3-11-2-10, AS AMENDED BY P.L.58-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 10. **(a) Public questions shall be placed on the general election ballot in the following order after the statement described in section 7 of this chapter, and the instructions described in subsections (d) and (e) and section 8 of this chapter:**

- (1) Ratification of a state constitutional amendment.**
- (2) Local public questions.**

Each public question shall be placed in a separate column on the ballot.

~~(a)~~ **(b)** The name or title of the political party or independent ticket described in section 6 of this chapter shall be placed ~~at the top of~~ **on the general election ballot after the public questions described in subsection (a)**. The device of the political party or independent ticket shall be placed immediately under the name of the political party or independent ticket. The instructions for voting a straight party ticket shall be placed to the right of the device.

~~(b)~~ **(c)** The instructions for voting a straight party ticket must conform as nearly as possible to the following: "To vote a straight

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(insert political party name) ticket for all (political party name) candidates on this ballot, make a voting mark on or in this circle and do not make any other marks on this ballot. If you wish to vote for a candidate seeking a nonpartisan office or on a public question, you must make another voting mark on the appropriate place on this ballot."

(c) (d) If the ballot contains an independent ticket described in section 6 of this chapter and at least one (1) other independent candidate, the ballot must also contain a statement that reads substantially as follows: "A vote cast for an independent ticket will only be counted for the candidates for President and Vice President or governor and lieutenant governor comprising that independent ticket. This vote will NOT be counted for any OTHER independent candidate appearing on the ballot."

(d) (e) The ballot must also contain a statement that reads substantially as follows: "A write-in vote will NOT be counted unless the vote is for a DECLARED write-in candidate. To vote for a write-in candidate, you must make a voting mark on or in the square to the left of the name you have written in or your vote will not be counted."

(e) (f) The list of candidates of the political party shall be placed immediately under the instructions for voting a straight party ticket. The names of the candidates shall be placed three-fourths (3/4) of an inch apart from center to center of the name. The name of each candidate must have, immediately on its left, a square three-eighths (3/8) of an inch on each side.

(f) (g) The election division or the circuit court clerk may authorize the printing of ballots containing a ballot variation code to ensure that the proper version of a ballot is used within a precinct.

SECTION 5. IC 3-11-2-12, AS AMENDED BY P.L.146-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 12. The following offices shall be placed on the general election ballot in the following order **after the public questions described in section 10(a) of this chapter:**

- (1) Federal and state offices:
 - (A) President and Vice President of the United States.
 - (B) United States Senator.
 - (C) Governor and lieutenant governor.
 - (D) Secretary of state.
 - (E) Auditor of state.
 - (F) Treasurer of state.
 - (G) Attorney general.
 - (H) Superintendent of public instruction.

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- (I) United States Representative.
- (2) Legislative offices:
 - (A) State senator.
 - (B) State representative.
- (3) Circuit offices and county judicial offices:
 - (A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the circuit court.
 - (B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the superior court.
 - (C) Judge of the probate court.
 - (D) Judge of the county court, with each division separate, as required by IC 33-30-3-3.
 - (E) Prosecuting attorney.
 - (F) Clerk of the circuit court.
- (4) County offices:
 - (A) County auditor.
 - (B) County recorder.
 - (C) County treasurer.
 - (D) County sheriff.
 - (E) County coroner.
 - (F) County surveyor.
 - (G) County assessor.
 - (H) County commissioner.
 - (I) County council member.
- (5) Township offices:
 - (A) Township assessor (only in a township referred to in IC 36-6-5-1(d)).
 - (B) Township trustee.
 - (C) Township board member.
 - (D) Judge of the small claims court.
 - (E) Constable of the small claims court.
- (6) City offices:
 - (A) Mayor.
 - (B) Clerk or clerk-treasurer.
 - (C) Judge of the city court.
 - (D) City-county council member or common council member.
- (7) Town offices:
 - (A) Clerk-treasurer.
 - (B) Judge of the town court.
 - (C) Town council member."

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Page 1, between lines 12 and 13, begin a new paragraph and insert:
 "SECTION 7. IC 3-11-2-13, AS AMENDED BY P.L.58-2005,
 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 JULY 1, 2011]: Sec. 13. (a) The following offices ~~and public questions~~
 shall be placed on the general election ballot in the following order
 after the offices described in section 12.9 of this chapter:

- (1) Retention of a justice of the supreme court.
- (2) Retention of a judge of the court of appeals.
- (3) Retention of the judge of the tax court.
- ~~(4) Ratification of a state constitutional amendment.~~

(b) Whenever more than one (1) justice of the supreme court is subject to retention, the name of each justice must appear on the ballot in alphabetical order. However, if the justice serving as chief justice is subject to retention, the chief justice's name must appear first.

(c) Whenever more than one (1) judge of the court of appeals is subject to retention, the name of each judge must appear on the ballot in alphabetical order. However, if the judge serving as chief judge is subject to retention, the chief judge's name must appear first.

(d) These offices ~~and public questions~~ shall be placed in a separate column on the ballot.

SECTION 8. IC 3-11-2-14, AS AMENDED BY P.L.58-2005,
 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 JULY 1, 2011]: Sec. 14. (a) The following offices ~~and public questions~~
 shall be placed on the general election ballot in the following order
 after the offices ~~and public questions~~ described in section 13 of this
 chapter:

- (1) Retention of a local judge.
- (2) Local nonpartisan judicial offices.
- ~~(3) Local public questions.~~

(b) These offices ~~and public questions~~ shall be placed in a separate column on the ballot.

(c) If the ballot contains a candidate for a local nonpartisan judicial office, the ballot must also contain a statement that reads substantially as follows: "To vote for a candidate for this office, make a voting mark on or in the square to the left of the candidate's name.".

(d) If more than one (1) ~~local public~~ question concerning the retention of a local judge is to be placed on a ballot, the ~~public~~ questions shall be placed on the ballot:

- (1) in alphabetical order according to the surname of the local judge; and
- (2) identifying the court (including division or room) in which the judge serves.".

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Page 2, between lines 5 and 6, begin a new paragraph and insert:

"SECTION 10. IC 3-11-13-11, AS AMENDED BY P.L.164-2006, SECTION 114, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 11. (a) The ballot information, whether placed on the ballot card or on the marking device, must be in the order of arrangement provided for ballots under this section.

(b) Each county election board shall have the names of all candidates for all elected offices, political party offices, and public questions printed on a ballot card as provided in this chapter. The county may:

- (1) print all offices and questions on a single ballot card; and
- (2) include a ballot variation code to ensure that the proper version of a ballot is used within a precinct.

(c) Each type of ballot card must be of uniform size and of the same quality and color of paper (except as permitted under IC 3-10-1-17).

(d) The nominees of a political party or an independent candidate or independent ticket (described in IC 3-11-2-6) nominated by petitioners shall be listed on the ballot with the name and device set forth on the certification or petition. The circle containing the device may be of any size that permits a voter to readily identify the device. IC 3-11-2-5 applies if the certification or petition does not include a name or device, or if the same device is selected by two (2) or more parties or petitioners.

(e) The offices **and public questions** on the general election ballot must be placed on the ballot in the order listed in IC 3-11-2-12, IC 3-11-2-12.2, IC 3-11-2-12.5, IC 3-11-2-12.7(b), IC 3-11-2-12.9(a), IC 3-11-2-13(a) through IC 3-11-2-13(c), IC 3-11-2-14(a), and IC 3-11-2-14(d). The offices and public questions may be listed in a continuous column either vertically or horizontally and on a number of separate pages. ~~However, school board offices, public questions concerning the retention of a justice or judge, local nonpartisan judicial offices and local public questions must be placed at the beginning of separate columns.~~

(f) The name of each office must be printed in a uniform size in bold type. A statement reading substantially as follows must be placed immediately below the name of the office and above the name of the first candidate: "Vote for not more than (insert the number of candidates to be elected) candidate(s) for this office."

(g) Below the name of the office and the statement required by subsection (f), the names of the candidates for each office must be grouped together in the following order:

- (1) The major political party whose candidate received the highest

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number of votes in the county for secretary of state at the last election is listed first.

(2) The major political party whose candidate received the second highest number of votes in the county for secretary of state is listed second.

(3) All other political parties listed in the order that the parties' candidates for secretary of state finished in the last election are listed after the party listed in subdivision (2).

(4) If a political party did not have a candidate for secretary of state in the last election or a nominee is an independent candidate or independent ticket (described in IC 3-11-2-6), the party or candidate is listed after the parties described in subdivisions (1), (2), and (3).

(5) If more than one (1) political party or independent candidate or ticket described in subdivision (4) qualifies to be on the ballot, the parties, candidates, or tickets are listed in the order in which the party filed its petition of nomination under IC 3-8-6-12.

(6) A space for write-in voting is placed after the candidates listed in subdivisions (1) through (5), if required by law.

(7) The name of a write-in candidate may not be listed on the ballot.

(h) The names of the candidates grouped in the order established by subsection (g) must be printed in type with uniform capital letters and have a uniform space between each name. The name of the candidate's political party, or the word "Independent" if the:

(1) candidate; or

(2) ticket of candidates for:

(A) President and Vice President of the United States; or

(B) governor and lieutenant governor;

is independent, must be placed immediately below or beside the name of the candidate and must be printed in a uniform size and type.

(i) All the candidates of the same political party for election to at-large seats on the fiscal or legislative body of a political subdivision must be grouped together:

(1) under the name of the office that the candidates are seeking;

(2) in the order established by subsection (g); and

(3) within the political party, in alphabetical order according to surname.

A statement reading substantially as follows must be placed immediately below the name of the office and above the name of the first candidate: "Vote for not more than (insert the number of candidates to be elected) candidate(s) of ANY party for this office."

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(j) Candidates for election to at-large seats on the governing body of a school corporation must be grouped:

- (1) under the name of the office that the candidates are seeking; and
- (2) in alphabetical order according to surname.

A statement reading substantially as follows must be placed immediately below the name of the office and above the name of the first candidate: "Vote for not more than (insert the number of candidates to be elected) candidate(s) for this office."

(k) The following information must be placed at the top of the ballot before the first ~~office~~ **public question** is listed:

- (1) The cautionary statement described in IC 3-11-2-7.
- (2) The instructions described in IC 3-11-2-8, ~~IC 3-11-2-10(c); and IC 3-11-2-10(d), and IC 3-11-2-10(e).~~

(l) The ballot must include a single connectable arrow, circle, oval, or square, or a voting position for voting a straight party or an independent ticket (described in IC 3-11-2-6) by one (1) mark as required by section 14 of this chapter, and the single connectable arrow, circle, oval, or square, or the voting position for casting a straight party or an independent ticket ballot must be identified by:

- (1) the name of the political party or independent ticket (described in IC 3-11-2-6); and
- (2) immediately below or beside the political party's or independent ticket's name, the device of that party or ticket (described in IC 3-11-2-5).

The name and device of each political party or independent ticket must be of uniform size and type and arranged in the order established by subsection (g) for listing candidates under each office. The instructions described in ~~IC 3-11-2-10(b)~~ **IC 3-11-2-10(c)** for voting a straight party ticket and the statement concerning presidential electors required under IC 3-10-4-3 may be placed on the ballot beside or above the names and devices within the voting booth in a location that permits the voter to easily read the instructions.

(m) A public question must be in the form described in IC 3-11-2-15(a) and IC 3-11-2-15(b), except that a single connectable arrow, a circle, or an oval may be used instead of a square. Except as expressly authorized or required by statute, a county election board may not print a ballot card that contains language concerning the public question other than the language authorized by a statute.

(n) The requirements in this section:

- (1) do not replace; and
- (2) are in addition to;

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any other requirements in this title that apply to optical scan ballots.

(o) The procedure described in IC 3-11-2-16 must be used when a ballot does not comply with the requirements imposed by this title or contains another error or omission that might result in confusion or mistakes by voters.

(p) This subsection applies to an optical scan ballot that does not list:

- (1) the names of political parties or candidates; or
- (2) the text of public questions;

on the face of the ballot. The ballot must be prepared in accordance with this section, except that the ballot must include a numbered circle or oval to refer to each political party, candidate, or public question.

SECTION 11. IC 3-11-14-3.5, AS ADDED BY P.L.58-2005, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3.5. (a) Each county election board shall have the names of all candidates for all elected offices, political party offices, and public questions printed on ballot labels for use in an electronic voting system as provided in this chapter.

(b) The county may:

- (1) print all offices and public questions on a single ballot label; and
- (2) include a ballot variation code to ensure that the proper version of a ballot label is used within a precinct.

(c) Each type of ballot label or paster must be of uniform size and of the same quality and color of paper (except as permitted under IC 3-10-1-17).

(d) The nominees of a political party or an independent candidate or independent ticket (described in IC 3-11-2-6) nominated by petitioners must be listed on the ballot label with the name and device set forth on the certification or petition. The circle containing the device may be of any size that permits a voter to readily identify the device. IC 3-11-2-5 applies if the certification or petition does not include a name or device, or if the same device is selected by two (2) or more parties or petitioners.

(e) The ballot labels must list the offices **and public questions** on the general election ballot in the order listed in IC 3-11-2-12, IC 3-11-2-12.2, IC 3-11-2-12.5, IC 3-11-2-12.7(b), IC 3-11-2-12.9(a), IC 3-11-2-13(a) through IC 3-11-2-13(c), IC 3-11-2-14(a), and IC 3-11-2-14(d). Each office and public question may have a separate screen, or the offices and public questions may be listed in a continuous column either vertically or horizontally. ~~However, school board offices, public questions concerning the retention of a justice or~~

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judge, local nonpartisan judicial offices and local public questions shall be placed at the beginning of separate columns or pages.

(f) The name of each office must be printed in a uniform size in bold type. A statement reading substantially as follows must be placed immediately below the name of the office and above the name of the first candidate: "Vote for not more than (insert the number of candidates to be elected) candidate(s) for this office."

(g) Below the name of the office and the statement required by subsection (f), the names of the candidates for each office must be grouped together in the following order:

(1) The major political party whose candidate received the highest number of votes in the county for secretary of state at the last election is listed first.

(2) The major political party whose candidate received the second highest number of votes in the county for secretary of state is listed second.

(3) All other political parties listed in the order that the parties' candidates for secretary of state finished in the last election are listed after the party listed in subdivision (2).

(4) If a political party did not have a candidate for secretary of state in the last election or a nominee is an independent candidate or independent ticket (described in IC 3-11-2-6), the party or candidate is listed after the parties described in subdivisions (1), (2), and (3).

(5) If more than one (1) political party or independent candidate or ticket described in subdivision (4) qualifies to be on the ballot, the parties, candidates, or tickets are listed in the order in which the party filed its petition of nomination under IC 3-8-6-12.

(6) A space for write-in voting is placed after the candidates listed in subdivisions (1) through (5), if required by law.

(7) The name of a write-in candidate may not be listed on the ballot.

(h) The names of the candidates grouped in the order established by subsection (g) must be printed in type with uniform capital letters and have a uniform space between each name. The name of the candidate's political party, or the word "Independent", if the:

(1) candidate; or

(2) ticket of candidates for:

(A) President and Vice President of the United States; or

(B) governor and lieutenant governor;

is independent, must be placed immediately below or beside the name of the candidate and must be printed in uniform size and type.

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(i) All the candidates of the same political party for election to at-large seats on the fiscal or legislative body of a political subdivision must be grouped together:

- (1) under the name of the office that the candidates are seeking;
- (2) in the party order established by subsection (g); and
- (3) within the political party, in alphabetical order according to surname.

A statement reading substantially as follows must be placed immediately below the name of the office and above the name of the first candidate: "Vote for not more than (insert the number of candidates to be elected) candidate(s) of ANY party for this office."

(j) Candidates for election to at-large seats on the governing body of a school corporation must be grouped:

- (1) under the name of the office that the candidates are seeking; and
- (2) in alphabetical order according to surname.

A statement reading substantially as follows must be placed immediately below the name of the office and above the name of the first candidate: "Vote for not more than (insert the number of candidates to be elected) candidate(s) for this office."

(k) The cautionary statement described in IC 3-11-2-7 must be placed at the top or beginning of the ballot label before the first **office public question** is listed.

(l) The instructions described in IC 3-11-2-8, ~~IC 3-11-2-10(c)~~, and IC 3-11-2-10(d), **and IC 3-11-2-10(e)** may be:

- (1) placed on the ballot label; or
- (2) posted in a location within the voting booth that permits the voter to easily read the instructions.

(m) The ballot label must include a touch sensitive point or button for voting a straight political party or independent ticket (described in IC 3-11-2-6) by one (1) touch, and the touch sensitive point or button must be identified by:

- (1) the name of the political party or independent ticket; and
- (2) immediately below or beside the political party's or independent ticket's name, the device of that party or ticket (described in IC 3-11-2-5).

The name and device of each party or ticket must be of uniform size and type, and arranged in the order established by subsection (g) for listing candidates under each office. The instructions described in ~~IC 3-11-2-10(b)~~ **IC 3-11-2-10(c)** for voting a straight party ticket and the statement concerning presidential electors required under IC 3-10-4-3 may be placed on the ballot label or in a location within the

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voting booth that permits the voter to easily read the instructions.

(n) A public question must be in the form described in IC 3-11-2-15(a) and IC 3-11-2-15(b), except that a touch sensitive point or button must be used instead of a square. Except as expressly authorized or required by statute, a county election board may not print a ballot label that contains language concerning the public question other than the language authorized by a statute.

(o) The requirements in this section:

- (1) do not replace; and
- (2) are in addition to;

any other requirements in this title that apply to ballots for electronic voting systems.

(p) The procedure described in IC 3-11-2-16 must be used when a ballot label does not comply with the requirements imposed by this title or contains another error or omission that might result in confusion or mistakes by voters."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1190 as reprinted January 26, 2011.)

LANDSKE, Chairperson

Committee Vote: Yeas 7, Nays 0.

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