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## SENATE BILL No. 367

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 3-11; IC 3-12.

**Synopsis:** Recounts and contests. Requires that the words "absentee ballot" be printed in prominent type with uniform capital letters at the top of every absentee ballot prepared and printed by a county election board. Eliminates the requirement that the third member of a recount commission be a mechanic. Requires that all contracts or leases for the sale or lease of voting equipment, systems, or software entered into, amended, or renewed after June 30, 2011, include a provision that requires the vendor of the voting equipment, systems, or software, in the event of a recount of an election in which the vendor's voting equipment, systems, or software is used, to provide to the recount commission a competent expert who is familiar with the voting equipment, systems, or software used in the election. Provides that multiple recount petitions, in order to be consolidated, must be filed not later than noon on the fourteenth day (in the case of petitions filed by candidates) or seventeenth day (in the case of petitions filed by county chairmen) after election day. (Under current law, the petitions must be filed not later than noon on the seventh day after election day.) Eliminates the requirement that the state recount commission's hearing on a contest petition be convened at least two days after the contest proceeding is ordered.

**Effective:** July 1, 2011.

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**Young R Michael**

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January 11, 2011, read first time and referred to Committee on Elections.

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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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# SENATE BILL No. 367



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 3-11-4-14, AS AMENDED BY P.L.66-2010,  
2 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2011]: Sec. 14. (a) All absentee ballots other than those  
4 specified in section 12.5 of this chapter shall be prepared and printed  
5 under the direction of each county election board. After completing the  
6 estimate required by section 10 of this chapter and receiving all  
7 certifications from the election division required under IC 3-8 or  
8 IC 3-10, the county election board shall immediately proceed to  
9 prepare and have printed the ballots.

10 **(b) All absentee ballots prepared and printed by a county**  
11 **election board under subsection (a) must have the words "absentee**  
12 **ballot" printed at the top of the ballot in prominent type with**  
13 **uniform capital letters.**

14 ~~(b)~~ (c) Except as provided in subsection ~~(c)~~; (d), ballots prepared by  
15 the county election board under this section must provide space for the  
16 voter to cast a write-in ballot.

17 ~~(c)~~ (d) Space for write-in voting for an office is not required if there



1 are no declared write-in candidates for that office. However,  
2 procedures must be implemented to permit write-in voting for  
3 candidates for federal offices.

4 SECTION 2. IC 3-11-7-18, AS AMENDED BY P.L.221-2005,  
5 SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
6 JULY 1, 2011]: Sec. 18. (a) The county executive shall file a copy of  
7 all contracts, leases, or purchase orders, including modifications, for  
8 the sale or lease of voting equipment, systems, or software with the  
9 election division.

10 (b) The documents listed in subsection (a) must be filed not later  
11 than thirty (30) days after the date of approval of the contract, lease, or  
12 purchase order by the county executive.

13 (c) **All contracts or leases for the sale or lease of voting  
14 equipment, systems, or software entered into, amended, or  
15 renewed after June 30, 2011, must include a provision that requires  
16 the vendor of the voting equipment, systems, or software, in the  
17 event of a recount of an election in which the vendor's voting  
18 equipment, systems, or software is used, to provide to the recount  
19 commission a competent expert who is familiar with the voting  
20 equipment, systems, or software used in the election.**

21 SECTION 3. IC 3-11-7.5-27, AS AMENDED BY P.L.221-2005,  
22 SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
23 JULY 1, 2011]: Sec. 27. (a) The county executive shall file a copy of  
24 all contracts, leases, or purchase orders, including modifications, for  
25 the sale or lease of voting equipment, systems, or software with the  
26 election division.

27 (b) The documents listed in subsection (a) must be filed not later  
28 than thirty (30) days after the date of approval of the contract, lease, or  
29 purchase order by the county executive.

30 (c) **All contracts or leases for the sale or lease of voting  
31 equipment, systems, or software entered into, amended, or  
32 renewed after June 30, 2011, must include a provision that requires  
33 the vendor of the voting equipment, systems, or software, in the  
34 event of a recount of an election in which the vendor's voting  
35 equipment, systems, or software is used, to provide to the recount  
36 commission a competent expert who is familiar with the voting  
37 equipment, systems, or software used in the election.**

38 SECTION 4. IC 3-12-6-8 IS AMENDED TO READ AS FOLLOWS  
39 [EFFECTIVE JULY 1, 2011]: Sec. 8. (a) Two (2) or more candidates  
40 for nomination or election to the same or a different office at the same  
41 election may join in a petition for a recount.

42 (b) Except as provided in subsection (d), if more than one (1)

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1 petition for a recount is filed in a county ~~no~~ **not** later than noon ~~seven~~  
 2 ~~(7) days of the fourteenth day (in the case of petitions filed under~~  
 3 ~~section 2(a) of this chapter) or the seventeenth day (in the case of~~  
 4 ~~petitions filed under section 2(b) of this chapter)~~ after election day,  
 5 whether in the same court of the county or not, the petitions shall be  
 6 consolidated under the first petition filed. If a transfer of petitions from  
 7 one (1) court of the county to another court of the county is necessary  
 8 to effect the consolidation, then the court in which the subsequent  
 9 petitions were filed shall order the transfer.

10 (c) If more than one (1) petition for a recount is filed for an office  
 11 in more than one (1) county, the circuit court for the county casting, on  
 12 the face of the election returns, the highest number of votes for the  
 13 office shall assume jurisdiction over all petitions and cross-petitions  
 14 concerning the office. If a transfer of petitions or cross-petitions from  
 15 one (1) court to another is necessary to effect the consolidation in the  
 16 circuit court, then any other court in which a petition or cross-petition  
 17 was filed shall order the transfer.

18 (d) A petition for a recount filed for an election in different  
 19 municipalities, whether in the same court of the county or not, may not  
 20 be consolidated.

21 SECTION 5. IC 3-12-6-16, AS AMENDED BY P.L.221-2005,  
 22 SECTION 115, IS AMENDED TO READ AS FOLLOWS  
 23 [EFFECTIVE JULY 1, 2011]: Sec. 16. (a) A recount commission  
 24 consists of three (3) persons.

25 (b) Two (2) members of the commission must be voters who:  
 26 (1) are members of different major political parties of the state;  
 27 and  
 28 (2) were qualified to vote at the election in a county in which the  
 29 election district for the office is located.

30 (c) ~~This subsection applies to a recount commission conducting a~~  
 31 ~~recount of an election in which only paper ballots were used:~~ The third  
 32 member of the commission must be a person who:  
 33 (1) is a member of a major political party of the state; and  
 34 (2) was qualified to vote at the election in a county in which the  
 35 election district for the office is located.

36 (d) ~~This subsection applies to a recount of an election in which a~~  
 37 ~~voting method other than only paper ballots was used:~~ The third  
 38 member of the commission must be a competent mechanic who is  
 39 familiar with the ballot card voting systems or electronic voting  
 40 systems used in that election: The mechanic is not required to be  
 41 qualified to vote at the election in a county in which the election  
 42 district for the office is located:

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1 SECTION 6. IC 3-12-11-17 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 17. (a) After a recount  
 3 is ordered under section 12 of this chapter, the state recount  
 4 commission or its designee shall convene at a place fixed by order of  
 5 the state recount commission and expeditiously complete the recount  
 6 of all votes ordered recounted. Each candidate affected by the recount  
 7 may have a watcher present at the recount and may also be present in  
 8 person. The candidate has the same rights as a watcher appointed under  
 9 IC 3-6-8-4. Representatives of the media may also attend the recount  
 10 and have the same rights as media watchers appointed under IC 3-6-10.

11 (b) ~~At least two (2) days~~ After a contest proceeding is ordered under  
 12 section 12 of this chapter, the state recount commission or its designee  
 13 shall convene at a place fixed by order of the state recount commission  
 14 and conduct a hearing on the contest petition. Each candidate affected  
 15 by the contest may be present in person. The candidate has the same  
 16 rights as a watcher appointed under IC 3-6-8-4. Representatives of the  
 17 media may also attend the hearing and have the same rights as media  
 18 watchers appointed under IC 3-6-10.

19 (c) The proceedings of the state recount commission under this  
 20 section shall be performed in public under IC 5-14-1.5. However, the  
 21 commission may restrict access to parts of a room where the recount or  
 22 contest proceeding is being conducted to safeguard the election  
 23 material or other evidence and to permit the material to be handled or  
 24 transported by the commission.

25 SECTION 7. IC 3-12-12-11, AS AMENDED BY P.L.221-2005,  
 26 SECTION 131, IS AMENDED TO READ AS FOLLOWS  
 27 [EFFECTIVE JULY 1, 2011]: Sec. 11. (a) A recount commission  
 28 consists of three (3) persons.

29 (b) Two (2) members of the commission must be voters who:

- 30 (1) are members of different major political parties of the state;  
 31 and  
 32 (2) were qualified to vote at the election in a county in which the  
 33 election district that voted on the public question is located.

34 (c) ~~This subsection applies to a recount commission conducting a~~  
 35 ~~recount of an election in which only paper ballots were used.~~ The third  
 36 member of the commission must be a person who:

- 37 (1) is a member of a major political party of the state; and  
 38 (2) was qualified to vote at the election in a county in which the  
 39 election district that voted on the public question is located.

40 (d) ~~This subsection applies to a recount of an election in which a~~  
 41 ~~voting method other than only paper ballots was used.~~ The third  
 42 member of the commission must be a competent mechanic who is

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1 familiar with the ballot card voting systems or electronic voting  
2 systems used in that election. The mechanic is not required to be  
3 qualified to vote at the election in a county in which the election  
4 district that voted on the public question is located.

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