

HOUSE BILL No. 1552

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-9; IC 3-14.

Synopsis: Disclosures on political communications. Provides that certain information must be disclosed as part of a communication relating to the election of a candidate or the solicitation of a political contribution whether the communication is written, by telephone, or by electronic mail or other means of electronic communication. Repeals the current statute requiring disclaimers to accompany certain political communications. Makes technical changes.

Effective: July 1, 2011.

Grubb, Steuerwald

January 20, 2011, read first time and referred to Committee on Elections and Apportionment.

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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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HOUSE BILL No. 1552



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 3-9-2-10 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2011]: Sec. 10. An individual, an organization,
3 or a committee shall include in all literature and advertisements
4 soliciting contributions:

- 5 (1) the ~~notice~~ **information** required under ~~IC 3-9-3-2.5;~~
- 6 **IC 3-9-3.5;** and
- 7 (2) any notice required under Section 6113 of the Internal
- 8 Revenue Code (26 U.S.C. 6113).

9 SECTION 2. IC 3-9-3-1 IS AMENDED TO READ AS FOLLOWS
10 [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) Except as provided in
11 subsections (b) and (c), this chapter applies to candidates in all
12 elections and caucuses and to the following types of committees:

- 13 (1) Candidate's committees.
- 14 (2) Regular party committees.
- 15 (3) Political action committees.
- 16 (4) An auxiliary party organization.
- 17 (5) A legislative caucus committee.



1 (b) Section 4 of this chapter does not apply to candidates for federal
 2 office.
 3 (c) Section 2.5 of this chapter does not apply to candidates for the
 4 following:
 5 (1) Precinct committeeman.
 6 (2) State convention delegate.
 7 SECTION 3. IC 3-9-3.5 IS ADDED TO THE INDIANA CODE AS
 8 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 9 1, 2011]:
 10 **Chapter 3.5. Requirements Relating to Campaign**
 11 **Communications**
 12 **Sec. 1. This chapter applies whenever a person:**
 13 (1) makes an expenditure for the purpose of financing
 14 communications expressly advocating the election or defeat of
 15 a clearly identified candidate; or
 16 (2) solicits a contribution.
 17 **Sec. 2. This chapter does not apply to any of the following:**
 18 (1) A communication relating to an election to a federal office.
 19 (2) A communication relating to the outcome of a public
 20 question.
 21 (3) A communication in a medium regulated by federal law to
 22 the extent that federal law regulates the appearance, content,
 23 or placement of the communication in the medium.
 24 (4) Bumper stickers, pins, buttons, pens, and similar small
 25 items upon which the information required by this chapter
 26 cannot be conveniently printed.
 27 (5) Skywriting, water towers, wearing apparel, or other
 28 means of displaying an advertisement on which the inclusion
 29 of the information required by this chapter would be
 30 impracticable.
 31 (6) Checks, receipts, and similar items of minimal value that
 32 do not contain a political message and are used for purely
 33 administrative purposes.
 34 (7) A communication by a political action committee
 35 organized and controlled by a corporation soliciting
 36 contributions to the political action committee by the
 37 stockholders, executives, or employees of the corporation and
 38 the families of those individuals.
 39 (8) A communication by a political action committee
 40 organized and controlled by a labor organization soliciting
 41 contributions to the political action committee by the
 42 members or executive personnel of the labor organization and

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1 the families of those individuals.
 2 (9) A direct mailing of one hundred (100) or fewer
 3 substantially similar pieces of mail.
 4 (10) A candidate for the following:
 5 (A) Precinct committeeman.
 6 (B) State convention delegate.
 7 **Sec. 3. As used in this chapter, "communication" includes a**
 8 **communication using any of the following:**
 9 (1) A newspaper.
 10 (2) A magazine.
 11 (3) An outdoor advertising facility.
 12 (4) A poster.
 13 (5) A yard sign.
 14 (6) A direct mailing.
 15 (7) A telephone call.
 16 (8) Electronic mail and other forms of electronic
 17 communication.
 18 (9) Any other type of general public political advertising or
 19 communication.
 20 **Sec. 4. For purposes of this chapter, a candidate is clearly**
 21 **identified if any of the following apply:**
 22 (1) The name of the candidate is used.
 23 (2) A photograph or drawing of the candidate is used.
 24 (3) The identity of the candidate is apparent by unambiguous
 25 reference.
 26 **Sec. 5. (a) A communication covered by this chapter must**
 27 **contain the following information:**
 28 (1) The identity of the person who paid for the
 29 communication.
 30 (2) Subject to section 6 of this chapter, the identity of the
 31 person who authorized the communication.
 32 (3) If the communication is a telephone call, electronic mail,
 33 or other form of electronic communication, the
 34 communication must also contain the following information:
 35 (A) The name of the caller or sender.
 36 (B) The telephone number and address of:
 37 (i) the caller or sender; or
 38 (ii) the person who paid for or authorized the call or
 39 sending of the communication.
 40 (4) If the communication is electronic mail or other form of
 41 electronic communication that has an address, web page
 42 name, web site name, uniform resource locator, or other

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information that:

- (A) incorporates or uses the name of a candidate;**
- (B) is not owned, sponsored, or authorized by the named candidate;**
- (C) is not the name of the person who owns, sponsors, or authorizes the communication; and**
- (D) can be perceived by a recipient of the communication; the communication must state that the communication is not sponsored or authorized by the named candidate.**

(b) The information required by this section must appear and be presented in a clear and conspicuous manner to give the reader, observer, or hearer adequate notice of the information required by this section.

(c) A communication does not comply with this section if:

- (1) the information required by this section is difficult to read, hear, or understand; or**
- (2) the placement of the information is easily overlooked.**

(d) A communication that would require the information under this section if distributed separately must contain the required information if included in a package of materials.

(e) This subsection does not apply to a communication, such as a billboard, that contains only a front face. The information required by this section need not appear on the front or cover page of the communication if the information appears within the communication.

Sec. 6. (a) Subject to subsection (b), a communication described in section 5 of this chapter must satisfy one (1) of the following:

(1) If the communication is paid for and authorized by:

- (A) a candidate;**
- (B) an authorized political committee of a candidate; or**
- (C) the committee's agents;**

the communication must clearly state that the communication has been paid for by the authorized political committee.

(2) If the communication is paid for by other persons but authorized by:

- (A) a candidate;**
- (B) an authorized political committee of a candidate; or**
- (C) the committee's agents;**

the communication must clearly state that the communication is paid for by the other persons and authorized by the authorized political committee.

(3) If the communication is not authorized by:

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- 1 (A) a candidate;
- 2 (B) an authorized political committee of a candidate; or
- 3 (C) the committee's agents;
- 4 the communication must clearly state the name of the person
- 5 who paid for the communication and state that the
- 6 communication is not authorized by any candidate or
- 7 candidate's committee.
- 8 (4) If the communication is a solicitation directed to the
- 9 general public on behalf of a political committee that is not a
- 10 candidate's committee, the solicitation must clearly state the
- 11 full name of the person who paid for the communication.

12 (b) A communication by a regular party committee consisting
 13 of:

- 14 (1) a printed slate card, a sample ballot, or other printed
- 15 listing of three (3) or more candidates for public office at an
- 16 election;
- 17 (2) campaign materials such as handbills, brochures, posters,
- 18 party tabloids or newsletters, and yard signs distributed by
- 19 volunteers and used by the regular party committee in
- 20 connection with volunteer activities on behalf of any nominee
- 21 of the party; or
- 22 (3) materials distributed by volunteers as part of the regular
- 23 party's voter registration or get-out-the-vote efforts;
- 24 must clearly state the name of the person who paid for the
- 25 communication but is not required to state that the communication
- 26 is authorized by any candidate or committee.

27 SECTION 4. IC 3-14-1-3 IS AMENDED TO READ AS FOLLOWS
 28 [EFFECTIVE JULY 1, 2011]: Sec. 3. An individual, an organization,
 29 or a committee that **recklessly, knowingly, or intentionally** circulates,
 30 **communicates**, or publishes material in an election without the
 31 statement required under ~~IC 3-9-3-2.5~~ **IC 3-9-3.5** commits a Class A
 32 misdemeanor.

33 SECTION 5. IC 3-14-2-19 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 19. (a) A person who
 35 knowingly:

- 36 (1) forges or falsely makes the official endorsement of a ballot; or
- 37 (2) prints or circulates an imitation ballot;
- 38 commits a Class D felony.

39 (b) This section does not prohibit the printing or circulation of a
 40 sample ballot or a reproduction of an official ballot if the sample or
 41 reproduction complies with ~~IC 3-9-3-2.5~~ **IC 3-9-3.5** and the printing or
 42 circulation does not violate IC 3-14-1-2.

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1 SECTION 6. IC 3-9-3-2.5 IS REPEALED [EFFECTIVE JULY 1,
2 2011].

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