



February 14, 2012

**ENGROSSED
HOUSE BILL No. 1004**

DIGEST OF HB 1004 (Updated February 13, 2012 10:36 am - DI 102)

Citations Affected: IC 3-10; IC 3-11; IC 3-13; IC 20-26.

Synopsis: Various election law matters. Provides that if there is a contested election for any office of a municipality, all nominees for each office must be shown on the ballot. Authorizes a county election board to provide by resolution adopted by a unanimous vote of the members of the election board, that an election for a municipal office not be held if there is no contest for the office. Provides that such a resolution expires January 1 of the year immediately following its adoption. Authorizes a county election board to provide by resolution adopted by a unanimous vote of the members of the election board, that a municipal election may be limited to legislative body districts of the municipality where there are contests for election of members of the municipal legislative body if there are no contested offices to be elected by all the voters of the municipality. Requires that a circuit court clerk record certain information from an application for an absentee ballot in the statewide voter registration list. Provides that if a caucus called to fill a candidate vacancy or a vacancy in certain local offices does not obtain a quorum, the applicable political party county chairman or state chairman is required to fill the vacancy. Corrects a reference to the terms of office of school board members to conform the law to the amendments made during the 2011 session that provide that all elected school board members are elected at a general election. Makes a technical correction.

Effective: Upon passage; January 1, 2013.

Richardson, Koch, Bartlett

(SENATE SPONSORS — LANDSKE, LAWSON C)

January 9, 2012, read first time and referred to Committee on Elections and Apportionment.

January 12, 2012, reported — Do Pass.

January 27, 2012, read second time, amended, ordered engrossed.

January 30, 2012, engrossed. Read third time, passed. Yeas 96, nays 0.

SENATE ACTION

February 1, 2012, read first time and referred to Committee on Elections.

February 13, 2012, amended, reported favorably — Do Pass.

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February 14, 2012

Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1004

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 3-10-6-7.5, AS AMENDED BY P.L.225-2011,
2 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 7.5. (a) This section applies to a municipal
4 office elected during a municipal or general election.

5 (b) **Except as provided in subsection (c) or (d), if there is an**
6 **election for any office of the municipality, all nominees for each**
7 **office must be on the ballot.**

8 (c) **If:**

9 (1) **there is an election for at least one (1) of a municipality's**
10 **legislative body members;**

11 (2) **only the voters who reside in a legislative body district are**
12 **eligible to vote in the election for a legislative body member;**
13 **and**

14 (3) **there is no election for an office to be voted on by all voters**
15 **of the municipality;**

16 **the county election board may, by unanimous vote of the entire**
17 **membership of the board, adopt a resolution providing that an**

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1 election will be held only in the legislative body districts within the
2 municipality in which voters will elect legislative body members
3 under subdivision (2). The names of unopposed candidates for an
4 office to be voted on by all voters of the municipality shall not be
5 placed on the ballot used for the election of municipal legislative
6 body members under this subsection.

7 (d) This subsection applies only if the county election board
8 adopts a resolution by a unanimous vote of the entire membership
9 of the board making this subsection applicable in the county. An
10 election may not be held for a municipal office if:

- 11 (1) there is only one (1) nominee for the office or only one (1)
- 12 person has filed a declaration of intent to be a write-in candidate
- 13 for the office under IC 3-8-2-2.5; and
- 14 (2) no person has filed a declaration of intent to be a write-in
- 15 candidate for the office under IC 3-8-2-2.5 that results in a contest
- 16 for election to the same municipal office.

17 **A resolution adopted under this subsection expires on January 1 of**
18 **the year following the year the resolution was adopted.**

19 SECTION 2. IC 3-10-7-6, AS AMENDED BY P.L.225-2011,
20 SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 UPON PASSAGE]: Sec. 6. (a) **This section applies to a municipal**
22 **office elected during a municipal or general election.**

23 (b) A municipal election conducted under this chapter shall be held
24 at the time prescribed by IC 3-10-6.

25 ~~(b)~~ (c) **Except as provided in subsection (d) or (e), if there is an**
26 **election for any office of the municipality, all nominees for each**
27 **office must be on the ballot.**

- 28 (d) **If:**
- 29 (1) **there is an election for at least one (1) of the town's**
- 30 **legislative body members;**
- 31 (2) **only the voters who reside in a legislative body district are**
- 32 **eligible to vote in the election for a legislative body member;**
- 33 **and**
- 34 (3) **there is no election for an office to be voted on by all voters**
- 35 **of the town;**

36 **the county election board (or town election board if that board is**
37 **conducting the election under this chapter) may, by unanimous**
38 **vote of the entire membership of the board, adopt a resolution**
39 **providing that an election will be held only in the legislative body**
40 **districts within the town in which voters will elect legislative body**
41 **members under subdivision (2). The names of unopposed**
42 **candidates for an office to be voted on by all voters of the town**

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1 shall not be placed on the ballot used for the election of town
2 legislative body members under this subsection.

3 (e) This subsection applies only if the county election board
4 adopts a resolution by a unanimous vote of the entire membership
5 of the board making this subsection applicable in the county. This
6 subsection applies to a municipal office elected during a municipal or
7 general election. An election may not be held for a municipal office if:

8 (1) there is only one (1) nominee for the office or only one (1)
9 person has filed a declaration of intent to be a write-in candidate
10 for the office under IC 3-8-2-2.5; and

11 (2) no person has filed a declaration of intent to be a write-in
12 candidate for the office under IC 3-8-2-2.5 that results in a contest
13 for election to the same municipal office.

14 **A resolution adopted under this subsection expires on January 1 of**
15 **the year following the year the resolution was adopted.**

16 SECTION 3. IC 3-11-4-17, AS AMENDED BY P.L.198-2005,
17 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
18 UPON PASSAGE]: Sec. 17. Upon receipt of an application for an
19 absentee ballot, a circuit court clerk shall file the application in the
20 clerk's office and record all of the following **in the statewide voter**
21 **registration list maintained under IC 3-7-26.3:**

- 22 (1) The voter's name.
- 23 (2) The date the application is received.
- 24 (3) The date the ballot is sent to the voter.
- 25 (4) If mailed, the address to which the ballot is sent.
- 26 (5) If transmitted by fax, the fax number to which the ballot is
- 27 faxed.
- 28 (6) The date the ballot is marked before the clerk or otherwise
- 29 received from the voter.
- 30 (7) The combined total number of absentee ballots sent by the
- 31 county to absent uniformed services voters and overseas voters.
- 32 (8) The total number of absentee ballots returned by voters
- 33 described in subdivision (7) in time to be counted.
- 34 (9) The total number of absentee ballots described in subdivision
- 35 (7) that were counted in whole or in part.
- 36 (10) Any other information that is necessary or advisable.

37 SECTION 4. IC 3-13-1-12 IS AMENDED TO READ AS
38 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 12. (a) If a tie
39 vote occurs among participants acting under section 3, 4, 5, or 6(b) of
40 this chapter, the chairman of the meeting may cast the tiebreaking vote.
41 If a tie vote occurs among participants acting under section 6(a) of this
42 chapter, the county chairman may cast the tiebreaking vote.

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1 **(b) If a quorum required under the rules of a meeting held**
2 **under this chapter is not present, the county chairman shall fill the**
3 **candidate vacancy.**

4 SECTION 5. IC 3-13-2-6 IS AMENDED TO READ AS FOLLOWS
5 [EFFECTIVE JANUARY 1, 2013]: Sec. 6. **(a)** If a tie vote occurs
6 among a group of chairmen acting under section 4 or 5(b) of this
7 chapter, the state chairman may cast the tiebreaking vote.

8 **(b) If a quorum required under the rules of a meeting held**
9 **under this chapter is not present, the state chairman shall fill the**
10 **candidate vacancy.**

11 SECTION 6. IC 3-13-11-8 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 8. **(a)** Except as
13 provided in this chapter, the caucus shall establish the caucus rules of
14 procedure. The chairman shall break any tie vote that occurs in the
15 caucus.

16 **(b) If a quorum required under the rules of a meeting held**
17 **under this chapter is not present, the county chairman shall fill the**
18 **vacancy that exists in the local office.**

19 SECTION 7. IC 20-26-4-4, AS ADDED BY P.L. 1-2005, SECTION
20 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON
21 PASSAGE]: Sec. 4. **(a)** This section does not apply to a school city of
22 the first class or to a school corporation succeeding to all or the major
23 part in area of a school city of the first class.

24 **(b)** The commencement and termination of terms of members of a
25 governing body are as follows:

26 (1) Except as provided in subdivision (2), the governing body of
27 each school corporation shall determine whether the term of
28 office for the governing body's members extends from January 1
29 to December 31 or from July 1 to June 30. A governing body that
30 makes a change in the commencement date of the governing
31 body's members' terms shall report the change to the state board
32 before August 1 preceding the year in which the change takes
33 place. An ex officio member of a governing body shall take office
34 at the time the ex officio member takes the oath of the office by
35 virtue of which the ex officio member is entitled to become an ex
36 officio member.

37 (2) In a county having a population of more than four hundred
38 thousand (400,000), the terms of office for the members of a
39 governing body ~~whether elected or~~ **who are** appointed commence
40 on July 1 of the year in which the members are to take office
41 under the plan, resolution, or law under which the school
42 corporation is established, and terminate on the June 30 of the

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1 final year of the term for which the members are to serve under
 2 the plan, resolution, or law.
 3 (c) If a vacancy in the membership of a governing body occurs for
 4 any reason (including the failure of a sufficient number of petitions for
 5 candidates for governing body membership being filed for an election
 6 and whether the vacancy was of an elected or appointed member), the
 7 remaining members of the governing body shall by majority vote fill
 8 the vacancy by appointing a person from within the boundaries of the
 9 school corporation, with the residence and other qualifications
 10 provided for a regularly elected or appointed board member filling the
 11 membership, to serve for the term or the balance of the term. However,
 12 this subsection does not apply to a vacancy:
 13 (1) of a member who serves on a governing body in an ex officio
 14 capacity; or
 15 (2) a vacancy in an appointed board membership if a plan,
 16 resolution, or law under which the school corporation operates
 17 specifically provides for filling vacancies by the appointing
 18 authority.
 19 **SECTION 8. An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred House Bill 1004, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

KOCH, Chair

Committee Vote: yeas 10, nays 0.

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1004 be amended to read as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:
 "SECTION 1. IC 3-10-6-7.5, AS AMENDED BY P.L.225-2011, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.5. (a) This section applies to a municipal office elected during a municipal or general election.

(b) Except as provided in subsection (c) or (d), if there is an election for any office of the municipality, all nominees for each office must be on the ballot.

(c) If:

- (1) there is an election for at least one (1) of a municipality's legislative body members;**
- (2) only the voters who reside in a legislative body district are eligible to vote in the election for a legislative body member; and**
- (3) there is no election for an office to be voted on by all voters of the municipality;**

the county election board may, by unanimous vote of the entire membership of the board, adopt a resolution providing that an election will be held only in the legislative body districts within the municipality in which voters will elect legislative body members under subdivision (2). The names of unopposed candidates for an office to be voted on by all voters of the municipality shall not be placed on the ballot used for the election of municipal legislative body members under this subsection.

(d) This subsection applies only if the county election board adopts a resolution by a unanimous vote of the entire membership of the board making this subsection applicable in the county. An

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election may not be held for a municipal office if:

- (1) there is only one (1) nominee for the office or only one (1) person has filed a declaration of intent to be a write-in candidate for the office under IC 3-8-2-2.5; and
- (2) no person has filed a declaration of intent to be a write-in candidate for the office under IC 3-8-2-2.5 that results in a contest for election to the same municipal office.

A resolution adopted under this subsection expires on January 1 of the year following the year the resolution was adopted.

SECTION 2. IC 3-10-7-6, AS AMENDED BY P.L.225-2011, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) **This section applies to a municipal office elected during a municipal or general election.**

(b) A municipal election conducted under this chapter shall be held at the time prescribed by IC 3-10-6.

~~(b)~~ (c) **Except as provided in subsection (d) or (e), if there is an election for any office of the municipality, all nominees for each office must be on the ballot.**

(d) **If:**

- (1) there is an election for at least one (1) of the town's legislative body members;
- (2) only the voters who reside in a legislative body district are eligible to vote in the election for a legislative body member; and
- (3) there is no election for an office to be voted on by all voters of the town;

the county election board (or town election board if that board is conducting the election under this chapter) may, by unanimous vote of the entire membership of the board, adopt a resolution providing that an election will be held only in the legislative body districts within the town in which voters will elect legislative body members under subdivision (2). The names of unopposed candidates for an office to be voted on by all voters of the town shall not be placed on the ballot used for the election of town legislative body members under this subsection.

(e) **This subsection applies only if the county election board adopts a resolution by a unanimous vote of the entire membership of the board making this subsection applicable in the county.** This subsection applies to a municipal office elected during a municipal or general election. An election may not be held for a municipal office if:

- (1) there is only one (1) nominee for the office or only one (1) person has filed a declaration of intent to be a write-in candidate

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for the office under IC 3-8-2-2.5; and
(2) no person has filed a declaration of intent to be a write-in candidate for the office under IC 3-8-2-2.5 that results in a contest for election to the same municipal office.

A resolution adopted under this subsection expires on January 1 of the year following the year the resolution was adopted."

Page 2, delete lines 1 through 21.
Renumber all SECTIONS consecutively.

(Reference is to HB 1004 as printed January 13, 2012.)

RICHARDSON

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COMMITTEE REPORT

Madam President: The Senate Committee on Elections, to which was referred House Bill No. 1004, 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 3, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 3. IC 3-11-4-17, AS AMENDED BY P.L.198-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. Upon receipt of an application for an absentee ballot, a circuit court clerk shall file the application in the clerk's office and record all of the following **in the statewide voter registration list maintained under IC 3-7-26.3:**

- (1) The voter's name.
- (2) The date the application is received.
- (3) The date the ballot is sent to the voter.
- (4) If mailed, the address to which the ballot is sent.
- (5) If transmitted by fax, the fax number to which the ballot is faxed.
- (6) The date the ballot is marked before the clerk or otherwise received from the voter.
- (7) The combined total number of absentee ballots sent by the county to absent uniformed services voters and overseas voters.
- (8) The total number of absentee ballots returned by voters described in subdivision (7) in time to be counted.
- (9) The total number of absentee ballots described in subdivision (7) that were counted in whole or in part.
- (10) Any other information that is necessary or advisable."



Page 4, line 18, after "appointed" delete ",".
Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1004 as reprinted January 28, 2012.)

LANDSKE, Chairperson

Committee Vote: Yeas 5, Nays 3.

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