



Reprinted  
March 1, 2012

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# ENGROSSED SENATE BILL No. 233

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DIGEST OF SB 233 (Updated February 29, 2012 4:54 pm - DI 75)

**Citations Affected:** IC 3-5; IC 3-6; IC 3-8; IC 3-10; IC 3-13.

**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  
(Continued next page)

**Effective:** Upon passage; July 1, 2012.

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**Alting, Landske, Lawson C, Arnold,  
Brodén, Glick, Lanane, Head, Miller,  
Becker, Delph, Hume, Zakas, Tomes**  
(HOUSE SPONSORS — RICHARDSON, TRUITT, KLINKER, KOCH)

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January 4, 2012, read first time and referred to Committee on Elections.  
January 20, 2012, reported favorably — Do Pass.  
January 23, 2012, read second time, ordered engrossed.  
January 24, 2012, engrossed. Read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

January 31, 2012, read first time and referred to Committee on Elections and Apportionment.  
February 27, 2012, amended, reported — Do Pass.  
February 29, 2012, read second time, amended, ordered engrossed.

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Digest Continued

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. Provides that a candidate filing required to be made with the election division is void if the filing is made with a county election official. Adds a cross-reference concerning the election of Republican Party precinct committeemen. Provides that a candidate's nomination by petition is not effective unless the candidate files all required documents. Provides that a petition of nomination for a candidate in a special election called by the governor must be filed not later than 74, rather than 50, days before the election. Specifies noon July 3 before election day, rather than noon on the second Tuesday in September before a general election, as the deadline for filing a certificate of nomination to replace an independent or minor party candidate nominated by petition. Provides that an official responsible for receiving a certification of candidate selection may not receive a filing of the certificate if certain other documents are offered to be filed after the deadline for the filing of the certificate.

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Reprinted  
March 1, 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 SENATE BILL No. 233

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 3-5-4-1.2 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**  
3 **UPON PASSAGE]: Sec. 1.2. (a) Whenever this title requires that a**  
4 **document declaring or certifying the candidacy of a person be filed**  
5 **with the election division or the secretary of state as a condition for**  
6 **the filing to be effective:**  
7 (1) a county election board;  
8 (2) a circuit court clerk;  
9 (3) a county voter registration office;  
10 (4) a board of elections and registration; or  
11 (5) a town election board;  
12 may not accept the filing on behalf of the election division or the  
13 secretary of state.  
14 (b) A county election board, circuit court clerk, county voter  
15 registration office, board of elections and registration, or town  
16 election board that accepts a document that is required to be filed  
17 with the election division or the secretary of state as a condition for

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1 the filing to be effective:

2 (1) may not act as an agent of the election division or the  
3 secretary of state; and

4 (2) is not required to transmit the filing to the election division  
5 or the secretary of state.

6 (c) If a board, office, or clerk referred to in subsection (a)(1)  
7 through (a)(5) accepts a document that is required to be filed with  
8 the election division or the secretary of state as a condition for the  
9 filing to be effective, the following apply:

10 (1) The filing is void.

11 (2) The name of a candidate set forth in the filing may not  
12 appear on the ballot, unless the document is filed with the  
13 election division or the secretary of state in the manner  
14 required by this title.

15 SECTION 2. IC 3-6-2-1 IS AMENDED TO READ AS FOLLOWS  
16 [EFFECTIVE UPON PASSAGE]: Sec. 1. Each political party whose  
17 nominee received at least ten percent (10%) of the votes cast in the  
18 state for secretary of state at the last election **for that office** may have  
19 precinct committeemen elected at the same time as a primary election  
20 in accordance with IC 3-10-1-4.5 or **IC 3-10-1-4.6** if provided by the  
21 rules of the political party.

22 SECTION 3. IC 3-8-6-12.5 IS ADDED TO THE INDIANA CODE  
23 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE  
24 UPON PASSAGE]: **Sec. 12.5. (a) A candidate's nomination by  
25 petition under this chapter is not effective unless the candidate  
26 timely files each document required under sections 10 and 12 of  
27 this chapter.**

28 (b) The county election board may not include on a ballot the  
29 name of a candidate whose nomination is ineffective under  
30 subsection (a).

31 (c) The election division may not certify the name of a candidate  
32 for placement on a ballot by a county election board if the  
33 candidate's nomination is ineffective under subsection (a).

34 SECTION 4. IC 3-8-6-13 IS AMENDED TO READ AS FOLLOWS  
35 [EFFECTIVE UPON PASSAGE]: Sec. 13. In a special election called  
36 by the governor, a petition of nomination shall be filed with the circuit  
37 court clerk or other public official with whom a petition is required to  
38 be filed, at any time after the election is called but no later than noon  
39 ~~fifty (50)~~ **seventy-four (74)** days before the date of the election.

40 SECTION 5. IC 3-8-6-17 IS AMENDED TO READ AS FOLLOWS  
41 [EFFECTIVE JULY 1, 2012]: Sec. 17. (a) If:

42 (1) a petition of nomination contains the name of at least one (1)

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1 candidate who seeks to be placed on the ballot as the candidate of  
 2 a political party described by section 1 of this chapter; and  
 3 (2) a candidate listed on the petition ceases to be a candidate after  
 4 the petition is circulated for signature or filed;  
 5 the candidate may be replaced on the petition in accordance with this  
 6 section.

7 (b) This subsection applies to a candidate described in subsection  
 8 (a) who sought a federal, state, or legislative office or a local office  
 9 described by IC 3-8-2-5. The state chairman of the political party may  
 10 file a written statement with the election division stating the name of  
 11 the substitute candidate. The statement must:

12 (1) be on a form prescribed by the commission;

13 (2) state the following:

14 (A) the name of the individual who ceased to be a candidate;

15 (B) the date and reason the individual ceased to be a  
 16 candidate; and

17 (C) the name of the individual who will replace the candidate  
 18 as:

19 (i) the individual wants the individual's name to appear on  
 20 the ballot; and

21 (ii) the individual's name is permitted to appear on the ballot  
 22 under IC 3-5-7; and

23 (3) be accompanied by the following:

24 (A) The replacement candidate's consent to be nominated by  
 25 the petition and, if other candidates were listed on the petition,  
 26 the signed consent of those candidates to be the replacement.

27 (B) The former candidate's statement of withdrawal in a form  
 28 substantially similar to the form prescribed under IC 3-8-7-28  
 29 if the individual withdrew as a candidate.

30 A replacement candidate's consent to the nomination must include a  
 31 statement that the candidate requests the name on the candidate's voter  
 32 registration record be the same as the name the candidate uses on the  
 33 consent to the nomination. If there is a difference between the name on  
 34 the candidate's consent to the nomination and the name on the  
 35 candidate's voter registration record, the officer with whom the consent  
 36 to the nomination is filed shall forward the information to the voter  
 37 registration officer of the appropriate county as required by  
 38 IC 3-5-7-6(e). The voter registration officer of the appropriate county  
 39 shall change the name on the candidate's voter registration record to be  
 40 the same as the name on the candidate's consent to the nomination.

41 (c) This subsection applies to a candidate described in subsection  
 42 (a) who sought a local office other than a local office described by

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1 IC 3-8-2-5. The county, city, or town chairman of the political party  
2 may file a written statement that conforms with subsection (b) with the  
3 election board conducting the election for the local office.

4 (d) The statement required under subsection (b) or (c) must be filed  
5 not later than the final date and time for the ~~certification of presidential~~  
6 ~~and vice presidential nominees under IC 3-10-4-5.~~ **filing of a**  
7 **certificate of candidate selection under IC 3-13-1-15(c).**

8 (e) If a petition of nomination is circulated or filed by an  
9 independent candidate and that individual ceases to be a candidate,  
10 another candidate may not be substituted on the petition of nomination.

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

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

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

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

34 (d) **This subsection applies only if the county election board**  
35 **adopts a resolution by a unanimous vote of the entire membership**  
36 **of the board making this subsection applicable in the county. An**  
37 **election may not be held for a municipal office if:**

- 38 (1) **there is only one (1) nominee for the office or only one (1)**  
39 **person has filed a declaration of intent to be a write-in candidate**  
40 **for the office under IC 3-8-2-2.5; and**  
41 (2) **no person has filed a declaration of intent to be a write-in**  
42 **candidate for the office under IC 3-8-2-2.5 that results in a contest**

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1 for election to the same municipal office.

2 **A resolution adopted under this subsection expires on January 1 of**  
 3 **the year following the year the resolution is adopted.**

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

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

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

13 (d) **If:**

14 (1) **there is an election for at least one (1) of the town's**  
 15 **legislative body members;**

16 (2) **only the voters who reside in a legislative body district are**  
 17 **eligible to vote in the election for a legislative body member;**  
 18 **and**

19 (3) **there is no election for an office to be voted on by all voters**  
 20 **of the town;**

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

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

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

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

41 **A resolution adopted under this subsection expires on January 1 of**  
 42 **the year following the year the resolution is adopted.**

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1 SECTION 8. IC 3-13-1-21 IS ADDED TO THE INDIANA CODE  
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: **Sec. 21. (a) This section applies to a certificate  
4 of candidate selection filed under section 15 or 20 of this chapter.  
5 (b) To enforce the requirements of IC 3-5-4-1.9, the election  
6 division, a circuit court clerk, or any other official responsible for  
7 receiving a certificate of candidate selection may not receive a  
8 filing of a certificate of candidate selection if:  
9 (1) a notice of a caucus or meeting;  
10 (2) a declaration of candidacy filed by the individual selected  
11 as the candidate; or  
12 (3) the certificate of candidate selection;  
13 is or was offered to be filed after the deadline for the filing  
14 provided by this chapter.  
15 SECTION 9. An emergency is declared for this act.**

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## COMMITTEE REPORT

Madam President: The Senate Committee on Elections, to which was referred Senate Bill No. 233, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 233 as introduced.)

LANDSKE, Chairperson

Committee Vote: Yeas 8, Nays 0.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred Senate Bill 233, 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, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 3-5-4-1.2 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE UPON PASSAGE]: **Sec. 1.2. (a) Whenever this title requires that a document declaring or certifying the candidacy of a person be filed with the election division or the secretary of state as a condition for the filing to be effective:**

- (1) a county election board;**
- (2) a circuit court clerk;**
- (3) a county voter registration office;**
- (4) a board of elections and registration; or**
- (5) a town election board;**

**may not accept the filing on behalf of the election division or the secretary of state.**

**(b) A county election board, circuit court clerk, county voter registration office, board of elections and registration, or town election board that accepts a document that is required to be filed with the election division or the secretary of state as a condition for the filing to be effective:**

- (1) may not act as an agent of the election division or the secretary of state; and**
- (2) is not required to transmit the filing to the election division or the secretary of state.**

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**(c) If a board, office, or clerk referred to in subsection (a)(1) through (a)(5) accepts a document that is required to be filed with the election division or the secretary of state as a condition for the filing to be effective, the following apply:**

**(1) The filing is void.**

**(2) The name of a candidate set forth in the filing may not appear on the ballot, unless the document is filed with the election division or the secretary of state in the manner required by this title.**

SECTION 2. IC 3-6-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Each political party whose nominee received at least ten percent (10%) of the votes cast in the state for secretary of state at the last election **for that office** may have precinct committeemen elected at the same time as a primary election in accordance with IC 3-10-1-4.5 or **IC 3-10-1-4.6** if provided by the rules of the political party.

SECTION 3. IC 3-8-6-12.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 12.5. (a) A candidate's nomination by petition under this chapter is not effective unless the candidate timely files each document required under sections 10 and 12 of this chapter.**

**(b) The county election board may not include on a ballot the name of a candidate whose nomination is ineffective under subsection (a).**

**(c) The election division may not certify the name of a candidate for placement on a ballot by a county election board if the candidate's nomination is ineffective under subsection (a).**

SECTION 4. IC 3-8-6-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. In a special election called by the governor, a petition of nomination shall be filed with the circuit court clerk or other public official with whom a petition is required to be filed, at any time after the election is called but no later than noon ~~fifty (50)~~ **seventy-four (74)** days before the date of the election.

SECTION 5. IC 3-8-6-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 17. (a) If:

(1) a petition of nomination contains the name of at least one (1) candidate who seeks to be placed on the ballot as the candidate of a political party described by section 1 of this chapter; and

(2) a candidate listed on the petition ceases to be a candidate after the petition is circulated for signature or filed;

the candidate may be replaced on the petition in accordance with this

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section.

(b) This subsection applies to a candidate described in subsection (a) who sought a federal, state, or legislative office or a local office described by IC 3-8-2-5. The state chairman of the political party may file a written statement with the election division stating the name of the substitute candidate. The statement must:

- (1) be on a form prescribed by the commission;
- (2) state the following:
  - (A) the name of the individual who ceased to be a candidate;
  - (B) the date and reason the individual ceased to be a candidate; and
  - (C) the name of the individual who will replace the candidate as:
    - (i) the individual wants the individual's name to appear on the ballot; and
    - (ii) the individual's name is permitted to appear on the ballot under IC 3-5-7; and
- (3) be accompanied by the following:
  - (A) The replacement candidate's consent to be nominated by the petition and, if other candidates were listed on the petition, the signed consent of those candidates to be the replacement.
  - (B) The former candidate's statement of withdrawal in a form substantially similar to the form prescribed under IC 3-8-7-28 if the individual withdrew as a candidate.

A replacement candidate's consent to the nomination must include a statement that the candidate requests the name on the candidate's voter registration record be the same as the name the candidate uses on the consent to the nomination. If there is a difference between the name on the candidate's consent to the nomination and the name on the candidate's voter registration record, the officer with whom the consent to the nomination is filed shall forward the information to the voter registration officer of the appropriate county as required by IC 3-5-7-6(e). The voter registration officer of the appropriate county shall change the name on the candidate's voter registration record to be the same as the name on the candidate's consent to the nomination.

(c) This subsection applies to a candidate described in subsection (a) who sought a local office other than a local office described by IC 3-8-2-5. The county, city, or town chairman of the political party may file a written statement that conforms with subsection (b) with the election board conducting the election for the local office.

(d) The statement required under subsection (b) or (c) must be filed not later than the final date and time for the certification of presidential

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and vice presidential nominees under ~~IC 3-10-4-5~~: **filing of a certificate of candidate selection under IC 3-13-1-15(c).**

(e) If a petition of nomination is circulated or filed by an independent candidate and that individual ceases to be a candidate, another candidate may not be substituted on the petition of nomination."

Page 1, line 3, delete "JULY 1, 2012" and insert "UPON PASSAGE".

Page 1, line 5, delete "," and insert "**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."**

Page 1, line 5, delete "an" and insert "An".

Page 1, delete lines 13 through 14, begin a new line blocked left and insert:

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

Page 1, line 17, delete "JULY 1, 2012" and insert "UPON PASSAGE".

Page 1, line 17, after "(a)" insert "**This section applies to a municipal office elected during a municipal or general election.**

**(b)".**

Page 2, line 2, strike "(b)" and insert "**(c) Except as provided in subsection (d) or (e), if there is an election for any office of the**

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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."

Page 2, line 3, delete "Except as provided in subsection (c)."

Page 2, line 4, delete "an" and insert "An".

Page 2, delete lines 11 through 12, begin a new line blocked left and insert:

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

**SECTION 8. An emergency is declared for this act."**

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 233 as printed January 20, 2012.)

KOCH, Chair

Committee Vote: yeas 11, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 233 be amended to read as follows:

Page 5, after line 42, begin a new paragraph and insert:

"SECTION 8. IC 3-13-1-21 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. (a) This section applies to a certificate of candidate selection filed under section 15 or 20 of this chapter.**

**(b) To enforce the requirements of IC 3-5-4-1.9, the election division, a circuit court clerk, or any other official responsible for receiving a certificate of candidate selection may not receive a filing of a certificate of candidate selection if:**

- (1) a notice of a caucus or meeting;**
- (2) a declaration of candidacy filed by the individual selected as the candidate; or**
- (3) the certificate of candidate selection;**

**is or was offered to be filed after the deadline for the filing provided by this chapter."**

Renumber all SECTIONS consecutively.

(Reference is to ESB 233 as printed February 27, 2012.)

RICHARDSON

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