



January 20, 2012

SENATE BILL No. 118

DIGEST OF SB 118 (Updated January 19, 2012 6:35 pm - DI 102)

Citations Affected: IC 3-5; IC 3-6; IC 3-8; IC 3-10; IC 3-11; IC 3-13; IC 10-16; IC 20-23; IC 20-26; IC 36-5.

Synopsis: Various election law matters. 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. Repeals a provision establishing procedures governing the declaration and withdrawal of a declaration by a write-in candidate for a school board office elected at a primary election. Specifies that the party affiliation requirements for a primary candidate include voting in a previous primary of the party in Indiana. 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. Permits a poll worker in an election conducted by a town election board to serve if the worker meets the same qualifications as a worker in a town election conducted by a county election board. Establishes procedures regarding a special election held to fill multiple vacancies in the United States House of Representatives. Removes obsolete references to ballots formerly printed by the election division and voting system standards. Permits the filling of a county, city, town, or township office before a vacancy
(Continued next page)

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Effective: Upon passage; July 1, 2012.

Landske

January 4, 2012, read first time and referred to Committee on Elections.
January 20, 2012, amended, reported favorably — Do Pass.

SB 118—LS 6208/DI 102+



Digest Continued

exists whenever the person holding the office has submitted a written resignation or been elected to another office. Extends the limitation on national guard musters or assemblies to all types of election days. Establishes that a petition of nomination in Mishawaka and East Chicago school district elections may not be filed earlier than 104 days before the election. (Current law specifies the final date for filing is 74 days before the election.) Makes a conforming amendment following the enactment of HEA 1074-2011 (P.L. 179-2011) concerning the terms of office of school board members. Removes a requirement for a census of registered voters before a town can dissolve or change its name.

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SB 118—LS 6208/DI 102+



January 20, 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.

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SENATE BILL No. 118

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

SB 118—LS 6208/DI 102+



1 election board that accepts a document that must be filed with the
2 election division or the secretary of state as a condition for the
3 filing to be effective:

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

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

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

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

24 SECTION 3. IC 3-8-2-2.6 IS REPEALED [EFFECTIVE UPON
25 PASSAGE]. Sec. 2:6: (a) This section applies to a write-in candidate
26 for a school board office to be elected on the same election day that a
27 primary election is conducted:

- 28 (b) A:
- 29 (1) declaration of intent to be a write-in candidate; or
- 30 (2) withdrawal of a declaration;

31 must be subscribed and sworn to before an individual authorized to
32 administer oaths:

33 (c) A declaration of intent to be a write-in candidate for a school
34 board office must be filed:

- 35 (1) not earlier than the first date specified in IC 3-8-6-10(b) for
- 36 the timely filing of a petition of nomination; and
- 37 (2) not later than noon eighty-eight (88) days before the primary
- 38 election.

39 (d) A candidate may withdraw a declaration of intent filed under
40 subsection (c) not later than noon eighty-five (85) days before the
41 primary election.

- 42 (e) A question concerning the validity of a declaration of intent to

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1 be a write-in candidate for a school board office must be filed with the
 2 county election board under IC 3-8-1-2(c) not later than noon
 3 eighty-one (81) days before the date of the primary election. The
 4 county election board shall determine all questions regarding the
 5 validity of the declaration not later than noon sixty-eight (68) days
 6 before the date of the primary election.

7 SECTION 4. IC 3-8-2-2.7, AS AMENDED BY P.L.164-2006,
 8 SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 UPON PASSAGE]: Sec. 2.7. (a) ~~This subsection does not apply to a~~
 10 ~~write-in candidate for school board office who is subject to section~~
 11 ~~2.6(c) of this chapter.~~ A candidate may withdraw a declaration of intent
 12 to be a write-in candidate not later than noon July 15 before a general
 13 or municipal election.

14 (b) This subsection applies to a candidate who filed a declaration of
 15 intent to be a write-in candidate with the election division. The election
 16 division shall issue a corrected certification of write-in candidates
 17 under IC 3-8-7-30 as soon as practicable after a declaration is
 18 withdrawn under this section.

19 SECTION 5. IC 3-8-2-4, AS AMENDED BY P.L.225-2011,
 20 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 UPON PASSAGE]: Sec. 4. (a) A declaration of candidacy for a
 22 primary election must be filed not later than noon eighty-eight (88)
 23 days and not earlier than one hundred eighteen (118) days before the
 24 primary election. The declaration must be subscribed and sworn to
 25 before a person authorized to administer oaths.

26 (b) ~~This subsection does not apply to a write-in candidate for school~~
 27 ~~board office who is subject to section 2.6(c) of this chapter.~~ A
 28 declaration of intent to be a write-in candidate must be filed:

- 29 (1) not earlier than the first date specified in IC 3-8-6-10(b) for
 30 the timely filing of a petition of nomination; and
 31 (2) not later than noon on the date specified by IC 3-13-1-15(c)
 32 for a major political party to file a certificate of candidate
 33 selection.

34 The declaration must be subscribed and sworn to before a person
 35 authorized to administer oaths.

36 (c) During a year in which a federal decennial census, federal
 37 special census, special tabulation, or corrected population count
 38 becomes effective under IC 1-1-3.5, a declaration of:

- 39 (1) candidacy may be filed for an office that will appear on the
 40 primary election ballot; or
 41 (2) intent to be a write-in candidate **may be filed** for an office that
 42 will appear on the general, municipal, or school board election

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1 ballot;
2 that year as a result of the new tabulation of population or corrected
3 population count.

4 SECTION 6. IC 3-8-2-7 IS AMENDED TO READ AS FOLLOWS
5 [EFFECTIVE JULY 1, 2012]: Sec. 7. (a) The declaration of each
6 candidate required by this chapter must be signed before a person
7 authorized to administer oaths and contain the following information:

8 (1) The candidate's name, printed or typewritten as:

9 (A) the candidate wants the candidate's name to appear on the
10 ballot; and

11 (B) the candidate's name is permitted to appear on the ballot
12 under IC 3-5-7.

13 (2) A statement that the candidate is a registered voter and the
14 location of the candidate's precinct and township (or ward and
15 city or town), county, and state.

16 (3) The candidate's complete residence address, and if the
17 candidate's mailing address is different from the residence
18 address, the mailing address.

19 (4) A statement of the candidate's party affiliation. For purposes
20 of this subdivision, a candidate is considered to be affiliated with
21 a political party only if any of the following applies:

22 (A) The most recent primary election **in Indiana** in which the
23 candidate voted was a primary election held by the party with
24 which the candidate claims affiliation.

25 (B) The candidate has never voted in a primary election **in**
26 **Indiana** and claims a party affiliation.

27 (C) The county chairman of:

28 (i) the political party with which the candidate claims
29 affiliation; and

30 (ii) the county in which the candidate resides;

31 certifies that the candidate is a member of the political party.

32 The declaration of candidacy must inform candidates how party
33 affiliation is determined under this subdivision and permit the
34 candidate to indicate on the declaration of candidacy which of
35 clauses (A), (B), or (C) applies to the candidate. If a candidate
36 claims party affiliation under clause (C), the candidate must
37 attach to the candidate's declaration of candidacy the written
38 certification of the county chairman required by clause (C).

39 (5) A statement that the candidate complies with all requirements
40 under the laws of Indiana to be a candidate for the above named
41 office, including any applicable residency requirements, and that
42 the candidate is not ineligible to be a candidate due to a criminal

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1 conviction that would prohibit the candidate from serving in the
 2 office.
 3 (6) A request that the candidate's name be placed on the official
 4 primary ballot of that party to be voted on, the office for which the
 5 candidate is declaring, and the date of the primary election.
 6 (7) A statement that the candidate:
 7 (A) is aware of the provisions of IC 3-9 regarding campaign
 8 finance and the reporting of campaign contributions and
 9 expenditures; and
 10 (B) agrees to comply with the provisions of IC 3-9.
 11 The candidate must separately sign the statement required by this
 12 subdivision.
 13 (8) A statement as to whether the candidate has been a candidate
 14 for state or local office in a previous primary or general election
 15 and whether the candidate has filed all reports required by
 16 IC 3-9-5-10 for all previous candidacies.
 17 (9) If the candidate is subject to IC 3-9-1-5, a statement that the
 18 candidate has filed a campaign finance statement of organization
 19 for the candidate's principal committee or is aware that the
 20 candidate may be required to file a campaign finance statement of
 21 organization not later than noon seven (7) days after the final date
 22 to file the declaration of candidacy under section 11 of this
 23 chapter.
 24 (10) The candidate's signature.
 25 (b) The commission shall provide that the form of a declaration of
 26 candidacy includes the following information near the separate
 27 signature required by subsection (a)(7):
 28 (1) The dates for filing campaign finance reports under IC 3-9.
 29 (2) The penalties for late filing of campaign finance reports under
 30 IC 3-9.
 31 (c) A declaration of candidacy must include a statement that the
 32 candidate requests the name on the candidate's voter registration record
 33 be the same as the name the candidate uses on the declaration of
 34 candidacy. If there is a difference between the name on the candidate's
 35 declaration of candidacy and the name on the candidate's voter
 36 registration record, the officer with whom the declaration of candidacy
 37 is filed shall forward the information to the voter registration officer of
 38 the appropriate county as required by IC 3-5-7-6(e). The voter
 39 registration officer of the appropriate county shall change the name on
 40 the candidate's voter registration record to be the same as the name on
 41 the candidate's declaration of candidacy.
 42 SECTION 7. IC 3-8-6-12.5 IS ADDED TO THE INDIANA CODE

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1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
2 UPON PASSAGE]: **Sec. 12.5. (a) A candidate's nomination by
3 petition under this chapter is not effective unless the candidate
4 timely files each document required under sections 10 and 12 of
5 this chapter.**

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

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

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

18 SECTION 9. IC 3-8-6-17 IS AMENDED TO READ AS FOLLOWS
19 [EFFECTIVE JULY 1, 2012]: Sec. 17. (a) If:

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

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

25 the candidate may be replaced on the petition in accordance with this
26 section.

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

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

33 (2) state the following:

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

35 (B) the date and reason the individual ceased to be a
36 candidate; and

37 (C) the name of the individual who will replace the candidate
38 as:

39 (i) the individual wants the individual's name to appear on
40 the ballot; and

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

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1 (3) be accompanied by the following:

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

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

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

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

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

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

31 SECTION 10. IC 3-10-7-22, AS AMENDED BY P.L.230-2005,
32 SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2012]: Sec. 22. (a) A town election board shall appoint a
34 precinct election board for each precinct in the town.

35 (b) If a precinct is wholly or partly in the town, the town election
36 board may designate the polls for the precinct to be at the polls for an
37 adjoining precinct, using the precinct election board of the adjoining
38 precinct.

39 (c) If a precinct election board administers more than one (1)
40 precinct under subsection (b), the board shall keep the ballots cast in
41 each precinct separate from ballots cast in any other precinct, so that
42 the votes cast for each candidate and on each public question in each

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1 of the precincts administered by the board may be determined.

2 (d) Each precinct election board consists of:

3 (1) one (1) inspector; and

4 (2) two (2) judges of opposite political parties.

5 (e) The members of a precinct election board must be voters who
6 reside in the town. **comply with IC 3-6-6.**

7 SECTION 11. IC 3-10-8-7.5 IS ADDED TO THE INDIANA CODE
8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
9 UPON PASSAGE]: **Sec. 7.5. (a) This section applies to a special
10 election to fill one (1) or more vacancies in the office of United
11 States Representative under 2 U.S.C. 8(b).**

12 (b) A special election conducted under this section shall be
13 governed by other provisions of this title as far as applicable.

14 (c) A political party entitled to fill a candidate vacancy under
15 IC 3-13-2 shall nominate a candidate for election to the office
16 under IC 3-13-2-3.

17 (d) A candidate who does not intend to affiliate with a political
18 party described by subsection (c) shall:

19 (1) be nominated as an independent or a candidate of a
20 political party by petition in accordance with IC 3-8-6; or

21 (2) file a declaration of intent to be a write-in candidate under
22 IC 3-8-2-4(b).

23 (e) A certificate of candidate selection under IC 3-13-2-8, a
24 petition of nomination, or a declaration of intent to be a write-in
25 candidate must be filed with the election division not later than
26 noon thirty-five (35) days before the special election is to be
27 conducted.

28 (f) A candidate is required to file a notice of withdrawal with the
29 election division not later than noon thirty-three (33) days before
30 the special election is to be conducted.

31 (g) As required under 2 U.S.C. 8(b)(5)(B), and notwithstanding
32 IC 3-11-10-14, a county election board shall accept an absentee
33 ballot cast by an absent uniformed services voter or an overseas
34 voter for up to forty-five (45) days after the absentee ballot was
35 transmitted to the voter.

36 (h) Notwithstanding IC 3-12-5-8(a), if the ballot is determined
37 by the county election board to be otherwise valid, the circuit court
38 clerk shall file an amendment to the certified statement previously
39 filed under IC 3-12-5-6 with the election division not later than
40 noon seven (7) days following the determination of the validity of
41 the ballot. Notwithstanding IC 3-12-5-9, the election division, the
42 secretary of state, and the governor shall prepare, execute, and



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1 **transmit a replacement certificate of election if the amendment**
 2 **filed under this subsection results in a different candidate receiving**
 3 **the highest number of votes for the office.**

4 SECTION 12. IC 3-11-2-10, AS AMENDED BY P.L.190-2011,
 5 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2012]: Sec. 10. (a) Public questions shall be placed on the
 7 general election ballot in the following order after the statement
 8 described in section 7 of this chapter, and the instructions described in
 9 subsections (d) and (e) and section 8 of this chapter:

10 (1) Ratification of a state constitutional amendment.

11 (2) Local public questions.

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

13 (b) The name or title of the political party or independent ticket
 14 described in section 6 of this chapter shall be placed on the general
 15 election ballot after the public questions described in subsection (a).
 16 The device of the political party or independent ticket shall be placed
 17 immediately under the name of the political party or independent ticket.
 18 The instructions for voting a straight party ticket shall be placed to the
 19 right of the device.

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

28 (d) If the ballot contains an independent ticket described in section
 29 6 of this chapter and at least one (1) other independent candidate, the
 30 ballot must also contain a statement that reads substantially as follows:
 31 "A vote cast for an independent ticket will only be counted for the
 32 candidates for President and Vice President or governor and lieutenant
 33 governor comprising that independent ticket. This vote will NOT be
 34 counted for any OTHER independent candidate appearing on the
 35 ballot."

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

41 (f) The list of candidates of the political party shall be placed
 42 immediately under the instructions for voting a straight party ticket.

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1 The names of the candidates shall be placed three-fourths (3/4) of an
 2 inch apart from center to center of the name. The name of each
 3 candidate must have, immediately on its left, a square three-eighths
 4 (3/8) of an inch on each side.

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

8 SECTION 13. IC 3-11-3-4 IS REPEALED [EFFECTIVE UPON
 9 PASSAGE]. ~~Sec. 4: The election division shall provide a seat for the~~
 10 ~~ballots. The seat may be of a design considered proper by the election~~
 11 ~~division, but the same design may not be used for two (2) consecutive~~
 12 ~~elections.~~

13 SECTION 14. IC 3-11-4-12.5, AS ADDED BY P.L.66-2010,
 14 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 UPON PASSAGE]: Sec. 12.5. (a) This section applies to an absent
 16 uniformed services voter or overseas voter.

17 (b) If a voter makes a timely application for and does not receive an
 18 absentee ballot from a county election board, the voter may use a
 19 federal write-in absentee ballot in the form prescribed by the Federal
 20 Voting Assistance Program of the United States Department of Defense
 21 and in accordance with the requirements set forth in 42 U.S.C. 1973ff-2
 22 to cast a vote **by mail, electronic mail, or fax** for any of the following:

- 23 (1) Any candidate for nomination at a primary election.
- 24 (2) Any candidate, political party, or public question on a general
 25 election, municipal election, or special election ballot.

26 SECTION 15. IC 3-11-10-14, AS AMENDED BY P.L.198-2005,
 27 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 UPON PASSAGE]: Sec. 14. Subject to **IC 3-10-8-7.5 and** section 11
 29 of this chapter, absentee ballots received by mail (or by fax or
 30 electronic mail under IC 3-11-4-6) after the county election board has
 31 started the final delivery of the ballots to the precincts on election day
 32 are considered as arriving too late and need not be delivered to the
 33 polls.

34 SECTION 16. IC 3-11-15-26 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. The ballot
 36 counting software must be designed in a modular fashion and not be
 37 self-modifying. Modular programs must consist of code written in
 38 relatively small and easily identifiable sections, with each unit having
 39 a single entry point and a single exit point. Each module must have a
 40 specific function that can be tested and verified more or less
 41 independently of the remainder of the code. ~~Appendix E of the~~
 42 ~~Performance and Test Standards for Punchcard, Marksense, and Direct~~



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1 Recording contains numerical guidelines for program modules:
 2 SECTION 17. IC 3-13-7-1.5 IS ADDED TO THE INDIANA CODE
 3 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
 4 1, 2012]: **Sec. 1.5. A county auditor may give notice of a meeting,**
 5 **and the meeting may be conducted under this chapter, before a**
 6 **vacancy exists whenever the person holding an office has:**

- 7 (1) submitted a written resignation under IC 5-8-3.5; or
- 8 (2) been elected to another office.

9 SECTION 18. IC 3-13-8-1.5 IS ADDED TO THE INDIANA CODE
 10 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
 11 1, 2012]: **Sec. 1.5. A city clerk or city clerk-treasurer may give**
 12 **notice of a meeting, and the meeting may be conducted under this**
 13 **chapter, before a vacancy exists whenever the person holding an**
 14 **office has:**

- 15 (1) submitted a written resignation under IC 5-8-3.5; or
- 16 (2) been elected to another office.

17 SECTION 19. IC 3-13-9-1.5 IS ADDED TO THE INDIANA CODE
 18 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
 19 1, 2012]: **Sec. 1.5. A town clerk-treasurer or president of the town**
 20 **council may give notice of a meeting, and the meeting may be**
 21 **conducted under this chapter, before a vacancy exists whenever the**
 22 **person holding an office has:**

- 23 (1) submitted a written resignation under IC 5-8-3.5; or
- 24 (2) been elected to another office.

25 SECTION 20. IC 3-13-10-1.5 IS ADDED TO THE INDIANA
 26 CODE AS A **NEW SECTION** TO READ AS FOLLOWS
 27 [EFFECTIVE JULY 1, 2012]: **Sec. 1.5. A county auditor may give**
 28 **notice of a meeting, and the meeting may be conducted under this**
 29 **chapter, before a vacancy exists whenever the person holding an**
 30 **office has:**

- 31 (1) submitted a written resignation under IC 5-8-3.5; or
- 32 (2) been elected to another office.

33 SECTION 21. IC 10-16-7-16 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 16. (a) A muster or an**
 35 **assembly for instruction, review, or parade may not be held or called**
 36 **in any county on any day during which a general election, **primary****
 37 **election, municipal election, or special election is held in the county,**
 38 **except in case of or imminent danger of riot, invasion, insurrection, or**
 39 **public disaster.**

40 (b) An officer who orders a muster or an assembly on an election
 41 day shall forfeit an amount as a court-martial adjudges.

42 SECTION 22. IC 20-23-17-3, AS ADDED BY P.L.179-2011,

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1 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 2 JULY 1, 2012]: Sec. 3. (a) The governing body of the school
 3 corporation consists of five (5) members chosen as follows:
 4 (1) Three (3) members shall be elected by the voters of the school
 5 corporation at a general election to be held in the county and
 6 every four (4) years thereafter.
 7 (2) One (1) member shall be appointed by the city executive.
 8 (3) One (1) member shall be appointed by the city legislative
 9 body.
 10 (b) The members elected under subsection (a)(1) shall be elected as
 11 follows:
 12 (1) On a nonpartisan basis.
 13 (2) In a general election held in the county.
 14 (3) By the registered voters of the entire school corporation.
 15 (c) The following apply to an election of members of the governing
 16 body of the school corporation under subsection (a)(1):
 17 (1) Each candidate must file a petition of nomination with the
 18 circuit court clerk **not earlier than one hundred four (104) days**
 19 **and** not later than seventy-four (74) days before the election at
 20 which members are to be elected. The petition of nomination must
 21 include the following information:
 22 (A) The name of the candidate.
 23 (B) A certification that the candidate meets the qualifications
 24 for candidacy imposed by this chapter.
 25 (2) Only eligible voters residing in the school corporation may
 26 vote for a candidate seeking election.
 27 SECTION 23. IC 20-23-17.2-5, AS ADDED BY P.L.179-2011,
 28 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2012]: Sec. 5. (a) The following apply to an election of
 30 members of the governing body of the school corporation under section
 31 3(a)(1) of this chapter:
 32 (1) Each candidate must file a petition of nomination with the
 33 circuit court clerk **not earlier than one hundred four (104) days**
 34 **and** not later than seventy-four (74) days before the general
 35 election at which members are to be elected. The petition of
 36 nomination must include the following information:
 37 (A) The name of the candidate.
 38 (B) The candidate's residence address and the district in which
 39 the candidate resides.
 40 (C) The signatures of at least twenty (20) registered voters
 41 residing within the school corporation district the candidate
 42 seeks to represent.

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- 1 (D) A certification that the candidate meets the qualifications
- 2 for candidacy imposed by this chapter.
- 3 (2) Only eligible voters residing in the school corporation district
- 4 may vote for a candidate to represent that district.
- 5 (3) One (1) candidate shall be elected for each district. The
- 6 candidate elected for a district must reside within the boundaries
- 7 of the district. The candidate elected as the member for a
- 8 particular district is the candidate who, among all the candidates
- 9 who reside within that district, receives the greatest number of
- 10 votes from voters residing in that district.
- 11 (b) The following apply to an election of the members of the
- 12 governing body of the school corporation under section 3(a)(2) of this
- 13 chapter:
- 14 (1) Each candidate must file a petition of nomination with the
- 15 circuit court clerk **not earlier than one hundred four (104) days**
- 16 **and** not later than seventy-four (74) days before the general
- 17 election at which members are to be elected. The petition of
- 18 nomination must include the following information:
- 19 (A) The name of the candidate.
- 20 (B) The candidate's residence address.
- 21 (C) The signatures of at least one hundred (100) registered
- 22 voters residing within the school corporation.
- 23 (D) A certification that the candidate meets the qualifications
- 24 for candidacy imposed by this chapter.
- 25 (2) Only eligible voters residing in the school corporation may
- 26 vote for a candidate.
- 27 (3) Three (3) candidates shall be elected at large. The three (3)
- 28 candidates who receive the greatest number of votes among all
- 29 candidates running for an at-large seat are elected as members of
- 30 the governing body.
- 31 SECTION 24. IC 20-26-4-4, AS ADDED BY P.L.1-2005,
- 32 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 33 UPON PASSAGE]: Sec. 4. (a) ~~This section does not apply to a school~~
- 34 ~~city of the first class or to a school corporation succeeding to all or the~~
- 35 ~~major part in area of a school city of the first class:~~
- 36 (b) (a) ~~The commencement and termination of terms of members of~~
- 37 ~~a governing body are as follows:~~
- 38 (1) ~~Except as provided in subdivision (2), the governing body of~~
- 39 ~~each school corporation shall determine whether the term of~~
- 40 ~~office for the governing body's members extends from January 1~~
- 41 ~~to December 31 or from July 1 to June 30. A governing body that~~
- 42 ~~makes a change in the commencement date of the governing~~

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1 body's members' terms shall report the change to the state board
2 before August 1 preceding the year in which the change takes
3 place. An ex officio member of a governing body shall take office
4 at the time the ex officio member takes the oath of the office by
5 virtue of which the ex officio member is entitled to become an ex
6 officio member.

7 (2) In a county having a population of more than four hundred
8 thousand (400,000); the terms of office for the members of a
9 governing body; whether elected or appointed; commence on July
10 1 of the year in which the members are to take office under the
11 plan; resolution; or law under which the school corporation is
12 established; and terminate on the June 30 of the final year of the
13 term for which the members are to serve under the plan;
14 resolution; or law.

15 **established under the following:**

- 16 (1) IC 3-5-4-11.
- 17 (2) IC 20-23-4-30.
- 18 (3) IC 20-23-7-8.1.
- 19 (4) IC 20-23-12-8.
- 20 (5) IC 20-23-13-3.
- 21 (6) IC 20-23-14-8.
- 22 (7) IC 20-23-15-11.
- 23 (8) IC 20-23-17-4.
- 24 (9) IC 20-23-17.2-8.
- 25 (10) IC 20-25-3-4.

26 (e) (b) If a vacancy in the membership of a governing body occurs
27 for any reason (including the failure of a sufficient number of petitions
28 for candidates for governing body membership being filed for an
29 election and whether the vacancy was of an elected or appointed
30 member), the remaining members of the governing body shall by
31 majority vote fill the vacancy by appointing a person from within the
32 boundaries of the school corporation, with the residence and other
33 qualifications provided for a regularly elected or appointed board
34 member filling the membership, to serve for the term or the balance of
35 the term. However, this subsection does not apply to a vacancy:

- 36 (1) of a member who serves on a governing body in an ex officio
37 capacity; or
- 38 (2) a vacancy in an appointed board membership if a plan,
39 resolution, or law under which the school corporation operates
40 specifically provides for filling vacancies by the appointing
41 authority.

42 SECTION 25. IC 36-5-1-12 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 12. (a) Proceedings to
2 dissolve a town may be instituted under either this section or
3 IC 36-5-1.1.

4 (b) A proceeding under this section may be instituted to either
5 dissolve the town or change its name. The proceeding is instituted by
6 filing a petition with the town clerk. The petition must be signed by at
7 least the number of the voters of the town required to place a candidate
8 on the ballot under IC 3-8-6-3, must be verified by at least one (1) of
9 the petitioners, and must include the reasons for the dissolution or
10 change of name.

11 ~~(c) A census of all the voters of the town, taken within ten (10) days~~
12 ~~before the filing of the petition, must be filed with the petition. The~~
13 ~~person who prepared the census must, by affidavit attached to the~~
14 ~~census, verify that the census is correct.~~

15 SECTION 26. IC 36-5-1-13 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 13. A petition ~~and~~
17 ~~census~~ filed under section 12 of this chapter must be accompanied by
18 a bond for costs and expenses, payable to and approved by the town
19 legislative body. The petitioners shall pay all costs and expenses
20 incurred under this chapter, including the expenses of an election, if
21 their petition is not successful.

22 SECTION 27. IC 36-5-1-14 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 14. When a petition
24 ~~and census are is~~ filed under section 12 of this chapter, the town clerk
25 shall give notice of the filing and of the day of a hearing on the petition,
26 ~~and census~~, in the manner prescribed by IC 5-3-1.

27 SECTION 28. IC 36-5-1-15 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 15. (a) On the date
29 named in the notice given under section 14 of this chapter, the town
30 legislative body shall hear and consider:

- 31 (1) the petition; ~~and census~~; and
- 32 (2) all statements presented in favor of or in opposition to
33 granting the petition.

34 The legislative body shall then decide whether there is sufficient cause
35 to submit the question of dissolving the town or changing its name to
36 the voters of the town.

37 (b) A petitioner who wants to withdraw his name from the petition
38 must do so before the legislative body makes its decision. The
39 legislative body may not count names withdrawn from the petition as
40 part of the total required by section 12 of this chapter.

41 SECTION 29. IC 36-5-1-18, AS AMENDED BY P.L.113-2010,
42 SECTION 124, IS AMENDED TO READ AS FOLLOWS

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1 [EFFECTIVE JULY 1, 2012]: Sec. 18. (a) If at least two-thirds (2/3) of
 2 the votes cast in an election under section 16 of this chapter are
 3 affirmative, ~~and at least four-fifths (4/5) of all the voters listed in the~~
 4 ~~census voted in the election~~, the dissolution or change of name takes
 5 effect in the manner prescribed by this section.

6 (b) A change of name takes effect thirty (30) days after the filing of
 7 the statement required by section 17 of this chapter.

8 (c) Except as provided in subsection (d), a dissolution takes effect
 9 six (6) months after the filing of the statement required by section 17
 10 of this chapter. The property owned by the town after payment of debts
 11 and liabilities shall be disposed of in the manner chosen by a majority
 12 of the voters of the town at a special election for that purpose.
 13 Dissolution of a town does not affect the validity of a contract to which
 14 the town is a party.

15 (d) A dissolution under this chapter may not take effect during the
 16 year preceding a year in which a federal decennial census is conducted.
 17 A dissolution that would otherwise take effect during the year
 18 preceding a year in which a federal decennial census is conducted takes
 19 effect January 1 of the year in which a federal decennial census is
 20 conducted.

21 (e) Notwithstanding subsection (d) as that subsection existed on
 22 December 31, 2009, a dissolution that took effect January 2, 2010,
 23 because of the application of subsection (d), as that subsection existed
 24 on December 31, 2009, is instead considered to take effect January 1,
 25 2010, without any additional action being required.

26 **SECTION 30. 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. 118, 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 4, line 25, after "election" insert "**in Indiana**".

Page 5, line 14, after "state" delete ", legislative,".

Page 5, line 14, after "primary" delete ",,".

Page 5, line 15, delete "municipal, special,".

Page 7, delete lines 32 through 42.

Page 8, delete lines 1 through 33.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 118 as introduced.)

LANDSKE, Chairperson

Committee Vote: Yeas 8, Nays 0.

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