



March 26, 2013

ENGROSSED HOUSE BILL No. 1112

DIGEST OF HB 1112 (Updated March 25, 2013 12:09 pm - DI 102)

Citations Affected: IC 3-8; IC 3-9.

Synopsis: Write-in candidates. Provides that a write-in candidate for an elected office may not claim affiliation with a political party in the state whose nominee received at least 2% of the total vote cast for secretary of state at the most recent election for secretary of state. Prohibits a person from falsely representing in the preparation, distribution, or broadcast of paid political advertising or campaign material that a write-in candidate for certain elected offices is affiliated with a political party whose nominee for secretary of state received at least 2% of the vote in the most recent election for secretary of state. Provides that the Indiana election commission or a county election board may impose a civil penalty of not more than \$500 for a violation. Permits the Indiana election commission or a county election board, in enforcing this prohibition, to consider evidence that a communication used the name of a political party or a symbol commonly associated with a political party.

Effective: July 1, 2013.

Hamm, Cherry
(SENATE SPONSOR — PAUL)

January 8, 2013, read first time and referred to Committee on Elections and Apportionment.

January 24, 2013, amended, reported — Do Pass.

January 28, 2013, read second time, ordered engrossed. Engrossed.

January 29, 2013, read third time, passed. Yeas 88, nays 9.

SENATE ACTION

February 25, 2013, read first time and referred to Committee on Elections.

March 25, 2013, amended, reported favorably — Do Pass.

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EH 1112—LS 6408/DI 75+



March 26, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1112

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 3-8-2-2.5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2.5. (a) A person who
3 desires to be a write-in candidate for a federal, state, legislative, or
4 local office or school board office in a general, municipal, or school
5 board election must file a declaration of intent to be a write-in
6 candidate with the officer with whom declaration of candidacy must be
7 filed under sections 5 and 6 of this chapter.
8 (b) The declaration of intent to be a write-in candidate required
9 under subsection (a) must be signed before a person authorized to
10 administer oaths and must certify the following information:
11 (1) The candidate's name must be printed or typewritten as:
12 (A) the candidate wants the candidate's name to be certified;
13 and
14 (B) the candidate's name is permitted to appear under IC 3-5-7.
15 (2) A statement that the candidate is a registered voter and the
16 location of the candidate's precinct and township (or ward and
17 city or town), county, and state.

EH 1112—LS 6408/DI 75+



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- 1 (3) The candidate's complete residence address, and if the
 2 candidate's mailing address is different from the residence
 3 address, the mailing address.
- 4 (4) The candidate's party affiliation or a statement that the
 5 candidate is an independent candidate (not affiliated with any
 6 party). ~~For purposes of this subdivision, a candidate is affiliated~~
 7 ~~with a political party only if the candidate satisfies section 7(a)(4)~~
 8 ~~of this chapter. **The candidate may not claim affiliation with**~~
 9 ~~**any political party described by IC 3-8-4-1.**~~
- 10 (5) A statement of the candidate's intention to be a write-in
 11 candidate, the name of the office, including the district, and the
 12 date and type of election.
- 13 (6) If the candidate is a candidate for the office of President or
 14 Vice President of the United States, a statement declaring the
 15 names of the individuals who have consented and are eligible to
 16 be the candidate's candidates for presidential electors.
- 17 (7) A statement that the candidate:
 18 (A) is aware of the provisions of IC 3-9 regarding campaign
 19 finance and the reporting of campaign contributions and
 20 expenditures; and
 21 (B) agrees to comply with the provisions of IC 3-9.
 22 The candidate must separately sign the statement required by this
 23 subdivision.
- 24 (8) A statement as to whether the candidate has:
 25 (A) been a candidate for state or local office in a previous
 26 primary or general election; and
 27 (B) filed all reports required by IC 3-9-5-10 for all previous
 28 candidacies.
- 29 (9) If the candidate is subject to IC 3-9-1-5, a statement that the
 30 candidate has filed a campaign finance statement of organization
 31 for the candidate's principal committee or is aware that the
 32 candidate may be required to file a campaign finance statement of
 33 organization not later than noon seven (7) days after the final date
 34 to file the declaration of intent to be a write-in candidate under
 35 section 4 of this chapter.
- 36 (10) If the candidate is subject to IC 3-9-1-5.5, a statement that
 37 the candidate is required to file a campaign finance statement of
 38 organization under IC 3-9 after the first of either of the following
 39 occurs:
 40 (A) The candidate receives more than five hundred dollars
 41 (\$500) in contributions.
 42 (B) The candidate makes more than five hundred dollars

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1 (\$500) in expenditures.
 2 (11) A statement that the candidate complies with all
 3 requirements under the laws of Indiana to be a candidate for the
 4 above named office, including any applicable residency
 5 requirements, and that the candidate is not ineligible to be a
 6 candidate due to a criminal conviction that would prohibit the
 7 candidate from serving in the office.
 8 (12) The candidate's signature and telephone number.
 9 (c) At the time of filing the declaration of intent to be a write-in
 10 candidate, the write-in candidate is considered a candidate for all
 11 purposes.
 12 (d) A write-in candidate must comply with the requirements under
 13 IC 3-8-1 that apply to the office to which the write-in candidate seeks
 14 election.
 15 (e) A person may not be a write-in candidate in a contest for
 16 nomination or for election to a political party office.
 17 (f) A write-in candidate for the office of President or Vice President
 18 of the United States must list at least one (1) candidate for presidential
 19 elector and may not list more than the total number of presidential
 20 electors to be chosen in Indiana.
 21 (g) The commission shall provide that the form of a declaration of
 22 intent to be a write-in candidate includes the following information
 23 near the separate signature required by subsection (b)(7):
 24 (1) The dates for filing campaign finance reports under IC 3-9.
 25 (2) The penalties for late filing of campaign finance reports under
 26 IC 3-9.
 27 (h) A declaration of intent to be a write-in candidate must include
 28 a statement that the candidate requests the name on the candidate's
 29 voter registration record be the same as the name the candidate uses on
 30 the declaration of intent to be a write-in candidate. If there is a
 31 difference between the name on the candidate's declaration of intent to
 32 be a write-in candidate and the name on the candidate's voter
 33 registration record, the officer with whom the declaration of intent to
 34 be a write-in candidate is filed shall forward the information to the
 35 voter registration officer of the appropriate county as required by
 36 IC 3-5-7-6(e). The voter registration officer of the appropriate county
 37 shall change the name on the candidate's voter registration record to be
 38 the same as the name on the candidate's declaration of intent to be a
 39 write-in candidate.
 40 SECTION 2. IC 3-9-3-6 IS ADDED TO THE INDIANA CODE AS
 41 A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 42 2013]: **Sec. 6. (a) This section does not apply to the following:**

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- (1) A communication relating to an election to a federal office.
- (2) A person whose sole act is, in the normal course of business, participating in the preparation, printing, distribution, or broadcast of the advertising or material containing the representation.

(b) A person may not knowingly or intentionally authorize, finance, sponsor, or participate in the preparation, distribution, or broadcast of paid political advertising or campaign material that falsely represents that a write-in candidate in any election is affiliated with a political party described by IC 3-8-4-1.

(c) In enforcing this section, the commission or a county election board may consider evidence that the name of the political party or a symbol commonly associated with the political party has been included in the communication.

SECTION 3. IC 3-9-4-16, AS AMENDED BY P.L.225-2011, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 16. (a) In addition to any other penalty imposed, a person who does any of the following is subject to a civil penalty under this section:

- (1) Fails to file with the election division a report in the manner required under IC 3-9-5.
- (2) Fails to file a statement of organization required under IC 3-9-1.
- (3) Is a committee or a member of a committee who disburses or expends money or other property for any political purpose before the money or other property has passed through the hands of the treasurer of the committee.
- (4) Makes a contribution other than to a committee subject to this article or to a person authorized by law or a committee to receive contributions on the committee's behalf.
- (5) Is a corporation or labor organization that exceeds any of the limitations on contributions prescribed by IC 3-9-2-4.
- (6) Makes a contribution in the name of another person.
- (7) Accepts a contribution made by one (1) person in the name of another person.
- (8) Is not the treasurer of a committee subject to this article, and pays any expenses of an election or a caucus except as authorized by this article.
- (9) Commingles the funds of a committee with the personal funds of an officer, a member, or an associate of the committee.
- (10) Wrongfully uses campaign contributions in violation of IC 3-9-3-4.

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- 1 (11) Violates IC 3-9-2-12.
- 2 (12) Fails to designate a contribution as required by IC 3-9-2-5(c).
- 3 (13) Violates IC 3-9-3-5 or **IC 3-9-3-6.**
- 4 (14) Serves as a treasurer of a committee in violation of any of the
- 5 following:
- 6 (A) IC 3-9-1-13(1).
- 7 (B) IC 3-9-1-13(2).
- 8 (C) IC 3-9-1-18.
- 9 (15) Fails to comply with section 4(d) of this chapter.
- 10 (16) Violates IC 3-9-3-2.5 by making a communication that
- 11 contains a disclaimer that is not presented in a clear and
- 12 conspicuous manner required by IC 3-9-3-2.5(d) and
- 13 IC 3-9-3-2.5(e). This subdivision does not apply to a person
- 14 whose sole act is, in the normal course of business, participating
- 15 in the preparation, printing, distribution, or broadcast of the
- 16 communication containing the disclaimer.
- 17 (b) This subsection applies to a person who is subject to a civil
- 18 penalty under subsection (a)(1) or (a)(2) for filing a defective report or
- 19 statement. If the commission determines that a person failed to file the
- 20 amended report or statement of organization not later than noon five (5)
- 21 days after being given notice under section 14 of this chapter, the
- 22 commission may assess a civil penalty. The penalty is ten dollars (\$10)
- 23 for each day the report is late after the expiration of the five (5) day
- 24 period, not to exceed one hundred dollars (\$100) plus any investigative
- 25 costs incurred and documented by the election division. The civil
- 26 penalty limit under this subsection applies to each report separately.
- 27 (c) This subsection applies to a person who is subject to a civil
- 28 penalty under subsection (a)(1) or (a)(2) for a delinquent report or
- 29 statement. If the commission determines that a person failed to file the
- 30 report or statement of organization by the deadline prescribed under
- 31 this article, the commission shall assess a civil penalty. The penalty is
- 32 fifty dollars (\$50) for each day the report or statement is late, with the
- 33 afternoon of the final date for filing the report or statement being
- 34 calculated as the first day. The civil penalty under this subsection may
- 35 not exceed one thousand dollars (\$1,000) plus any investigative costs
- 36 incurred and documented by the election division. The civil penalty
- 37 limit under this subsection applies to each report separately.
- 38 (d) This subsection applies to a person who is subject to a civil
- 39 penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or
- 40 (a)(10). If the commission determines that a person is subject to a civil
- 41 penalty under subsection (a), the commission may assess a civil penalty
- 42 of not more than one thousand dollars (\$1,000), plus any investigative

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1 costs incurred and documented by the election division.

2 (e) This subsection applies to a person who is subject to a civil
3 penalty under subsection (a)(5). If the commission determines that a
4 person is subject to a civil penalty under subsection (a)(5), the
5 commission may assess a civil penalty of not more than three (3) times
6 the amount of the contribution in excess of the limit prescribed by
7 IC 3-9-2-4, plus any investigative costs incurred and documented by
8 the election division.

9 (f) This subsection applies to a person who is subject to a civil
10 penalty under subsection (a)(11). If the commission determines that a
11 candidate or the candidate's committee has violated IC 3-9-2-12, the
12 commission shall assess a civil penalty equal to the greater of the
13 following, plus any investigative costs incurred and documented by the
14 election division:

- 15 (1) Two (2) times the amount of any contributions received.
16 (2) One thousand dollars (\$1,000).

17 (g) This subsection applies to a person who is subject to a civil
18 penalty under subsection (a)(12). If the commission determines that a
19 corporation or a labor organization has failed to designate a
20 contribution in violation of IC 3-9-2-5(c), the commission shall assess
21 a civil penalty equal to the greater of the following, plus any
22 investigative costs incurred and documented by the election division:

- 23 (1) Two (2) times the amount of the contributions undesignated.
24 (2) One thousand dollars (\$1,000).

25 (h) This subsection applies to a person who is subject to a civil
26 penalty under subsection (a)(13). If the commission determines, by
27 unanimous vote of the entire membership of the commission, that a
28 person has violated IC 3-9-3-5 or **IC 3-9-3-6**, the commission may
29 assess a civil penalty of not more than five hundred dollars (\$500), plus
30 any investigative costs incurred and documented by the election
31 division.

32 (i) This subsection applies to a person who is subject to a civil
33 penalty under subsection (a)(14). If the commission determines, by
34 unanimous vote of the entire membership of the commission, that a
35 person has served as the treasurer of a committee in violation of any of
36 the statutes listed in subsection (a)(14), the commission may assess a
37 civil penalty of not more than five hundred dollars (\$500), plus any
38 investigative costs incurred and documented by the election division.

39 (j) This subsection applies to a person who is subject to a civil
40 penalty under subsection (a)(15). The commission may assess a civil
41 penalty equal to the costs incurred by the election division for the
42 manual entry of the data contained in the report or statement, plus any

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1 investigative costs incurred and documented by the election division.

2 (k) This subsection applies to a person who is subject to a civil
3 penalty under subsection (a)(16). If the commission determines that a
4 person is subject to a civil penalty under subsection (a)(16), the
5 commission may assess a civil penalty of not more than one thousand
6 dollars (\$1,000) for each communication circulated or published (but
7 not for each of the copies of the communication actually circulated or
8 published), plus any investigative costs incurred and documented by
9 the election division.

10 (l) All civil penalties collected under this section shall be deposited
11 with the treasurer of state in the campaign finance enforcement
12 account.

13 (m) Proceedings of the commission under this section are subject to
14 IC 4-21.5.

15 SECTION 4. IC 3-9-4-17, AS AMENDED BY P.L.225-2011,
16 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2013]: Sec. 17. (a) In addition to any other penalty imposed,
18 a person who does any of the following is subject to a civil penalty
19 under this section:

20 (1) Fails to file with a county election board a report in the
21 manner required under IC 3-9-5.

22 (2) Fails to file a statement of organization required under
23 IC 3-9-1.

24 (3) Is a committee or a member of a committee who disburses or
25 expends money or other property for any political purpose before
26 the money or other property has passed through the hands of the
27 treasurer of the committee.

28 (4) Makes a contribution other than to a committee subject to this
29 article or to a person authorized by law or a committee to receive
30 contributions in the committee's behalf.

31 (5) Is a corporation or labor organization that exceeds any of the
32 limitations on contributions prescribed by IC 3-9-2-4.

33 (6) Makes a contribution in the name of another person.

34 (7) Accepts a contribution made by one (1) person in the name of
35 another person.

36 (8) Is not the treasurer of a committee subject to this article, and
37 pays any expenses of an election or a caucus except as authorized
38 by this article.

39 (9) Commingles the funds of a committee with the personal funds
40 of an officer, a member, or an associate of the committee.

41 (10) Wrongfully uses campaign contributions in violation of
42 IC 3-9-3-4.

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- 1 (11) Fails to designate a contribution as required by IC 3-9-2-5(c).
- 2 (12) Violates IC 3-9-3-5 or **IC 3-9-3-6.**
- 3 (13) Serves as a treasurer of a committee in violation of any of the
- 4 following:
- 5 (A) IC 3-9-1-13(1).
- 6 (B) IC 3-9-1-13(2).
- 7 (C) IC 3-9-1-18.
- 8 (14) Violates IC 3-9-3-2.5 by making a communication that
- 9 contains a disclaimer that is not presented in a clear and
- 10 conspicuous manner, as required by IC 3-9-3-2.5(d) and
- 11 IC 3-9-3-2.5(e). This subdivision does not apply to a person
- 12 whose sole act is, in the normal course of business, participating
- 13 in the preparation, printing, distribution, or broadcast of the
- 14 communication containing the disclaimer.
- 15 (b) This subsection applies to a person who is subject to a civil
- 16 penalty under subsection (a)(1) or (a)(2) for filing a defective report or
- 17 statement. If the county election board determines that a person failed
- 18 to file the report or a statement of organization not later than noon five
- 19 (5) days after being given notice under section 14 of this chapter, the
- 20 county election board may assess a civil penalty. The penalty is ten
- 21 dollars (\$10) for each day the report is late after the expiration of the
- 22 five (5) day period, not to exceed one hundred dollars (\$100) plus any
- 23 investigative costs incurred and documented by the board. The civil
- 24 penalty limit under this subsection applies to each report separately.
- 25 (c) This subsection applies to a person who is subject to a civil
- 26 penalty under subsection (a)(1) or (a)(2) for a delinquent report or
- 27 statement. If the county election board determines that a person failed
- 28 to file the report or statement of organization by the deadline prescribed
- 29 under this article, the board shall assess a civil penalty. The penalty is
- 30 fifty dollars (\$50) for each day the report is late, with the afternoon of
- 31 the final date for filing the report or statement being calculated as the
- 32 first day. The civil penalty under this subsection may not exceed one
- 33 thousand dollars (\$1,000) plus any investigative costs incurred and
- 34 documented by the board. The civil penalty limit under this subsection
- 35 applies to each report separately.
- 36 (d) This subsection applies to a person who is subject to a civil
- 37 penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or
- 38 (a)(10). If the county election board determines that a person is subject
- 39 to a civil penalty under subsection (a), the board may assess a civil
- 40 penalty of not more than one thousand dollars (\$1,000), plus any
- 41 investigative costs incurred and documented by the board.
- 42 (e) This subsection applies to a person who is subject to a civil

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1 penalty under subsection (a)(5). If the county election board determines
2 that a person is subject to a civil penalty under subsection (a)(5), the
3 board may assess a civil penalty of not more than three (3) times the
4 amount of the contribution in excess of the limit prescribed by
5 IC 3-9-2-4, plus any investigative costs incurred and documented by
6 the board.

7 (f) This subsection applies to a person who is subject to a civil
8 penalty under subsection (a)(11). If the county election board
9 determines that a corporation or a labor organization has failed to
10 designate a contribution in violation of IC 3-9-2-5(c), the board shall
11 assess a civil penalty equal to the greater of the following, plus any
12 investigative costs incurred and documented by the board:

- 13 (1) Two (2) times the amount of the contributions undesignated.
- 14 (2) One thousand dollars (\$1,000).

15 (g) This subsection applies to a person who is subject to a civil
16 penalty under subsection (a)(12). If the county election board
17 determines, by unanimous vote of the entire membership of the board,
18 that a person has violated IC 3-9-3-5 or IC 3-9-3-6, the board may
19 assess a civil penalty of not more than five hundred dollars (\$500), plus
20 any investigative costs incurred and documented by the board.

21 (h) This subsection applies to a person who is subject to a civil
22 penalty under subsection (a)(13). If the county election board
23 determines, by unanimous vote of the entire membership of the board,
24 that a person has served as the treasurer of a committee in violation of
25 any of the statutes listed in subsection (a)(13), the board may assess a
26 civil penalty of not more than five hundred dollars (\$500), plus any
27 investigative costs incurred and documented by the board.

28 (i) This subsection applies to a person who is subject to a civil
29 penalty under subsection (a)(14). If the board determines that a person
30 is subject to a civil penalty under subsection (a)(14), the board may
31 assess a civil penalty of not more than one thousand dollars (\$1,000)
32 for each communication circulated or published (but not for each of the
33 copies of the communication actually circulated or published), plus any
34 investigative costs incurred and documented by the election division.

35 (j) All civil penalties collected under this section shall be deposited
36 with the county treasurer to be deposited by the county treasurer in a
37 separate account to be known as the campaign finance enforcement
38 account. The funds in the account are available, with the approval of
39 the county fiscal body, to augment and supplement the funds
40 appropriated for the administration of this article.

41 (k) Money in the campaign finance enforcement account does not
42 revert to the county general fund at the end of a county fiscal year.

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1 (l) Proceedings of the county election board under this section are
2 subject to IC 4-21.5.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred House Bill 1112, 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, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 3-8-2-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2.5. (a) A person who desires to be a write-in candidate for a federal, state, legislative, or local office or school board office in a general, municipal, or school board election must file a declaration of intent to be a write-in candidate with the officer with whom declaration of candidacy must be filed under sections 5 and 6 of this chapter.

(b) The declaration of intent to be a write-in candidate required under subsection (a) must be signed before a person authorized to administer oaths and must certify the following information:

- (1) The candidate's name must be printed or typewritten as:
 - (A) the candidate wants the candidate's name to be certified; and
 - (B) the candidate's name is permitted to appear under IC 3-5-7.
- (2) A statement that the candidate is a registered voter and the location of the candidate's precinct and township (or ward and city or town), county, and state.
- (3) The candidate's complete residence address, and if the candidate's mailing address is different from the residence address, the mailing address.
- (4) The candidate's party affiliation or a statement that the candidate is an independent candidate (not affiliated with any party). ~~For purposes of this subdivision, a candidate is affiliated with a political party only if the candidate satisfies section 7(a)(4) of this chapter. The candidate may not claim affiliation with any political party described by IC 3-8-4-1.~~
- (5) A statement of the candidate's intention to be a write-in candidate, the name of the office, including the district, and the date and type of election.
- (6) If the candidate is a candidate for the office of President or Vice President of the United States, a statement declaring the names of the individuals who have consented and are eligible to be the candidate's candidates for presidential electors.
- (7) A statement that the candidate:
 - (A) is aware of the provisions of IC 3-9 regarding campaign

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finance and the reporting of campaign contributions and expenditures; and

(B) agrees to comply with the provisions of IC 3-9.

The candidate must separately sign the statement required by this subdivision.

(8) A statement as to whether the candidate has:

(A) been a candidate for state or local office in a previous primary or general election; and

(B) filed all reports required by IC 3-9-5-10 for all previous candidacies.

(9) If the candidate is subject to IC 3-9-1-5, a statement that the candidate has filed a campaign finance statement of organization for the candidate's principal committee or is aware that the candidate may be required to file a campaign finance statement of organization not later than noon seven (7) days after the final date to file the declaration of intent to be a write-in candidate under section 4 of this chapter.

(10) If the candidate is subject to IC 3-9-1-5.5, a statement that the candidate is required to file a campaign finance statement of organization under IC 3-9 after the first of either of the following occurs:

(A) The candidate receives more than five hundred dollars (\$500) in contributions.

(B) The candidate makes more than five hundred dollars (\$500) in expenditures.

(11) A statement that the candidate complies with all requirements under the laws of Indiana to be a candidate for the above named office, including any applicable residency requirements, and that the candidate is not ineligible to be a candidate due to a criminal conviction that would prohibit the candidate from serving in the office.

(12) The candidate's signature and telephone number.

(c) At the time of filing the declaration of intent to be a write-in candidate, the write-in candidate is considered a candidate for all purposes.

(d) A write-in candidate must comply with the requirements under IC 3-8-1 that apply to the office to which the write-in candidate seeks election.

(e) A person may not be a write-in candidate in a contest for nomination or for election to a political party office.

(f) A write-in candidate for the office of President or Vice President of the United States must list at least one (1) candidate for presidential

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elector and may not list more than the total number of presidential electors to be chosen in Indiana.

(g) The commission shall provide that the form of a declaration of intent to be a write-in candidate includes the following information near the separate signature required by subsection (b)(7):

- (1) The dates for filing campaign finance reports under IC 3-9.
- (2) The penalties for late filing of campaign finance reports under IC 3-9.

(h) A declaration of intent to be a write-in candidate 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 declaration of intent to be a write-in candidate. If there is a difference between the name on the candidate's declaration of intent to be a write-in candidate and the name on the candidate's voter registration record, the officer with whom the declaration of intent to be a write-in candidate 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 declaration of intent to be a write-in candidate."

Delete pages 2 through 11.

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1112 as introduced.)

SMITH M, Chair

Committee Vote: yeas 11, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Elections, to which was referred House Bill No. 1112, 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, after line 39, begin a new paragraph and insert:

"SECTION 2. IC 3-9-3-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 6. (a) This section does not apply to the following:**

- (1) A communication relating to an election to a federal office.

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(2) A person whose sole act is, in the normal course of business, participating in the preparation, printing, distribution, or broadcast of the advertising or material containing the representation.

(b) A person may not knowingly or intentionally authorize, finance, sponsor, or participate in the preparation, distribution, or broadcast of paid political advertising or campaign material that falsely represents that a write-in candidate in any election is affiliated with a political party described by IC 3-8-4-1.

(c) In enforcing this section, the commission or a county election board may consider evidence that the name of the political party or a symbol commonly associated with the political party has been included in the communication.

SECTION 3. IC 3-9-4-16, AS AMENDED BY P.L.225-2011, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 16. (a) In addition to any other penalty imposed, a person who does any of the following is subject to a civil penalty under this section:

- (1) Fails to file with the election division a report in the manner required under IC 3-9-5.
- (2) Fails to file a statement of organization required under IC 3-9-1.
- (3) Is a committee or a member of a committee who disburses or expends money or other property for any political purpose before the money or other property has passed through the hands of the treasurer of the committee.
- (4) Makes a contribution other than to a committee subject to this article or to a person authorized by law or a committee to receive contributions on the committee's behalf.
- (5) Is a corporation or labor organization that exceeds any of the limitations on contributions prescribed by IC 3-9-2-4.
- (6) Makes a contribution in the name of another person.
- (7) Accepts a contribution made by one (1) person in the name of another person.
- (8) Is not the treasurer of a committee subject to this article, and pays any expenses of an election or a caucus except as authorized by this article.
- (9) Commingles the funds of a committee with the personal funds of an officer, a member, or an associate of the committee.
- (10) Wrongfully uses campaign contributions in violation of IC 3-9-3-4.
- (11) Violates IC 3-9-2-12.

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(12) Fails to designate a contribution as required by IC 3-9-2-5(c).

(13) Violates IC 3-9-3-5 or **IC 3-9-3-6.**

(14) Serves as a treasurer of a committee in violation of any of the following:

(A) IC 3-9-1-13(1).

(B) IC 3-9-1-13(2).

(C) IC 3-9-1-18.

(15) Fails to comply with section 4(d) of this chapter.

(16) Violates IC 3-9-3-2.5 by making a communication that contains a disclaimer that is not presented in a clear and conspicuous manner required by IC 3-9-3-2.5(d) and IC 3-9-3-2.5(e). This subdivision does not apply to a person whose sole act is, in the normal course of business, participating in the preparation, printing, distribution, or broadcast of the communication containing the disclaimer.

(b) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for filing a defective report or statement. If the commission determines that a person failed to file the amended report or statement of organization not later than noon five (5) days after being given notice under section 14 of this chapter, the commission may assess a civil penalty. The penalty is ten dollars (\$10) for each day the report is late after the expiration of the five (5) day period, not to exceed one hundred dollars (\$100) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.

(c) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for a delinquent report or statement. If the commission determines that a person failed to file the report or statement of organization by the deadline prescribed under this article, the commission shall assess a civil penalty. The penalty is fifty dollars (\$50) for each day the report or statement is late, with the afternoon of the final date for filing the report or statement being calculated as the first day. The civil penalty under this subsection may not exceed one thousand dollars (\$1,000) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.

(d) This subsection applies to a person who is subject to a civil penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or (a)(10). If the commission determines that a person is subject to a civil penalty under subsection (a), the commission may assess a civil penalty of not more than one thousand dollars (\$1,000), plus any investigative costs incurred and documented by the election division.

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(e) This subsection applies to a person who is subject to a civil penalty under subsection (a)(5). If the commission determines that a person is subject to a civil penalty under subsection (a)(5), the commission may assess a civil penalty of not more than three (3) times the amount of the contribution in excess of the limit prescribed by IC 3-9-2-4, plus any investigative costs incurred and documented by the election division.

(f) This subsection applies to a person who is subject to a civil penalty under subsection (a)(11). If the commission determines that a candidate or the candidate's committee has violated IC 3-9-2-12, the commission shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the election division:

- (1) Two (2) times the amount of any contributions received.
- (2) One thousand dollars (\$1,000).

(g) This subsection applies to a person who is subject to a civil penalty under subsection (a)(12). If the commission determines that a corporation or a labor organization has failed to designate a contribution in violation of IC 3-9-2-5(c), the commission shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the election division:

- (1) Two (2) times the amount of the contributions undesignated.
- (2) One thousand dollars (\$1,000).

(h) This subsection applies to a person who is subject to a civil penalty under subsection (a)(13). If the commission determines, by unanimous vote of the entire membership of the commission, that a person has violated IC 3-9-3-5 or IC 3-9-3-6, the commission may assess a civil penalty of not more than five hundred dollars (\$500), plus any investigative costs incurred and documented by the election division.

(i) This subsection applies to a person who is subject to a civil penalty under subsection (a)(14). If the commission determines, by unanimous vote of the entire membership of the commission, that a person has served as the treasurer of a committee in violation of any of the statutes listed in subsection (a)(14), the commission may assess a civil penalty of not more than five hundred dollars (\$500), plus any investigative costs incurred and documented by the election division.

(j) This subsection applies to a person who is subject to a civil penalty under subsection (a)(15). The commission may assess a civil penalty equal to the costs incurred by the election division for the manual entry of the data contained in the report or statement, plus any investigative costs incurred and documented by the election division.

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(k) This subsection applies to a person who is subject to a civil penalty under subsection (a)(16). If the commission determines that a person is subject to a civil penalty under subsection (a)(16), the commission may assess a civil penalty of not more than one thousand dollars (\$1,000) for each communication circulated or published (but not for each of the copies of the communication actually circulated or published), plus any investigative costs incurred and documented by the election division.

(l) All civil penalties collected under this section shall be deposited with the treasurer of state in the campaign finance enforcement account.

(m) Proceedings of the commission under this section are subject to IC 4-21.5.

SECTION 4. IC 3-9-4-17, AS AMENDED BY P.L.225-2011, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 17. (a) In addition to any other penalty imposed, a person who does any of the following is subject to a civil penalty under this section:

- (1) Fails to file with a county election board a report in the manner required under IC 3-9-5.
- (2) Fails to file a statement of organization required under IC 3-9-1.
- (3) Is a committee or a member of a committee who disburses or expends money or other property for any political purpose before the money or other property has passed through the hands of the treasurer of the committee.
- (4) Makes a contribution other than to a committee subject to this article or to a person authorized by law or a committee to receive contributions in the committee's behalf.
- (5) Is a corporation or labor organization that exceeds any of the limitations on contributions prescribed by IC 3-9-2-4.
- (6) Makes a contribution in the name of another person.
- (7) Accepts a contribution made by one (1) person in the name of another person.
- (8) Is not the treasurer of a committee subject to this article, and pays any expenses of an election or a caucus except as authorized by this article.
- (9) Commingles the funds of a committee with the personal funds of an officer, a member, or an associate of the committee.
- (10) Wrongfully uses campaign contributions in violation of IC 3-9-3-4.
- (11) Fails to designate a contribution as required by IC 3-9-2-5(c).



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(12) Violates IC 3-9-3-5 or IC 3-9-3-6.

(13) Serves as a treasurer of a committee in violation of any of the following:

(A) IC 3-9-1-13(1).

(B) IC 3-9-1-13(2).

(C) IC 3-9-1-18.

(14) Violates IC 3-9-3-2.5 by making a communication that contains a disclaimer that is not presented in a clear and conspicuous manner, as required by IC 3-9-3-2.5(d) and IC 3-9-3-2.5(e). This subdivision does not apply to a person whose sole act is, in the normal course of business, participating in the preparation, printing, distribution, or broadcast of the communication containing the disclaimer.

(b) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for filing a defective report or statement. If the county election board determines that a person failed to file the report or a statement of organization not later than noon five (5) days after being given notice under section 14 of this chapter, the county election board may assess a civil penalty. The penalty is ten dollars (\$10) for each day the report is late after the expiration of the five (5) day period, not to exceed one hundred dollars (\$100) plus any investigative costs incurred and documented by the board. The civil penalty limit under this subsection applies to each report separately.

(c) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for a delinquent report or statement. If the county election board determines that a person failed to file the report or statement of organization by the deadline prescribed under this article, the board shall assess a civil penalty. The penalty is fifty dollars (\$50) for each day the report is late, with the afternoon of the final date for filing the report or statement being calculated as the first day. The civil penalty under this subsection may not exceed one thousand dollars (\$1,000) plus any investigative costs incurred and documented by the board. The civil penalty limit under this subsection applies to each report separately.

(d) This subsection applies to a person who is subject to a civil penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or (a)(10). If the county election board determines that a person is subject to a civil penalty under subsection (a), the board may assess a civil penalty of not more than one thousand dollars (\$1,000), plus any investigative costs incurred and documented by the board.

(e) This subsection applies to a person who is subject to a civil penalty under subsection (a)(5). If the county election board determines

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that a person is subject to a civil penalty under subsection (a)(5), the board may assess a civil penalty of not more than three (3) times the amount of the contribution in excess of the limit prescribed by IC 3-9-2-4, plus any investigative costs incurred and documented by the board.

(f) This subsection applies to a person who is subject to a civil penalty under subsection (a)(11). If the county election board determines that a corporation or a labor organization has failed to designate a contribution in violation of IC 3-9-2-5(c), the board shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the board:

- (1) Two (2) times the amount of the contributions undesignated.
- (2) One thousand dollars (\$1,000).

(g) This subsection applies to a person who is subject to a civil penalty under subsection (a)(12). If the county election board determines, by unanimous vote of the entire membership of the board, that a person has violated IC 3-9-3-5 or IC 3-9-3-6, the board may assess a civil penalty of not more than five hundred dollars (\$500), plus any investigative costs incurred and documented by the board.

(h) This subsection applies to a person who is subject to a civil penalty under subsection (a)(13). If the county election board determines, by unanimous vote of the entire membership of the board, that a person has served as the treasurer of a committee in violation of any of the statutes listed in subsection (a)(13), the board may assess a civil penalty of not more than five hundred dollars (\$500), plus any investigative costs incurred and documented by the board.

(i) This subsection applies to a person who is subject to a civil penalty under subsection (a)(14). If the board determines that a person is subject to a civil penalty under subsection (a)(14), the board may assess a civil penalty of not more than one thousand dollars (\$1,000) for each communication circulated or published (but not for each of the copies of the communication actually circulated or published), plus any investigative costs incurred and documented by the election division.

(j) All civil penalties collected under this section shall be deposited with the county treasurer to be deposited by the county treasurer in a separate account to be known as the campaign finance enforcement account. The funds in the account are available, with the approval of the county fiscal body, to augment and supplement the funds appropriated for the administration of this article.

(k) Money in the campaign finance enforcement account does not revert to the county general fund at the end of a county fiscal year.

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(l) Proceedings of the county election board under this section are subject to IC 4-21.5."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1112 as printed January 25, 2013.)

LANDSKE, Chairperson

Committee Vote: Yeas 7, Nays 0.

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