
HOUSE BILL No. 1112

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-5-2-54; IC 3-8; IC 3-9.

Synopsis: Write-in candidates. Provides that a write-in candidate may not be affiliated with a political party. Provides that 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 represents that a write-in candidate in any election is affiliated with a political party. Provides certain exceptions to this prohibition, and provides civil penalties for violations.

Effective: July 1, 2013.

Hamm, Cherry

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

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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.

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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 3-5-2-54 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2013]: Sec. 54. "Write-in candidate" **means a**
3 **refers to an independent** candidate:
4 (1) who has filed a declaration of intent to be a write-in candidate;
5 and
6 (2) whose declaration of intent to be a write-in candidate has been
7 accepted by the appropriate authority under IC 3-8-2-5 and
8 IC 3-8-2-6.
9 SECTION 2. IC 3-8-2-2.5 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2.5. (a) A person who
11 desires to be a write-in candidate for a federal, state, legislative, or
12 local office or school board office in a general, municipal, or school
13 board election must file a declaration of intent to be a write-in
14 candidate with the officer with whom declaration of candidacy must be
15 filed under sections 5 and 6 of this chapter.
16 (b) The declaration of intent to be a write-in candidate required
17 under subsection (a) must be signed before a person authorized to



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

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

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

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

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

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

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

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

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

24 (f) A write-in candidate for the office of President or Vice President
 25 of the United States must list at least one (1) candidate for presidential
 26 elector and may not list more than the total number of presidential
 27 electors to be chosen in Indiana.

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

31 (1) The dates for filing campaign finance reports under IC 3-9.

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

34 (h) A declaration of intent to be a write-in candidate must include
 35 a statement that the candidate requests the name on the candidate's
 36 voter registration record be the same as the name the candidate uses on
 37 the declaration of intent to be a write-in candidate. If there is a
 38 difference between the name on the candidate's declaration of intent to
 39 be a write-in candidate and the name on the candidate's voter
 40 registration record, the officer with whom the declaration of intent to
 41 be a write-in candidate is filed shall forward the information to the
 42 voter registration officer of the appropriate county as required by

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1 IC 3-5-7-6(e). The voter registration officer of the appropriate county
 2 shall change the name on the candidate's voter registration record to be
 3 the same as the name on the candidate's declaration of intent to be a
 4 write-in candidate.

5 SECTION 3. IC 3-8-2-12.5 IS REPEALED [EFFECTIVE JULY 1,
 6 2013]. Sec. 12.5: (a) This section applies to a declaration of intent to be
 7 a write-in candidate in which the candidate states that the candidate is
 8 affiliated with the political party:

9 (b) If a candidate claims affiliation with a political party:

10 (1) described by IC 3-8-4-1;

11 (2) of a candidate who has previously filed a petition of
 12 nomination under IC 3-8-6; or

13 (3) whose name would result in voter confusion due to its
 14 similarity with the name of a political party described in
 15 subdivision (1) or (2);

16 a registered voter of the election district may question the validity of
 17 the filing in accordance with IC 3-8-1-2. The commission or county
 18 election board shall determine the validity of the questioned filing
 19 under section 14 or section 18 of this chapter.

20 (c) Following the filing of a question under subsection (b) and not
 21 later than the deadline for resolution of a question concerning a
 22 candidacy under section 14 or section 18 of this chapter, a candidate
 23 may file a written amendment to the declaration to alter the name of the
 24 political party or to indicate that the candidate is independent:

25 (d) If:

26 (1) the commission or county election board determines that the
 27 candidate's stated party affiliation is described under subsection
 28 (c); and

29 (2) the candidate does not file an amendment under subsection
 30 (d);

31 the commission or board shall deny the filing.

32 SECTION 4. IC 3-8-7-30 IS AMENDED TO READ AS FOLLOWS
 33 [EFFECTIVE JULY 1, 2013]: Sec. 30. (a) Not later than noon August
 34 1, the election division shall certify to each county election board

35 (1) the name of each individual who filed a declaration of intent
 36 to be a write-in candidate with the election division. ~~and~~

37 (2) any political party that the individual is affiliated with; or
 38 whether the individual is an independent candidate.

39 (b) This subsection applies to a county that does not use a central
 40 location to tally ballot card votes. The circuit court clerk shall provide
 41 a copy of the certification under this section to the inspector of each
 42 precinct, with instructions concerning the counting of write-in votes for

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declared write-in candidates.

SECTION 5. 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.**
- (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 represents that a write-in candidate in any election is affiliated with a political party.

SECTION 6. 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 7. 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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