

IC 3-12-11

Chapter 11. Recount and Contest Procedures for Presidential Primary Elections and Nomination for and Election to Federal, State, and Legislative Offices

IC 3-12-11-1

Right to recount of vote or to contest nomination or election of a candidate

Sec. 1. (a) Any candidate:

- (1) in a presidential primary election;
- (2) for nomination to a federal, state, or legislative office in a primary election; or
- (3) for a federal, state, or legislative office;

is entitled to have the votes cast for that office recounted or to contest the nomination or election of a candidate under this chapter. A recount may be conducted in one (1) or more of the precincts in which votes were cast for the office.

(b) This subsection applies to an election for a federal or statewide office. If a candidate who is entitled to file a petition for a recount or contest under this chapter does not file a petition within the period established by section 2 of this chapter, the state chairman of the candidate's political party may file a petition to:

- (1) have the votes recounted in one (1) or more precincts; or
- (2) contest the nomination or election of a candidate.

(c) This subsection applies to an election for a legislative office. If a candidate who is entitled to file a petition for a recount or contest under this chapter does not file a petition within the period established by section 2 of this chapter, a county chairman who:

- (1) resides in a county located within the election district in which the recount or contest is desired; and
- (2) is a member of the same political party as the candidate entitled to petition for a recount or contest under this chapter;

may file a petition to have the votes recounted in one (1) or more precincts or to contest the nomination or election of a candidate.

As added by P.L.7-1986, SEC.19. Amended by P.L.10-1988, SEC.167; P.L.4-1996, SEC.81.

IC 3-12-11-1.5

Chapter establishes standards to define vote in recount

Sec. 1.5. This chapter is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what will be counted as a vote on a paper ballot, an optical scan voting system, or an electronic voting system in a recount conducted under this chapter.

As added by P.L.209-2003, SEC.190.

IC 3-12-11-2

Filing of verified petition

Sec. 2. (a) A candidate who desires:

- (1) a recount of votes cast for a nomination or election subject

to this chapter; or

(2) to contest a nomination subject to this chapter or the election of a state office other than governor or lieutenant governor;

must file a verified petition with the election division not later than noon fourteen (14) days after election day.

(b) A state or county chairman who is entitled to and desires to file a petition for a recount or contest under this chapter must file a verified petition with the election division not later than noon seventeen (17) days after election day.

As added by P.L. 7-1986, SEC. 19. Amended by P.L. 3-1987, SEC. 397; P.L. 10-1988, SEC. 168; P.L. 4-1996, SEC. 82; P.L. 3-1997, SEC. 367; P.L. 221-2005, SEC. 122.

IC 3-12-11-3

Content of petition

Sec. 3. (a) Each petition for a recount filed under section 2 of this chapter must state the following:

- (1) The office for which the petitioner desires a recount.
- (2) The precincts in which the petitioner desires a recount.
- (3) That the individual is entitled to a recount under this chapter and that the nomination or election to office at issue was voted upon in the precincts specified.
- (4) The name of the candidates as set forth on the ballot for the election and address of the candidates as set forth in the records of the election division.
- (5) That the petitioner in good faith believes that the votes cast for nomination or election to the office at the election in the precincts were not correctly counted and returned.
- (6) That the petitioner desires a recount of all of the votes cast for nomination or election to the office in the precincts specified.

(b) Each petition for a contest filed under section 2 of this chapter must state the following:

- (1) The nomination or election to office that the petitioner contests.
- (2) That the individual is entitled to contest an election or a nomination to office under this chapter.
- (3) The name of the candidates as set forth on the ballot for the election and address of each of the candidates as set forth in the records of the election division.
- (4) That the petitioner in good faith believes that one (1) or more of the following occurred:
 - (A) The person declared nominated or elected does not comply with a specific constitutional or statutory requirement set forth in the petition that is applicable to a candidate for the office.
 - (B) A mistake was made in the printing or distribution of ballots used in the election that makes it impossible to determine which candidate received the highest number of

votes cast in the election.

(C) A mistake occurred in the programming of an electronic voting system, making it impossible to determine the candidate who received the highest number of votes.

(D) An electronic voting system malfunctioned, making it impossible to determine the candidate who received the highest number of votes.

(E) A deliberate act or series of actions occurred making it impossible to determine the candidate who received the highest number of votes cast in the election.

(c) A petition stating that the petitioner believes that a mistake described in subsection (b)(4)(B), (b)(4)(C), or (b)(4)(D) has occurred must identify each precinct in which:

(1) ballots:

(A) containing the printing mistake; or

(B) distributed by mistake;

were cast;

(2) a mistake occurred in the programming of an electronic voting system; or

(3) an electronic voting system malfunctioned.

(d) A petition stating that the petitioner believes that an act or series of actions described in subsection (b)(4)(E) occurred must identify each precinct or other location in which the act or series of actions occurred to the extent known to the petitioner.

As added by P.L. 7-1986, SEC.19. Amended by P.L. 3-1987, SEC.398; P.L. 10-1988, SEC.169; P.L. 10-1989, SEC.15; P.L. 3-1995, SEC.129; P.L. 4-1996, SEC.83; P.L. 176-1999, SEC.107; P.L. 221-2005, SEC.123.

IC 3-12-11-4

Cross-petition for recount

Sec. 4. A candidate who is nominated or elected to an office at an election on the face of the election returns may file a verified cross-petition for a recount with the election division not later than noon twenty-one (21) days after election day.

As added by P.L. 7-1986, SEC.19. Amended by P.L. 3-1987, SEC.399; P.L. 10-1988, SEC.170; P.L. 4-1996, SEC.84; P.L. 3-1997, SEC.368; P.L. 164-2006, SEC.128.

IC 3-12-11-5

Failure to file cross-petition or answer to a petition; admission of truth; presumption

Sec. 5. The failure to file either a cross-petition or an answer to a petition for a recount or contest does not:

(1) constitute an admission of the truth of the allegations of the petition; or

(2) imply a presumption in favor of the petition.

As added by P.L. 7-1986, SEC.19. Amended by P.L. 3-1987, SEC.400.

IC 3-12-11-6

Contents of cross-petition

Sec. 6. Each cross-petition filed under section 4 of this chapter must state the following:

- (1) The office for which the cross-petitioner desires a recount.
- (2) The precincts in which the cross-petitioner desires a recount.
- (3) That the cross-petitioner was a candidate at the election for nomination or election to the office and that the nomination or election to office was voted upon in the precincts specified.
- (4) The name and address of the cross-petitioner's opposing candidate or candidates.
- (5) That the cross-petitioner in good faith believes that the votes cast for nomination or election to the office at the election in the precincts were not correctly counted and returned.
- (6) That the cross-petitioner desires a recount of all of the votes cast for nomination or election to the office in the precincts specified.

As added by P.L.7-1986, SEC.19. Amended by P.L.10-1988, SEC.171.

IC 3-12-11-7

Amendment of petition or cross-petition

Sec. 7. (a) Except as provided in subsection (b) or (c), the state recount commission may allow a petition or cross-petition to be amended at any time upon the terms and conditions that the state recount commission orders.

(b) The commission may not allow a petition or cross-petition to be amended following the deadline for filing a petition or cross-petition under this chapter if the petition or cross-petition as originally filed:

- (1) failed to comply with section 3 or section 6 of this chapter;
or
- (2) was not filed before the deadline specified in section 2 or section 4 of this chapter.

(c) The commission may not allow a candidate who filed a petition or cross-petition to amend the petition or cross-petition by striking a precinct in which the candidate had desired a recount unless each opposing candidate consents to the amendment.

As added by P.L.7-1986, SEC.19. Amended by P.L.3-1987, SEC.401; P.L.176-1999, SEC.108.

IC 3-12-11-8

Multiple candidates joining in petition for recount or contest

Sec. 8. Two (2) or more candidates for the same or a different office nominated or elected at the same election may join in a petition for a recount or contest.

As added by P.L.7-1986, SEC.19. Amended by P.L.10-1988, SEC.172.

IC 3-12-11-9

Notice of filing of petition for recount; service and return

Sec. 9. (a) Upon the filing of a petition for a recount or contest with the election division, the secretary of state shall issue a notice of the filing and pendency of the petition to each opposing candidate and deliver the notice to the state police department.

(b) This subsection applies if an attorney has filed an appearance with the election division as the representative of a candidate. The state police shall serve the notice on the attorney for the candidate.

(c) If subsection (b) does not apply, the state police department shall immediately serve the notice upon each opposing candidate in person or by leaving a copy at the last and usual place of residence.

(d) The state police department shall make immediate return of the service under this section.

As added by P.L. 7-1986, SEC. 19. Amended by P.L. 3-1987, SEC. 402; P.L. 3-1997, SEC. 369; P.L. 221-2005, SEC. 124.

IC 3-12-11-10

Cash deposit for payment of costs by petitioner

Sec. 10. (a) Each petitioner shall furnish a cash deposit for the payment of costs of the recount chargeable to the petitioner. The minimum amount of the cash deposit is one hundred dollars (\$100). The cash deposit shall be deposited in the state recount fund.

(b) This subsection applies only to a recount of an election for nomination or election to either of the following:

(1) A legislative office in which, on the face of the election returns, the difference between the number of votes cast for the candidate nominated or elected and the petitioner is not more than one percent (1%) of the total votes cast for all candidates for the nomination or office.

(2) An office other than a legislative office in which, on the face of the election returns, the difference between the number of votes cast for the candidate nominated or elected and the petitioner is not more than one percent (1%) of the total votes cast for all candidates for the nomination or office.

If the number of precincts to be recounted exceeds ten (10), the amount of the deposit shall be increased by ten dollars (\$10) for each precinct in excess of ten (10).

(c) This subsection applies only to a recount of an election for nomination or election to either of the following:

(1) A legislative office in which, on the face of the election returns, the difference between the number of votes cast for the candidate nominated or elected and the petitioner is more than one percent (1%) of the total votes cast for the nomination or office.

(2) An office other than a legislative office in which, on the face of the election returns, the difference between the number of votes cast for the candidate nominated or elected and the petitioner is more than one percent (1%) of the total votes cast for the nomination or office.

If the number of precincts to be recounted exceeds ten (10), the amount of the deposit shall be increased by one hundred dollars

(\$100) for each precinct in excess of ten (10).

(d) If after a recount, it is determined that a petitioner has been nominated or elected, the deposit furnished by that petitioner shall be returned to that petitioner in full.

(e) Any unexpended balance remaining in a deposit after payment of the costs of the recount shall be returned to the depositor in the following manner:

(1) If the recount results in a reduction of at least fifty percent (50%) but less than one hundred percent (100%) of the margin of the total certified votes, the petitioner shall receive a refund of that percentage of the unexpended balance.

(2) If after a recount, it is determined that a petitioner has been nominated or elected, the deposit or the bond furnished by that petitioner shall be returned to that petitioner in full.

(3) Any unexpended balance remaining after the provision of subdivision (1) has been satisfied shall be deposited in the state recount fund.

As added by P.L. 7-1986, SEC. 19. Amended by P.L. 8-1995, SEC. 60; P.L. 176-1999, SEC. 109; P.L. 14-2004, SEC. 165.

IC 3-12-11-11

Cash deposit by cross-petitioner

Sec. 11. (a) This section applies if a cross-petition is filed under this chapter.

(b) This subsection applies only to a recount of an election for nomination or election to either of the following:

(1) A legislative office in which, on the face of the election returns, the difference between the number of votes cast for the cross-petitioner and the petitioner with the greatest number of votes is not more than one percent (1%) of the total votes cast for all candidates for the nomination or office.

(2) An office other than a legislative office in which, on the face of the election returns, the difference between the number of votes cast for the cross-petitioner and the petitioner with the greatest number of votes is not more than one percent (1%) of the total votes cast for all candidates for the nomination or office.

The cross-petitioner shall furnish a cash deposit equal to ten dollars (\$10) multiplied by the number of precincts that the cross-petitioner seeks to have recounted. The cash deposit shall be deposited in the state recount fund.

(c) This subsection applies only to a recount of an election for nomination or election to either of the following:

(1) A legislative office in which, on the face of the election returns, the difference between the number of votes cast for the cross-petitioner and the petitioner with the greatest number of votes is more than one percent (1%) of the total votes cast for all candidates for the nomination or office.

(2) An office other than a legislative office in which, on the face of the election returns, the difference between the number

of votes cast for the cross-petitioner and the petitioner with the greatest number of votes is more than one percent (1%) of the total votes cast for all candidates for the nomination or office. The cross-petitioner shall furnish a cash deposit equal to ten dollars (\$10) multiplied by the number of precincts that the cross-petitioner seeks to have recounted for the first ten (10) precincts recounted. For each precinct in excess of ten (10) the cross-petitioner seeks to have recounted, the cross-petitioner shall furnish an additional cash deposit equal to one hundred dollars (\$100) multiplied by the number of precincts in excess of ten (10) that the cross-petitioner seeks to have recounted. The cash deposit shall be deposited in the state recount fund.

(d) If after a recount, it is determined that the cross-petitioner has been nominated or elected, the deposit furnished by the cross-petitioner shall be returned to the cross-petitioner in full.

(e) Any unexpended balance remaining in a deposit after payment of the costs of the recount shall be deposited in the state recount fund.

As added by P.L. 7-1986, SEC. 19. Amended by P.L. 3-1987, SEC. 403; P.L. 8-1995, SEC. 61; P.L. 176-1999, SEC. 110; P.L. 221-2005, SEC. 125.

IC 3-12-11-12

Conditions for granting petitions and cross-petitions and ordering recounts; dismissal of petitions

Sec. 12. (a) Except as provided in subsection (d) or (e), the state recount commission shall grant the petitions and cross-petitions that have been filed and order the recount of the votes in the precincts upon:

- (1) the filing of a petition and cash deposit or bond under this chapter;
- (2) the expiration of the period under section 4 of this chapter for filing a cross-petition; and
- (3) proof of service of all notices.

(b) Except as provided in subsection (d), whenever a petition filed under section 2 of this chapter requests a recount in all precincts in the election district, the state recount commission may order a recount in the precincts upon:

- (1) the filing of a cash deposit or bond under this chapter; and
- (2) proof of service of all notices.

(c) Except as provided in subsection (d), the state recount commission shall grant a petition for a contest that has been filed and order a contest proceeding upon:

- (1) the filing of a petition under this chapter; and
- (2) proof of service of all notices.

(d) Whenever a motion to dismiss a petition or cross-petition for a recount or a petition for a contest is filed with the state recount commission or is made by a member of the commission, the commission shall rule on the motion to dismiss before ordering or continuing with a recount or a contest. The motion to dismiss must:

(1) state that the petitioner or cross-petitioner has failed to comply with this chapter; and

(2) specifically identify the requirement that the petitioner or cross-petitioner has failed to comply with.

(e) Whenever the petitioner and each cross-petitioner or respondent file a joint motion to dismiss a recount or contest, the commission shall rule on the motion to dismiss before ordering or continuing with a recount or contest.

As added by P.L.7-1986, SEC.19. Amended by P.L.3-1987, SEC.404; P.L.176-1999, SEC.111; P.L.221-2005, SEC.126.

IC 3-12-11-13

Consolidated recount

Sec. 13. If there is a consolidation of petitions and cross-petitions, the state recount commission shall by consolidated order grant the consolidated petitions and cross-petitions and order a consolidated recount of all votes in each precinct in the election district for the office requested in the petitions and cross-petitions.

As added by P.L.7-1986, SEC.19. Amended by P.L.221-2005, SEC.127.

IC 3-12-11-14

Precincts eligible for recount

Sec. 14. The state recount commission shall conduct a recount in each precinct designated in a petition or cross-petition granted under this chapter that is in the election district for the office. The commission may conduct a recount in any precinct that cast votes for an office that is the subject of a recount under this chapter if the precinct is within the election district for the office.

As added by P.L.7-1986, SEC.19. Amended by P.L.3-1987, SEC.405; P.L.221-2005, SEC.128.

IC 3-12-11-15

Order of recount; certified copies sent to candidates by registered mail; charge of costs

Sec. 15. On the day when the order of a recount or contest proceeding is made and entered by the state recount commission, the election division shall send a certified copy of the order by certified mail to each opposing candidate named in the petition at the address stated in the petition, if a petition was filed, at the candidate's last known address. The commission shall charge the cost of mailing the order to the petitioner.

As added by P.L.7-1986, SEC.19. Amended by P.L.3-1987, SEC.406; P.L.3-1997, SEC.370.

IC 3-12-11-16

Impoundment of election materials

Sec. 16. (a) Except as provided in subsection (b), the state recount commission may by order impound and provide for the protection of any election records or equipment described by IC 3-12-10-5(a).

(b) In a recount of an election for a legislative office, the state recount commission shall by order impound and provide for the protection of the following:

(1) All ballots, and electronic voting systems used at the election for casting votes in all of the precincts within the legislative district.

(2) All tally sheets relating to the votes cast for the office.

(3) All poll lists of persons registered by the poll clerks as having voted for the office.

As added by P.L.7-1986, SEC.19. Amended by P.L.3-1987, SEC.407; P.L.8-1995, SEC.62; P.L.221-2005, SEC.129.

IC 3-12-11-17

Convening of state recount commission; hearing on petition and recount

Sec. 17. (a) After a recount is ordered under section 12 of this chapter, the state recount commission or its designee shall convene at a place fixed by order of the state recount commission and expeditiously complete the recount of all votes ordered recounted. Each candidate affected by the recount may have a watcher present at the recount and may also be present in person. The candidate has the same rights as a watcher appointed under IC 3-6-8-4. Representatives of the media may also attend the recount and have the same rights as media watchers appointed under IC 3-6-10.

(b) At least two (2) days after a contest proceeding is ordered under section 12 of this chapter, the state recount commission or its designee shall convene at a place fixed by order of the state recount commission and conduct a hearing on the contest petition. Each candidate affected by the contest may be present in person. The candidate has the same rights as a watcher appointed under IC 3-6-8-4. Representatives of the media may also attend the hearing and have the same rights as media watchers appointed under IC 3-6-10.

(c) The proceedings of the state recount commission under this section shall be performed in public under IC 5-14-1.5. However, the commission may restrict access to parts of a room where the recount or contest proceeding is being conducted to safeguard the election material or other evidence and to permit the material to be handled or transported by the commission.

As added by P.L.7-1986, SEC.19. Amended by P.L.3-1987, SEC.408; P.L.3-1997, SEC.371.

IC 3-12-11-17.5

Petition for manual recount of ballot cards; withdrawal of petition

Sec. 17.5. (a) A petition or cross-petition filed under this chapter may request that ballot cards in specified precincts that used a ballot card voting system be counted manually. If a petition or cross-petition includes such a request, automatic tabulating machines may not be used to count ballot cards in the specified precincts. Ballot cards in those precincts shall be counted manually, and the

tabulation of votes must comply with IC 3-11-7.

(b) A petitioner or cross-petitioner may withdraw a request for a manual recount of ballot cards at any time after the state board of accounts conducts a test of the automatic tabulating machines to ascertain that the machines will correctly count the votes cast for the office that is the subject of the recount.

As added by P.L.3-1987, SEC.409. Amended by P.L.10-1988, SEC.173.

IC 3-12-11-17.7

Duties of recount commission

Sec. 17.7. (a) This section applies to ballots cast by any voting method.

(b) Unless the state recount commission makes a finding under subsection (c), the commission shall:

- (1) count ballots in accordance with this article; and
- (2) not order that all ballots in a precinct not be counted.

(c) If:

- (1) a party to the recount presents evidence of fraud, tampering, or misconduct affecting the integrity of the ballot within a precinct; and
 - (2) the commission determines that the fraud, tampering, or misconduct within that precinct was so pervasive that it is impossible for the commission to determine the approximate number of votes that each candidate received in that precinct;
- the commission may order that none of the ballots from that precinct be counted.

As added by P.L.3-1995, SEC.130. Amended by P.L.103-2005, SEC.19.

IC 3-12-11-18

Certification of recount results; final determination of candidate eligibility; special election order

Sec. 18. (a) When a recount is completed by the state recount commission or its designee, the commission shall:

- (1) make and sign a certificate showing the total number of votes received in the precincts by each candidate for nomination or election to the office;
- (2) state in its certificate the candidate who received the highest number of votes in the precincts for nomination or election to the office and by what plurality; and
- (3) file its certificate with the election division.

(b) When a contest proceeding in which a candidate is alleged to be ineligible is completed by the state recount commission or its designee, the commission shall make a final determination concerning the eligibility of the candidate for nomination or election to the office.

(c) If the state recount commission or its designee determines that:

- (1) a mistake was made in the printing or distribution of ballots used in the election;

(2) a mistake was made in the programming of an electronic voting system;

(3) an electronic voting system malfunctioned; or

(4) a deliberate act or series of actions occurred;

that makes it impossible to determine which candidate received the highest number of votes cast, the commission shall order that a special election be conducted under IC 3-10-8.

(d) The special election ordered under subsection (c) shall be held in the precincts identified in the petition in which the commission determines that:

(1) ballots containing the printing mistake or distributed by mistake were cast;

(2) a mistake occurred in the programming of an electronic voting system;

(3) an electronic voting system malfunctioned; or

(4) a deliberate act or series of actions occurred.

As added by P.L.7-1986, SEC.19. Amended by P.L.3-1987, SEC.410; P.L.10-1988, SEC.174; P.L.10-1989, SEC.16; P.L.3-1997, SEC.372; P.L.14-2004, SEC.166; P.L.221-2005, SEC.130.

IC 3-12-11-19

Recount certificate; certified copy as prima facie evidence of votes cast

Sec. 19. Except in recount proceedings for an election to the offices of governor and lieutenant governor and legislative offices, a recount certificate made under section 18 of this chapter supersedes all previous returns made in any form of the recounted votes. A certified copy of a recount certificate constitutes prima facie evidence of the votes cast for nomination or election to the office in the precincts in any proceeding in which there is an issue as to the votes cast at the election for the nomination or election to office.

As added by P.L.7-1986, SEC.19. Amended by P.L.3-1987, SEC.411; P.L.10-1988, SEC.175.

IC 3-12-11-19.5

Recount or contest proceeding for presidential electors; conclusion

Sec. 19.5. As required under 3 U.S.C. 5, any recount or contest proceeding concerning the election of presidential electors must be concluded not later than six (6) days before the time fixed by federal law for the meeting of the electors.

As added by P.L.3-1997, SEC.373. Amended by P.L.14-2004, SEC.167.

IC 3-12-11-20

Recount for offices of governor and lieutenant governor; certified statements

Sec. 20. (a) On the day following the completion of a recount for the election to the offices of governor and lieutenant governor, the election division shall prepare two (2) certified statements for the secretary of state under the secretary of state's seal showing the total

number of votes that each candidate received.

(b) The secretary of state shall transmit the statements to:

- (1) the speaker of the house of representatives; and
- (2) the president pro tempore of the senate;

before the date specified in Article 5, Section 9 of the Constitution of the State of Indiana for the beginning of the term of the governor.
As added by P.L.7-1986, SEC.19. Amended by P.L.10-1988, SEC.176; P.L.4-1995, SEC.14; P.L.3-1997, SEC.374.

IC 3-12-11-21

Recount for legislative office; deadline; certification of results

Sec. 21. (a) Except as provided in subsection (b), a recount or contest for election to a legislative office shall be completed by the state recount commission not later than December 20 after the election.

(b) The state recount commission may adopt orders extending the deadline for completion of a recount or contest to a date specified in the order if the commission finds that there is good cause to do so.

(c) Not later than seven (7) days after the state recount commission completes a recount, the election division shall prepare two (2) certified statements showing the total number of votes that each candidate received. The election division shall transmit one (1) statement to the candidate receiving the highest number of votes for the office. After the statements have been prepared, the secretary of state shall deliver the other statement to the presiding officer of the house in which the successful candidate is to be seated.

(d) The statement shall be referred by the presiding officer for such action as that house considers appropriate.

As added by P.L.7-1986, SEC.19. Amended by P.L.10-1988, SEC.177; P.L.3-1993, SEC.218; P.L.3-1997, SEC.375; P.L.103-2005, SEC.20; P.L.225-2011, SEC.77.

IC 3-12-11-22

Effect of certified statement on candidate's eligibility for office

Sec. 22. A statement prepared under section 20 or 21 of this chapter does not determine the eligibility of a candidate for office but is prepared only for the purpose of referring the information to the proper authorities.

As added by P.L.7-1986, SEC.19. Amended by P.L.3-1997, SEC.376.

IC 3-12-11-23

Recount for federal office or certain state offices; correction of tabulation

Sec. 23. (a) If a recount is made:

- (1) in a presidential primary election;
- (2) for nomination to a federal, state, or legislative office in a primary election;
- (3) in an election to a federal office; or
- (4) in an election to a state office other than governor and lieutenant governor;

the election division shall determine whether the votes in the precincts shown by the recount certificate differ from the votes that were tabulated by any county election board. If the election division previously included in a tabulation the votes cast for the office as returned by the county election board, the election division shall correct the tabulation in accordance with the certificate.

(b) The election division shall provide a copy of the corrected tabulation for each precinct to the office.

As added by P.L.7-1986, SEC.19. Amended by P.L.10-1988, SEC.178; P.L.3-1993, SEC.219; P.L.3-1997, SEC.377; P.L.212-2001, SEC.31.

IC 3-12-11-24

Certificate of nomination or election or commission for office

Sec. 24. The candidate shown by a corrected vote tabulation under section 23 of this chapter to have received the highest number of votes for nomination or election to an office is entitled to a certificate of nomination, certificate of election, or commission for the office even though one may have been issued upon a previous tabulation.

As added by P.L.7-1986, SEC.19. Amended by P.L.10-1988, SEC.179.

IC 3-12-11-25

Determination of candidate ineligibility; certification of runner-up; governor appointment; effect on votes cast

Sec. 25. (a) Except as provided in subsection (b), whenever the commission makes a final determination under section 18 of this chapter that the candidate who is subject to a contest proceeding is not eligible to serve in the office to which the candidate is nominated or elected, the candidate who received the second highest number of votes for the office is entitled to a certificate of nomination or certificate of election even though a certificate may have been issued to another candidate upon the tabulation of the votes.

(b) This subsection applies to a contest proceeding for a state office other than the offices of governor, lieutenant governor, justice of the supreme court, judge of the court of appeals, and judge of the tax court. Whenever the commission makes a final determination under section 18(b) of this chapter that the candidate who is subject to a contest proceeding is not eligible to serve in the office to which the candidate is elected the following apply:

(1) This subdivision does not apply to the filling of a state office following a contest proceeding or court action that resulted from an election held before January 1, 2011. The office is considered vacant, and the governor shall fill the vacancy as provided in IC 3-13-4-3(e) by the appointment of a person of the same political party as the candidate who is not eligible to serve.

(2) The commission's determination that the candidate is not eligible to serve in the office does not affect the votes cast for the candidate for purposes of determining the number or

percentage of votes cast for purposes of other statutes, including IC 3-5-2-30, IC 3-6-2-1, IC 3-6-4.1-6, IC 3-6-5.2-7, IC 3-6-6-8, IC 3-6-7-1, IC 3-6-8-1, IC 3-8-4, IC 3-8-6, IC 3-10-1-2, IC 3-10-2-15, IC 3-10-4-2, IC 3-10-6, IC 3-10-7-26, IC 3-11-2-6, IC 3-11-13-11, IC 3-11-14-3.5, IC 3-13-9-4.5, IC 6-9-2-3, IC 20-23-7-12, and IC 36-4-1.5-2.

As added by P.L.3-1987, SEC.412. Amended by P.L.10-1988, SEC.180; P.L.225-2011, SEC.78.