

IC 3-8-6

Chapter 6. Nomination by Petition for Independent or Minor Political Party Candidates

IC 3-8-6-1

Application of chapter

Sec. 1. This chapter applies to a candidate for nomination to an elected office who:

- (1) is an independent candidate; or
- (2) represents a political party not qualified to nominate candidates in a primary or by convention.

As added by P.L.5-1986, SEC.4. Amended by P.L.3-1993, SEC.70.

IC 3-8-6-2

Nomination by petition

Sec. 2. A candidate may be nominated for an elected office by petition of voters who are:

- (1) registered to vote on the date the county voter registration office certifies the petition under section 8 of this chapter; and
- (2) qualified to vote for the candidate.

As added by P.L.5-1986, SEC.4. Amended by P.L.225-2011, SEC.35.

IC 3-8-6-3

Required number of signatures

Sec. 3. (a) A petition of nomination must be signed by the number of voters equal to two percent (2%) of the total vote cast at the last election for secretary of state in the election district that the candidate seeks to represent.

(b) In determining the number of signatures required under this section, any fraction in excess of a whole number must be disregarded.

As added by P.L.5-1986, SEC.4. Amended by P.L.3-1997, SEC.145.

IC 3-8-6-4

Nature of office sought; independent candidates

Sec. 4. (a) Each candidate nominated by petition under section 2 of this chapter must be seeking an office that serves the entire state or a congressional or legislative district, or the same political subdivision.

(b) For purposes of subsection (a), candidates seeking a fiscal or legislative body seat elected only by the voters of a district within a county or municipality and candidates seeking an office to be voted on by all the voters of the county or municipality are considered to be seeking offices that serve the same political subdivision.

(c) An independent candidate may not include the name of any other candidate on the petition or request to be placed on the ballot as associated with any other candidate, except for the other candidate included on an independent ticket for President and Vice President of the United States or governor and lieutenant governor.

As added by P.L.5-1986, SEC.4. Amended by P.L.3-1993, SEC.71;

P.L.14-2004, SEC.62.

IC 3-8-6-5

Contents of petition

Sec. 5. (a) A petition of nomination must state all of the following:

- (1) The name of each candidate as:
 - (A) the candidate wants the candidate's name to appear on the ballot; and
 - (B) the candidate's name is permitted to appear on the ballot under IC 3-5-7.
- (2) The address of each candidate, including the mailing address, if different from the residence address of the candidate.
- (3) The office that each candidate seeks.
- (4) The information required under IC 3-10-4-5, if the petition nominates candidates for presidential electors.
- (5) That the petitioners desire and are registered and qualified to vote for each candidate.
- (6) Whether the candidate is affiliated with the same political party as any other candidate or group of candidates that has filed or will be filing a petition of nomination with the county voter registration office under section 10 of this chapter. This subdivision does not apply to an independent candidate.

(b) A petition of nomination must:

- (1) designate a brief name of the political party that the candidates represent;
- (2) indicate that the candidate is an independent candidate; or
- (3) indicate that the candidates are an independent ticket.

(c) If a political party has previously filed a device with the election division under IC 3-8-7-11, the petition may incorporate that device by reference in the petition. If a political party has not previously filed a device under IC 3-8-7-11, or the petition is for an independent ticket, the petition of nomination may include a device for designating the party or ticket on the ballot.

As added by P.L.5-1986, SEC.4. Amended by P.L.10-1988, SEC.47; P.L.3-1993, SEC.72; P.L.3-1995, SEC.59; P.L.3-1997, SEC.146; P.L.202-1999, SEC.7; P.L.14-2004, SEC.63; P.L.230-2005, SEC.30.

IC 3-8-6-5.5

Questions concerning validity of filings

Sec. 5.5. (a) This section applies to a petition of nomination which states that a candidate is affiliated with a political party.

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

- (1) described by IC 3-8-4-1;
- (2) of a candidate who has previously filed a petition of nomination under this chapter; or
- (3) whose name would result in voter confusion due to its similarity with the name of a political party described in subdivision (1) or (2);

a registered voter of the election district may question the validity of

the filing in accordance with IC 3-8-1-2.

(c) If the voter affirms under subsection (b) that:

- (1) the candidate is not the nominee of the political party described in subsection (b)(1);
- (2) the candidate is not affiliated with the political party described in subsection (b)(2); or
- (3) the name of the political party set forth in the petition would cause voter confusion under subsection (b)(3);

the commission or county election board shall determine the validity of the questioned filing under section 14 of this chapter.

(d) Following the filing of a question under subsection (b)(3) and not later than the deadline for resolution of a question concerning a petition under section 14 of this chapter, all candidates named in the petition may file a joint written amendment to the petition to alter the name of the political party or to indicate that the candidates are independent.

(e) If:

- (1) the commission or county election board determines that the party affiliation stated on the petition is described under subsection (b) and that the affirmation of the voter under subsection (c) is correct; and
- (2) in the case of a determination under subsection (c)(3), the candidates do not file an amendment under subsection (d);

the commission or board shall deny the filing.

As added by P.L.3-1997, SEC.147. Amended by P.L.14-2004, SEC.64.

IC 3-8-6-6

Signatures; petitioners must be registered to vote

Sec. 6. The signatures to a petition of nomination need not be appended to one (1) paper, but a petitioner may not be counted unless at the time of signing the petitioner is registered and qualified to vote. Each petition must contain the following:

- (1) The signature of each petitioner.
- (2) The name of each petitioner legibly printed.
- (3) The residence mailing address of each petitioner.

As added by P.L.5-1986, SEC.4.

IC 3-8-6-7

Petitioners to sign nomination petition

Sec. 7. Each petitioner on a petition of nomination must sign the petitioner's name or have the petitioner's mark attested.

As added by P.L.5-1986, SEC.4.

IC 3-8-6-8

Certification of petitioners as eligible to vote

Sec. 8. For a petition of nomination to be considered valid by the officer required to receive the petition, the circuit court clerk or board of registration in the county where the petitioner is registered must certify that each petitioner is a voter in the county. The

certification must accompany and be part of each petition. The certification must indicate that each petitioner is eligible to vote for the candidates being nominated by the petition.

As added by P.L.5-1986, SEC.4.

IC 3-8-6-9

Repealed

(Repealed by P.L.10-1992, SEC.30 and P.L.11-1992, SEC.4.)

IC 3-8-6-10

Time for submitting and filing petition; census

Sec. 10. (a) Except as provided in section 11 of this chapter, a petition of nomination must be submitted to the county voter registration office of each county in which the election district is located.

(b) The petition must be filed during the period beginning on the first date that a declaration of candidacy for a primary election may be filed under IC 3-8-2-4 in the year in which the election will be held and ending at noon June 30 before the election.

(c) The county voter registration office shall certify and file a petition that complies with the requirements of this chapter with the public official authorized to place names on the ballot (and with the town clerk-treasurer, if the petition of nomination is for a town office) not later than noon July 15. Following certification of a petition under this section, the office may, upon the request of a candidate named in the petition, return the original petition to the candidate for filing with the appropriate official in accordance with this subsection.

(d) During a year in which a federal decennial census, federal special census, special tabulation, or corrected population count becomes effective under IC 1-1-3.5, a petition of nomination may be filed for an office that will appear on the primary election ballot that year as a result of the new tabulation of population or corrected population count.

As added by P.L.5-1986, SEC.4. Amended by P.L.3-1987, SEC.118; P.L.1-1988, SEC.6; P.L.10-1988, SEC.48; P.L.2-1990, SEC.7; P.L.3-1997, SEC.148; P.L.176-1999, SEC.32; P.L.260-2001, SEC.1; P.L.225-2011, SEC.36.

IC 3-8-6-11

Town and school board offices; filing of nomination petition

Sec. 11. (a) Whenever a town is wholly or partly located in a county having a consolidated city, a petition of nomination must be filed with the circuit court clerk of the county having the consolidated city.

(b) Whenever a town not described in subsection (a) has entered into an agreement with a county under IC 3-10-7-4, the petition must be filed with the circuit court clerk or board of registration of that county.

(c) Whenever a school corporation is located in more than one (1)

county, a petition for the nomination of a candidate to a school board office must be filed with the circuit court clerk or board of registration of the county having the greatest percentage of population of the election district.

(d) When a petition is filed under subsection (a), (b), or (c) for nomination to an office whose election district is in more than one (1) county, the circuit court clerk or board of registration shall examine the voter registration records of each county in the election district to determine if each petitioner is eligible to vote for the candidates being nominated by the petition.

As added by P.L.5-1986, SEC.4. Amended by P.L.6-1986, SEC.5; P.L.3-1987, SEC.119; P.L.10-1988, SEC.49; P.L.3-1989, SEC.6.

IC 3-8-6-12

Filing petition of nomination

Sec. 12. (a) A petition of nomination for an office filed under section 10 of this chapter must be filed with and, except as provided in subsection (d), certified by the person with whom a declaration of candidacy must be filed under IC 3-8-2.

(b) The petition of nomination must be accompanied by the following:

- (1) The candidate's written consent to become a candidate.
- (2) A statement that the candidate:
 - (A) is aware of the provisions of IC 3-9 regarding campaign 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.

(3) If the candidate is subject to IC 3-9-1-5, a statement by the candidate that the candidate has filed a campaign finance statement of organization under IC 3-9-1-5 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 for filing a petition for nomination under section 10 of this chapter.

(4) If the candidate is subject to IC 3-9-1-5.5, a statement by the candidate that the candidate is aware of the requirement 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.

(5) A statement indicating whether or not each candidate:

- (A) has been a candidate for state or local office in a previous primary or general election; and
- (B) has filed all reports required by IC 3-9-5-10 for all previous candidacies.

(6) A statement that each candidate is legally qualified to hold

the office that the candidate seeks, including any applicable residency requirements and restrictions on service due to a criminal conviction.

(7) If the petition is filed with the secretary of state for an office not elected by the electorate of the whole state, a statement signed by the circuit court clerk of each county in the election district of the office sought by the individual.

(8) Any statement of economic interests required under IC 3-8-1-33.

(c) The statement required under subsection (b)(7) must:

(1) be certified by each circuit court clerk; and

(2) indicate the number of votes cast for secretary of state:

(A) at the last election for secretary of state; and

(B) in the part of the county included in the election district of the office sought by the individual filing the petition.

(d) The person with whom the petition of nomination must be filed under subsection (a) shall:

(1) determine whether a sufficient number of signatures as required by section 3 of this chapter have been obtained; and

(2) do one (1) of the following:

(A) If the petition includes a sufficient number of signatures, certify the petition.

(B) If the petition has an insufficient number of signatures, deny the certification.

(e) The secretary of state shall, by noon on the date specified under IC 3-8-7-16 for the certification of candidates and public questions by the election division:

(1) certify; or

(2) deny certification under subsection (d) to;

each petition of nomination filed in the secretary of state's office to the appropriate county.

(f) The commission shall provide that the form of a petition of nomination includes the following information near the separate signature required by subsection (b)(2):

(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.

(g) A candidate's consent to become a 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 consent to become a candidate. If there is a difference between the name on the candidate's consent to become a candidate and the name on the candidate's voter registration record, the officer with whom the consent to become a 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 consent to become a candidate.

(h) If the person with whom the petition was filed denies

certification under subsection (d), the person shall notify the candidate immediately by certified mail.

(i) A candidate may contest the denial of certification under subsection (d) based on:

- (1) the circuit court clerk's or board of registration's failure to certify, under section 8 of this chapter, qualified petitioners; or
- (2) the determination described in subsection (d)(1);

using the procedure in IC 3-8-1-2 and section 14 of this chapter that applies to questions concerning the validity of a petition of nomination.

As added by P.L. 5-1986, SEC. 4. Amended by P.L. 3-1987, SEC. 120; P.L. 10-1988, SEC. 50; P.L. 4-1991, SEC. 41; P.L. 3-1995, SEC. 60; P.L. 3-1997, SEC. 149; P.L. 253-1997(ss), SEC. 1; P.L. 176-1999, SEC. 33; P.L. 202-1999, SEC. 8; P.L. 14-2000, SEC. 4; P.L. 26-2000, SEC. 7; P.L. 66-2003, SEC. 14; P.L. 225-2011, SEC. 37.

IC 3-8-6-13

Special election called by governor; filing of petition

Sec. 13. In a special election called by the governor, a petition of nomination shall be filed with the circuit court clerk or other public official with whom a petition is required to be filed, at any time after the election is called but no later than noon fifty (50) days before the date of the election.

As added by P.L. 5-1986, SEC. 4. Amended by P.L. 3-1987, SEC. 121; P.L. 10-1988, SEC. 51.

IC 3-8-6-13.5

Withdrawal of candidate petition

Sec. 13.5. A candidate may withdraw a petition of nomination by noon:

- (1) July 15 before a general or municipal election; or
- (2) forty-five (45) days before a special election.

As added by P.L. 3-1987, SEC. 122. Amended by P.L. 10-1988, SEC. 52; P.L. 3-1993, SEC. 73; P.L. 260-2001, SEC. 2.

IC 3-8-6-14

Eligibility and consent of candidate; resolution of questions concerning validity of petition

Sec. 14. (a) A person may not be selected as a candidate by petition of nomination without giving written consent and having it filed with the public official with whom certificates and petitions of nomination are required to be filed.

(b) Each candidate nominated by petition of nomination must satisfy all statutory eligibility requirements for the office for which the candidate is nominated, including the filing of statements of economic interest.

(c) All questions concerning the validity of a petition of nomination filed with the secretary of state or contesting the denial of certification under section 12(d) of this chapter shall be referred to and determined by the commission. A statement questioning the

validity of a petition of nomination or contesting the denial of certification under section 12(d) of this chapter must be filed with the election division under IC 3-8-1-2(c) or IC 3-8-1-2(e) not later than noon seventy-four (74) days before the date on which the general or municipal election will be held for the office.

(d) All questions concerning the validity of a petition of nomination filed with a circuit court clerk or contesting the denial of certification under section 12(d) of this chapter shall be referred to and determined by the county election board. A statement questioning the validity of a petition of nomination or contesting the denial of certification under section 12(d) of this chapter must be filed with the county election board under IC 3-8-1-2(c) or IC 3-8-1-2(e) not later than noon seventy-four (74) days before the date on which the general or municipal election will be held for the office.

(e) This subsection does not apply to a petition of nomination for election to a school board office subject to IC 3-8-2-14. The commission or a county election board shall rule on the validity of the petition of nomination or the denial of certification under section 12(d) of this chapter not later than noon sixty (60) days before the date on which the general or municipal election will be held for the office.

(f) This subsection applies to a petition of nomination for election to a school board office elected in a general election. All questions concerning the validity of the petition of nomination shall be referred to and determined by the county election board not later than noon fifty-four (54) days before the date of the general election. A statement questioning the validity of a petition of nomination must be filed with the county election board under IC 3-8-1-2(c) not later than noon sixty-seven (67) days before the date of the general election.

As added by P.L.5-1986, SEC.4. Amended by P.L.10-1988, SEC.53; P.L.3-1993, SEC.74; P.L.2-1996, SEC.88; P.L.3-1997, SEC.150; P.L.58-2001, SEC.3; P.L.66-2003, SEC.15.

IC 3-8-6-15

Repealed

(Repealed by P.L.10-1988, SEC.238.)

IC 3-8-6-16

Candidate departing election district without withdrawal of candidacy; procedure

Sec. 16. (a) This section applies if a person:

- (1) files a petition of nomination under this chapter;
- (2) moves from the election district that the person sought to represent following the filing of the petition of nomination;
- (3) does not file a notice of withdrawal of candidacy under section 13.5 of this chapter; and
- (4) is no longer an active candidate.

(b) The county chairman of any political party on the ballot in the

election district or a candidate for the office sought by the person described in subsection (a) may, upon determining that this section applies, file an action in the circuit court in the county where the person described in subsection (a) resided. The complaint in this action must:

- (1) state that this section applies to the person;
- (2) name the person described in subsection (a) and the public official responsible for placing that person's name on the ballot as defendants; and
- (3) be filed no later than a notice of withdrawal could have been filed under section 13.5 of this chapter.

(c) When a complaint is filed under subsection (b), the circuit court shall conduct a hearing and rule on the petition within ten (10) days after it is filed.

(d) If the court finds in favor of the plaintiff, a candidate vacancy occurs on the:

- (1) general election ballot; and
- (2) primary election ballot if no other person is:
 - (A) a member of the same political party as the person described in subsection (a); and
 - (B) a candidate on the ballot for the office sought by the person described in subsection (a).

(e) The candidate vacancy shall be filled under IC 3-13-1 if the candidate represents a political party not qualified to nominate candidates in a primary or by convention.

As added by P.L.3-1987, SEC.123.

IC 3-8-6-17

Replacement of candidate on petition of nomination

Sec. 17. (a) If:

- (1) a petition of nomination contains the name of at least one
(1) candidate who seeks to be placed on the ballot as the candidate of a political party described by section 1 of this chapter; and
- (2) a candidate listed on the petition ceases to be a candidate after the petition is circulated for signature or filed;

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

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

- (1) be on a form prescribed by the commission;
- (2) state the following:
 - (A) the name of the individual who ceased to be a candidate;
 - (B) the date and reason the individual ceased to be a candidate; and
 - (C) the name of the individual who will replace the candidate as:

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

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

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

(d) The statement required under subsection (b) or (c) must be filed not later than the final date and time for the certification of presidential and vice presidential nominees under IC 3-10-4-5.

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

As added by P.L.3-1997, SEC.151. Amended by P.L.202-1999, SEC.9; P.L.14-2004, SEC.65.