

### **IC 3-8-8**

Chapter 8. Removal of Name From Ballot of a Candidate for Legislative or State Office at General Election for Disqualification or Withdrawal

#### **IC 3-8-8-1**

##### **Applicability**

Sec. 1. (a) This chapter applies only to a candidate for election to any of the following:

- (1) A legislative office.
- (2) A state office other than a judicial office.

(b) This chapter applies notwithstanding any other law relating to challenges to the qualifications of a candidate to be elected at a general election.

*As added by P.L.230-2005, SEC.32.*

#### **IC 3-8-8-2**

##### **When challenge not permitted**

Sec. 2. A candidate may not be challenged under this chapter if all of the following apply:

- (1) The candidate's qualification was previously challenged under this chapter or other applicable law.
- (2) This challenge would be based on substantially the same grounds as the previous challenge to the candidate.
- (3) The commission conducted a hearing on the challenge and made a final determination in favor of the candidate.

*As added by P.L.230-2005, SEC.32.*

#### **IC 3-8-8-3**

##### **Who may challenge; filing requirements**

Sec. 3. (a) An individual who challenges the qualification of a candidate for election to an office must be a registered voter of the election district the candidate seeks to represent.

(b) A challenge under this chapter must be filed with the election division not later than noon seventy-four (74) days before the date of the general election at which a candidate to the office is to be elected.

(c) The challenger must file a sworn statement with the election division:

- (1) questioning the qualification of a candidate to seek the office; and
- (2) setting forth the facts known to the voter concerning this question.

*As added by P.L.230-2005, SEC.32. Amended by P.L.66-2010, SEC.7.*

#### **IC 3-8-8-4**

##### **Commission hearing**

Sec. 4. The commission shall do the following not later than three (3) business days after the challenger's sworn statement is filed under

section 3 of this chapter:

- (1) Meet to hear the challenge.
- (2) Conclude the hearing.

*As added by P.L.230-2005, SEC.32.*

#### **IC 3-8-8-5**

##### **Commission determination; effect of commission failure to make determination**

Sec. 5. (a) Not later than one (1) business day after concluding the hearing, the commission shall announce its determination on the matter.

(b) If the commission does not announce a determination on the matter as provided in subsection (a), the commission is considered to have:

- (1) dismissed the challenge; and
- (2) taken final action on the challenge.

*As added by P.L.230-2005, SEC.32.*

#### **IC 3-8-8-6**

##### **Appeal of commission determination**

Sec. 6. The candidate or the challenger may appeal any final action:

- (1) that the commission has taken; or
- (2) that the commission is considered to have taken under section 5 of this chapter;

to the court of appeals for errors of law under the same terms, conditions, and standards that govern appeals in ordinary civil actions. An assignment of errors that the commission's final action is contrary to law is sufficient to present both the sufficiency of the facts found to sustain the commission's action and the sufficiency of the evidence to sustain the finding of facts upon which the commission's action was rendered.

*As added by P.L.230-2005, SEC.32.*

#### **IC 3-8-8-7**

##### **Termination of challenge regardless of status of challenge or appeal; status of candidate who withdraws after 60 days before election**

Sec. 7. (a) Regardless of the status of a challenge before the commission or the court of appeals, at noon sixty (60) days before the general election the following apply:

- (1) The challenge is terminated.
- (2) The name of the challenged candidate may not be removed from the ballot.
- (3) The name of another individual may not replace the name of the challenged candidate on the ballot.
- (4) Any votes cast for the challenged candidate shall be canvassed, counted, and reported under the name of the challenged candidate.

(b) All of the following apply if a candidate attempts to withdraw

as a candidate after noon sixty (60) days before the general election:

- (1) The name of the candidate may not be removed from the ballot.
- (2) The name of another individual may not replace the name of the candidate on the ballot.
- (3) Any votes cast for the candidate shall be canvassed, counted, and reported under the name of the candidate.

*As added by P.L.230-2005, SEC.32. Amended by P.L.66-2010, SEC.8.*

### **IC 3-8-8-8**

#### **Effect of candidate who withdraws receiving most votes in election; filling vacancy**

Sec. 8. (a) This section applies if a candidate whose name remains on the ballot under section 7 of this chapter receives the most votes in the general election among all candidates for the office.

(b) If, after the election, it is determined as provided by law that the individual was not qualified to be elected to the office, it shall be considered that:

- (1) an eligible candidate of the same political party, if any, as the ineligible candidate had been elected; and
- (2) a vacancy in the office occurred after the election.

(c) The vacancy in the office shall be filled as otherwise provided by law.

*As added by P.L.230-2005, SEC.32.*