



Legislation Summary & Ballot Vacancies

2010 SBA Summer Conference

Presentation by
Indiana Election Division



Legislative Summary

M.O.V.E. What is it?

→Federal “Military and Overseas Voter Empowerment Act” signed into law in 2009 and implemented by the Indiana General Assembly during its 2010 session

→Overall purpose of MOVE: Help military serving overseas and citizens who live abroad vote in US elections

→Most provisions apply to the November 2010 election.



Legislative Summary

MOVE Absentee Ballot Preparation and Delivery

◆ Counties must have absentee ballots delivered at least 50 days (rather than 45 days) before a general, primary, special, or municipal election

◆ As a result, the deadline to begin mailing absentee ballots to voters who have pending applications when absentee ballots are delivered is sooner

→Absentee Delivery Date Monday, September 13, 2010

→ Deadline to mail out absentee ballots for pending applications Saturday, September 18, 2010



Legislative Summary

MOVE

New Roles for Federal Write-in Ballot (FWAB)

- ◆ To count FWAB, military/overseas voter must submit an absentee ballot application for a regular ballot
- ◆ Special rules apply to counting a FWAB in a *primary* election, for example, the following ballots/votes will not be counted:
 - Votes for a political party but does not indicate a vote for any individual candidate
 - Votes for candidates of different political parties
 - Votes for a candidate but does not indicate office



Legislative Summary

Move

New Roles for Federal Write-in Ballot (FWAB)

- ◆ Special rules apply to counting a FWAB in a general, municipal or special election:
 - If voter designates a candidate by writing in the name of a political party on the ballot, the voter's vote shall be counted for all candidates of that political party
 - Voter's vote will be counted even if voter's vote is an abbreviation, misspelling, or other minor variation of candidate or party name if voter's intent can be determined



Legislative Summary

MOVE

Changes to Absentee Voting

- ◆ Transmit voter registration applications and absentee ballot applications to military/overseas voters by fax or email if requested to do so
 - If you are not provided with sufficient fax number or email address to transmit the application within one business day, then you must mail the application
 - County to send military/overseas voter information regarding use of email, fax and web publication with an absentee ballot application



Legislative Summary

MOVE

Changes to Absentee Voting

- ◆ If military/overseas voter does not ask to vote absentee by email or by fax on the absentee ballot application, then clerk shall send voter an absentee ballot by U.S. Mail
- ◆ Once a military/overseas voter has completed and returned an absentee ballot application, the clerk sends email acknowledging receipt (receipt no longer “automatic”)
- ◆ County to send military/overseas voter information regarding use of email, fax and web publication with an absentee ballot



Legislative Summary

MOVE

Changes to Absentee Voting-Email Voting

- ◆ Deadline for military/overseas voter to submit application to vote by email is noon the day before the election (deadline to apply to vote by fax is the same)
 - Military voters stationed overseas and in the United States qualify to vote by email
- ☺ If military/overseas voter requests to vote by email, absentee ballot materials may be sent by email *directly to the voter at the voter’s email address*
 - County may, but is no longer required to, send the email through the ETS system administered by DOD



Legislative Summary

MOVE

Changes to Absentee Voting-Ongoing Applications

- ◆ Beginning July 1, 2010 Military and Overseas absentee ballot applications are “continuing” applications for 12 months following the date filed
 - Absentee ballot applications filed no later than noon June 30, 2010 will be treated as continuing through the 2nd general election following the date filed
- ☺ If an absentee ballot that was sent in response to *any* continuing absentee ballot application is returned as “undeliverable” then the application is no longer a continuing application



Legislative Summary

MOVE

Changes to Absentee Voting

- ◆ SOS and IED to develop “free access system” to permit a military/overseas voter to determine whether the voter’s absentee ballot has been received
- ◆ System must contain reasonable procedures to protect the security, confidentiality, and integrity of the personal information



Ballot Vacancies

Ballot Vacancies

Why is this important?

- ◆ The process has specific deadlines and paperwork and the failure to comply with this process may result in a candidate challenge before election board or IEC
- ◆ Ballot preparation
 - Pay attention to your local candidate vacancies AND those certified to you in August BY IED.
 - ☹ Don’t Leave a Vacancy Candidate off the ballot!
 - There can be ballot vacancies filled late in the year so be prepared



Ballot Vacancies

Ballot Vacancies

Question: When does a ballot vacancy occur?

- ◆ Most common: Major party had no candidate in the primary (but Libertarian Party may also have vacancy after their convention)
- ◆ Other situations where ballot vacancies occur:
 - Candidate voluntarily withdraws by noon Thursday July 15 (state form CAN-24)
 - Candidate withdraw required after July 15 because candidate moved out of their election district
 - Candidate disqualified
 - Candidate died



Ballot Vacancies

No Primary Candidate

◆ **General Rule:** Ds and Rs fill ballot vacancies by having a caucus of precinct committeemen in the election district

→ **Exception:** The County Committee (all precinct and vice precinct committeeman) may authorize either the County Chairman (or county central committee) to fill the ballot vacancy

➤ IC 3-13-1-6



Ballot Vacancies

No Primary Candidate

Caucus and Certification Deadlines

◆ Deadline to hold caucus: **Noon Wednesday June 30**

◆ Deadline to certify results of caucus: **Noon, Thursday July 6** (regardless of when caucus to fill this type of vacancy occurred) IC 3-13-1-15(c)

→ Parties don't have to wait for the deadline!



Ballot Vacancies

No Primary Candidate

Caucus Paperwork and Deadlines

The date of the caucus triggers paperwork deadlines:

◆ Chair must send **CAN 30 Notice of Caucus** to committeemen by 1st class mail 10 days before caucus and file notice with clerk by noon 10 days before caucus

◆ Candidate must file **CAN 31 Declaration of Candidacy** with both county chairman and clerk at least 72 hours before the caucus

◆ CAN-29 certification of person selected at caucus must be filed by noon July 6



Ballot Vacancies

No Primary Candidate

Chairman Appointment Paperwork and Deadlines

Vacancy filled by County Chair without caucus:

- ◆ The county chairman must make selection by noon June 30 (Have paperwork done and dated by then)
- ◆ Must file the following paperwork with the Circuit Court Clerk by Noon July 6:
 - CAN 29 Certificate of Selection
 - Copy of resolution or minutes of meeting that documents county chairman's authority to fill vacancy
 - CAN 31 of candidate selected by chairman



Ballot Vacancies

State vs. Local Office Vacancies

- ◆ Paperwork for State Level Offices are filed with the Indiana Election Division (federal, statewide, and state legislative office)
 - Local offices of Judge and Prosecutor also file with the Indiana Election Division (these candidates must also file a copy of their statement of economic interest they filed with state court administration)
- ◆ All other local offices file paperwork with the circuit county clerk's office for local office vacancies



Ballot Vacancies

Other Ballot Vacancies

- Candidate voluntarily withdraws by noon Thursday July 15 (state form CAN-24)
- Candidate is required to withdrawal after July 15 because candidate moved out of the election district
- Candidate was disqualified (see IC 3-8-1-5; IC 3-8-7-29)
- Candidate died



Ballot Vacancies

Other Ballot Vacancies: Paperwork

- ◆ Caucus (or county chairman selection) must occur within *30 days after the vacancy*
- ◆ Chair must send CAN 30 Notice of Caucus to precinct committeemen at least 10 days before the caucus and file it with the circuit court clerk by noon 10 days before caucus
- ◆ Candidate must file CAN 31 Declaration of Candidacy with the county chairman and the circuit court clerk at least 72 hours before the caucus
- ◆ Chair must certify selection on CAN 29 Certificate of Selection no later than *noon three days after the caucus* is held (excluding weekends)



Ballot Vacancies

Late Ballot Vacancies

Special procedure for a vacancy that occurs during the last 30 days before the general election:

- ◆ County chair makes the appointment immediately by statute (county committee authorization not required)
 - ◆ Chair files CAN 35 Certificate of Selection with attached CAN 31 Declaration of Candidacy no later than noon three days after selection
- Latest a ballot vacancy may be filled to require ballots reprint is noon 5 days before the election (IC 3-11-3-29.5)



Ballot Vacancies

SORE LOSER

- ◆ Indiana's "Sore Loser Law" (IC 3-8-1-5.5) disqualifies someone who has lost in a primary, party caucus or party convention from running for the same office
 - ◆ A sore loser can run for a different office
 - ◆ Party can fill vacancy with their own sore loser
 - ◆ A sore loser must be challenged to be removed from the ballot



Ballot Vacancies

TIPS:

- ◆ Keep a summary sheet going as the paperwork (the CAN-29s, CAN-30s, and CAN-31s) come in
- ◆ Prepare, but don't finalize, your general election ballots until you receive STATE CERTIFICATION
- ◆ Remember that vacancy filling candidates have to file campaign finance reports too
