



2006 Indiana Election Legislation Summary

Prepared by the Indiana Election Division

This document summarizes the election-related legislation that passed the Indiana General Assembly and became law in 2006. Bills may be obtained by contacting the Legislative Information Center at 200 West Washington Street, Room 230, Indianapolis, Indiana 46204-2731; (317) 232-9856, or by downloading documents from the Access Indiana homepage at www.in.gov/legislative.

This document is intended to serve as an overview of information concerning Indiana election laws. Although the Election Division takes every effort to ensure the accuracy of the information in this document, **where your legal rights are involved, do not rely on this document. Instead, review the law yourself or consult with your attorney.**

The 2006 Regular Session of the Indiana General Assembly enacted the following election-related bills:

Public Law 106-2006 (Senate Enrolled Act 297): BMV Penalties

Public Law 156-2006 (Senate Enrolled Act 303): BMV Hours of Operation

Public Law 164-2006 (House Enrolled Act 1011): Various Election Law Matters

Public Law 169-2006 (House Enrolled Act 1102): Redistricting of City Common Council Districts

Public Law 186-2006 (House Enrolled Act 1362): Consolidation of Political Subdivisions

Public Law 194-2006 (Senate Joint Resolution 2): Voting Rights of Overseas Voters

The following bills made technical (or non-election related) amendments to Indiana election statutes:

Public Law 1-2006 (House Enrolled Act 1040): Technical Corrections (Miscellaneous)

Public Law 2-2006 (House Enrolled Act 1134): Recodification of Title 21 (School Finance)

Public Law 80-2006 (House Enrolled Act 1156): Creation of Local Courts

Public Law 145-2006 (Senate Enrolled Act 132): Technical Corrections (Agency Name Change)

VOTER REGISTRATION

Use of County Equipment in Voter Registration System

The state is permitted to enter into contracts with counties to use existing county equipment to maintain the statewide voter registration system. If a county's equipment fails to perform properly, the state can cancel any existing contract and install state-owned equipment to ensure that the state meets its requirement under federal law to maintain a voting system that connects all 92 counties. (HEA 1011 § 13; Effective date: January 1, 2006 [retroactive]; Citations affected: 3-7-26.3-4.5)

Fees for Statewide Voter Registration File

The \$5,000 fee paid under current law for a person to receive a complete compilation of state voter registration file information from the Indiana Election Division also entitles the person to receive updates to the voter registration information made during the same year without payment of an additional fee. (HEA 1011 § 15; Effective date: March 24, 2006; Citations affected: 3-7-26.4-12)

Effective Date of Voter Registration Application

Current law provides that a voter registration application which has been approved by a county voter registration office becomes effective 7 days after the county voter registration office mails a acknowledgment notice of acceptance (State Form VRG-13a or 13b) to the voter, assuming that the notice is not returned by the United States Postal Service as undeliverable during the 7 days following the day the notice was mailed.

This law was amended to provide that the approved voter registration application can become effective with the voter moving from "pending" to "active" before the end of the 7 day period following the day the acknowledgement notice is mailed ("pending period") if the voter receives the notice in the mail **and** presents the notice in person to the county voter registration office.

This may occur when a person submits a registration application shortly before the person attempts to vote absentee in person in the clerk's office. If this person presents the notice that the person received in the mail to the county voter registration office before the 7 day pending period expires, then the person is registered and may vote absentee in person in the clerk's office. (HEA 1011 § 28; Effective date: March 24, 2006; Citations affected: 3-7-33-5)

Transmittal of Voter Registration Applications from License Branches to County

Voter registration applications received by a license branch shall be transmitted to the corresponding county voter registration office in an electronic format via the statewide voter registration system on an "expedited basis" (within 48 hours after received by the license branch). The license branch must transmit the corresponding paper copies of the voter registration applications to county voter registration offices not later than 5 days after the application is accepted at the license branch. (HEA 1011 §§ 137, 138 and 139; Effective date: January 1, 2006 [retroactive]; Citations affected: 9-24-2.5-4, 9-24-2.5-6, 9-24-2.5-7)

Processing Voter Registration Applications Received Electronically From a License Branch

A county voter registration office may process a voter registration application received electronically from a license branch and is not required to wait until receiving the electronic version of the applicant's signature from the BMV or the paper copy of the voter registration application before approving or denying the application. This law is a temporary provision that expires July 1, 2006. No later than that date, the county voter registration office will be receiving the voter's signature with the rest of the voter's application by electronic transmission from the license branch via the statewide voter registration system. (HEA 1011 § 145; Effective date: January 1, 2006 retroactive; Citations affected: Noncode)

CAMPAIGN FINANCE AND CAMPAIGNING

Campaign Finance Reporting Period For Statewide Candidates

A one day overlap between the reporting period for the campaign finance report due for candidates for statewide office 7 days before the general election and the reporting period for the last quarterly report for candidates for statewide office is corrected. The final quarterly report covers the reporting period from 14 days (rather than 15 days) before the date of the election through December 31 of the year of the report. (HEA 1011 § 62; Effective date: March 24, 2006; Citations affected: 3-9-5-6)

Campaign Finance Reporting for Libertarian Candidates for Statewide Office Period

Libertarian candidates for statewide office nominated at a party convention are required to file quarterly reports like other candidates for statewide office. Since Libertarian candidates for statewide office file quarterly reports, Libertarian candidates for statewide office who declare their candidacy shortly before the convention convenes do not have to file a post-convention report. (HEA 1011 § 63; Effective date: March 24, 2006; Citations affected: 3-9-5-8)

VOTING SYSTEMS

Voting System Definition

The definition of "voting system" that applied before January 1, 2006 was repealed. (HEA 1011 § 2; Effective date: July 1, 2006; Citations affected: 3-5-2-53)

Write-in Voting Procedures

If a direct record electronic ("DRE") voting system is used in a precinct that does not permit the voter to alter the voter's ballot after the voter indicates a vote for a write-in candidate, but before the voter casts votes for all of the selections made on the ballot, then the county election board must post write-in voting notice cards in the precinct that informs the voter that the voter: (1) can cast a write-in ballot on the another voting system required to be available to meet the requirements of the Help America Vote Act (HAVA) for individuals with disabilities; and (2) is not required to indicate that the voter wishes to use this system to cast a write-in ballot. (HEA 1011 § 91; Effective date: March 24, 2006; Citations affected: 3-11-2-12.7)

Continued Use of Voting Systems Certified When Purchased

A county may continue to use an optical scan ballot card voting system or an electronic voting system whose approval or certification expired on or before October 1, 2005, if the voting system was approved by the commission for use in elections in Indiana before October 1, 2005 and purchased by the county before October 1, 2005. This amends the transition date to conform with the October 2005-October 2009 voting system certification term adopted in the 2005 session, and to permit counties to continue using voting systems which were state-certified when the county purchased the system. (HEA 1011 § 118; Effective date: March 24, 2006; Citations affected: IC 3-11-15-13.3)

CANDIDATES AND OFFICEHOLDERS

Write-in Procedures for School Boards Elected at Primary

A write-in candidate for a school board elected during a primary is subject to the same filing, withdraw, and challenge deadlines that apply to write-in candidates for a school board elected during the general election. *NOTE: This will not change any current deadlines for these candidates set forth in the 2006 Indiana Election Calendar.* (HEA 1011 §§ 56 and 58; Effective date: March 24, 2006; Citations affected: 3-8-2-2.6, 3-8-2-2.7, 3-8-2-4)

Definition of “Filing” for Primary

Declarations of candidacy for the primary election must be “filed” no later than the deadline (rather than “received” no later than the deadline). This makes the use of these terms consistent within this Code section and consistent with the definition of “filing” in IC 3-5-2-24.5 that applies throughout the election code. *NOTE: This will not change any current deadlines set forth in the 2006 Indiana Election Calendar.* (HEA 1011 § 59; Effective date: March 24, 2006; Citations affected: 3-8-2-11)

Republican Party Precinct Committeemen Elections

The Republican Party precinct committeemen elected at the May 2006 primary will serve until the election of the committeeman’s successor at the May 2008 primary election (a two year, rather than four year term). Republican Party precinct committeemen that are to be elected at the May 2008 primary shall serve a four year term after election. Precinct committeemen for both major parties will be elected at the May 2006 primary. However, Democratic Party precinct committeemen will be elected for a four year term expiring May 2010. (HEA 1011 §§ 64, 65 and 146; Effective date: July 1, 2006; Citations affected: 3-10-1-4.5, 3-10-1-4.5 and noncode)

BALLOT REQUIREMENTS AND DESIGN

Ballot Instructions and Reference to “Ticket”

Obsolete references to “ticket” relating to a statute setting forth ballot instructions for elections to at large seats on local councils, and a statute setting forth a ballot counting rule in situations where a voter casts one or more straight party votes and also casts one or more individual votes for candidates, are repealed. The term “ticket” is used only to describe candidates who run together for president and vice-president or governor and lieutenant governor. (HEA 1011 § 89 and 96; Effective date: Indicated following the citation; Citations affected: 3-11-2-12.7 [July 1, 2006], 3-11-7-6 [January 1, 2007])



VOTING QUALIFICATIONS AND PROCEDURES

Standards for Challenging Voters

A voter in a general or municipal election may not be challenged solely due to actual or perceived party affiliation, or support for a candidate. A voter in a *primary* election may still be challenged based upon party affiliation as permitted under current law. A county election board may remove a precinct election officer or credentialed watcher or challenger who violates this provision and may refer knowing violations to the prosecuting attorney. (HEA 1011 §§ 4 and 5; Effective date: March 24, 2006; Citations affected: 3-5-4-5; 3-5-5-7)

Issuance of Photo ID by BMV

All license branches that provide state identification cards (prior law applied only to full service branches) shall be open on the day before election day from 8:30 a.m. to 8:00 p.m. prevailing local time, and on election day from 6:00 a.m. to 6:00 p.m. prevailing local time, to issue driver's licenses and state identification cards.

A license branch is not required to be open on election day, or the day before election day, to issue driver's licenses and identification cards *if there are no precincts in the county in which an election is held on election day* (For example, due to a special election held in another county in Indiana.)(SEA 303 § 1; Effective date: March 24, 2006, Citations affected: 9-16-1-7)

PROVISIONAL BALLOTS

Issuing Provisional Ballots to Challenged Voters

Amendments to current statute set forth specifically whether a provisional ballot or a regular official ballot is to be issued to a voter, depending upon whether the voter's name does or does not appear on the poll list, and depending on whether the voter has been challenged as not eligible to vote in the precinct. The following describes the situations that may arise and the law that applies to the situation:

1. A person whose name *does not* appear on the poll list, but is issued a certificate of error, votes a regular official ballot. However, if the person is then challenged (State Form PRE-4), the person votes a provisional ballot.
2. A person whose name *does not* appear on the poll list, but who affirms that the person has continuously resided in the precinct, votes a regular official ballot. However, if the person is then challenged (State Form PRE-4), the person votes a provisional ballot.
3. A person whose name *does not* appear on the poll list, but who produces a registration receipt from a license branch or full service agency executed during the open registration period, votes a regular official ballot. However, if the person is then challenged (State Form PRE-4), the person votes a provisional ballot.
4. A person whose name *does not* appear on the poll list, who is not described in (1) through (3) above, and is challenged as ineligible to vote in the precinct (State Form PRE-4), votes a provisional ballot.
5. A person whose name *does* appear on the poll list, no longer resides in the precinct, but claims the right to vote in the precinct where they formerly resided under a fail-safe provision in current law (VRG-4/12 or VRG-15), votes a regular official ballot. However, if the person is then challenged as ineligible to vote in the precinct (State Form PRE-4), the person votes a provisional ballot.
6. A person whose name *does* appear on the poll list, and is not entitled to vote in their former precinct of residence under a fail-safe provision under current law, and is challenged as ineligible to vote in the precinct (State Form PRE-4), votes a provisional ballot.

The voter must complete and sign the "Affidavit of a Challenged Voter" portion of State Form PRE-4 to vote a provisional ballot, except as specifically set forth in the next paragraph.

(HEA 1011 §§ 97, 121 and 142; Effective date: March 24, 2006; Citations affected: 3-11-8-22.1, 3-11-8-22 [repealed and superseded by 3-11-8-22.1], 3-11.7-2-1 [also corrects cross-reference])

If a person has already made an affirmation or executed an affidavit permitted under current law to vote pursuant to a fail-safe procedure, or a person has voted by absentee ballot and completed the affidavit on the outside of the absentee ballot envelope, and is then challenged, then the person is not required to complete and sign the "Affidavit of a Challenged Voter" portion of State Form PRE-4. (HEA 1011 §§ 98 and 120; Effective date: March 24, 2006; Citations affected: 3-11-8-23, 3-11.5-4-16 [correcting cross-reference as applied to absentee ballots])

The following describes the situations where this may arise:

1. To vote a regular official ballot, a person who is not on the poll list may make an oral or written affirmation to a precinct election board that the person either: (1) has continuously resided in the precinct, and the voter's name has been removed from the registration list by mistake; or (2) produces a receipt indicating that the person applied to register to vote at a license branch or other "full service" voter registration agency while registration was open and signs a voter registration application. If the eligibility of a person to vote in either of these situations is challenged before the voter votes a regular official ballot, the person is provided with a provisional ballot (rather than a regular official ballot). The person challenged in this situation is not required to execute the "Affidavit of a Challenged Voter" portion of State Form PRE-4 if the person has already satisfied the requirements set forth in (1) and (2) above. (HEA 1011 § 55; Effective date: March 24, 2006; Citations affected: 3-7-48-7.5)
2. To vote a regular official ballot, a person who is on the poll list but who has moved out of the precinct may execute an affidavit under the current law permitting the person to return their former precinct to vote either: (1) for president only in a presidential election because the person moved out of Indiana during the final 30 days before an election (State Form VRG-15); or (2) because the person moved to another precinct within Indiana during the final 30 days before an election (state form VRG- 4/12). If the eligibility of the person to vote is challenged before the voter votes a regular official ballot, the person is provided with a provisional ballot. The person challenged in this situation is not required to execute the "Affidavit of a Challenged Voter" portion of State Form PRE-4 if the person has already satisfied the requirements set forth in (1) or (2) above. (HEA 1011 §§ 77 and 78; Effective date: March 24, 2006; Citations affected: 3-10-10-9, 3-10-11-4.5)
3. To vote a regular official ballot, a person who is on the poll list but who has moved to another precinct within the same county and the same congressional district may make an *oral or written* affirmation (State Form VRG-4/12) under the current law permitting a person who formerly resided in a precinct, but no longer resides there, to return their former precinct to vote. If the eligibility of the person to vote is challenged before the voter votes a regular official ballot, the person is provided with a provisional ballot. The person challenged in this situation is not required to execute the "Affidavit of a Challenged Voter" portion of State Form PRE-4 if the person has already made the oral or written affirmation required under current law. (HEA 1011 § 81; Effective date: March 24, 2006; Citations affected: 3-10-12-5)

Deadline for Counting Provisional Ballots

The deadline for a county election board to count provisional ballots is noon 10 days after the election (instead of noon 13 days after the election). This resolves a conflict in current law resulting from the deadline for a county election board to count provisional ballots and the deadline for the county election board to certify election results. The county election board still has until "noon on the second Monday following the election" (noon 13 days after the election) to certify election results to the state. (See IC 3-12-5-6, for example). (HEA 1011 § 122; Effective date: March 24, 2006; Citations affected: 3-11.7-5-1)

Rules for Counting Provisional Ballots

There are specific rules for counting of provisional ballots cast under the following circumstances:

1. A provisional ballot cast by a voter under a court order extending the hours that the polls are open. In that case, the court may provide additional guidance with respect to when and how the ballots should be processed or the ballots will be rejected if the court order is overturned.
2. A provisional ballot cast by a voter who is not on the poll book but indicates that the voter applied to register at the BMV or other full service voter registration agency. Current law requires the county election board to accept or reject the provisional ballot as a result of information, or lack of information, provided by the full service voter registration agency by noon of the first Friday after the election.
3. A provisional ballot cast by a voter after the voter was challenged solely due to the voter being unable or declining to provide a photo ID. In this situation, the provisional ballot shall be counted if the voter later complies with the specific requirements applicable to providing a photo ID.
4. A provisional ballot cast by a voter after the voter was challenged solely due to the voter's failure to provide identification documentation required because the voter was a first time voter who registered by mail. In this situation, the provisional ballot shall be counted if the county election board determines that the voter filed the documentation required with the county voter registration office not later than the closing of polls on election day.

In situation other than those specified in paragraphs (1) through (4) above, if a county election board determines, by majority vote of its members and in accordance with the election laws, that a provisional ballot was marked by the voter in compliance with election laws, but may not otherwise be counted *solely as the result of an act or failure to act by an election officer*, then the sealed envelope containing the provisional ballot may then be opened and the ballot counted unless the county election board, by a majority vote of its members, determines that evidence presented to the board demonstrates that the individual who cast the provisional ballot was ineligible to cast a regular ballot in that precinct or evidence demonstrates any other reason set forth in HAVA or the election code not to count a provisional ballot. In that case, the provisional ballot may not be counted.

If a provisional ballot is cast by a voter after the voter was challenged for a reason other than the reasons set forth in paragraphs numbered (1) through (4) above, and the only evidence before the county election board is the challenger's affidavit, and the challenged voter's response affidavit, then the provisional ballot shall be counted.

(HEA 1011 § 123; Effective date: March 24, 2006; Citations affected: 3-11.7-5-1.5)

MILITARY AND OVERSEAS VOTERS

Counting Ballots from Overseas Absentee Voters based upon the Postmark

If an absentee ballot sent by mail is received from an “overseas” voter (which includes both certain military and civilian voters **outside** of the United States), the absentee ballot is not too late to be counted if the ballot:

1. is postmarked no later than election day; and
2. is received no later than the deadline for counting provisional ballots (noon 10 days following the election).

The county election board, by unanimous vote of the board, determines the date of the postmark if the postmark on the ballot is unclear. If the board is unable to determine the date of the postmark by unanimous vote of the board, then the absentee ballot may not be counted.

NOTE: *This extended “postmark” deadline does not apply to **all** military voters, **only** to military voters stationed outside of the United States. (Typically, these voters have APO or FPO addresses.)*

(HEA 1011 § 125; Effective date: March 24, 2006; Citations affected: 3-12-1-17)

Children of Overseas Voters

The General Assembly passed a joint resolution proposing to amend Article 2, Section 2 of the Constitution of the State of Indiana to allow the General Assembly to adopt future legislation to extend the right to vote to an individual who:

1. is the child of an individual who is a registered Indiana voter; and
2. currently resides outside the United States;

if the individual meets all of the constitutional qualifications for a voter other than residence in an Indiana precinct.

NOTE: *This proposed amendment has not been previously agreed to by the General Assembly so, before it becomes law, the resolution must be approved by the 2007 or 2008 General Assembly and ratified by a majority of the state's voters voting on the joint resolution as a public question on the ballot. If enacted by the General Assembly elected in 2006, and approved by a majority vote of the voters in the 2008 general election, the General Assembly may thereafter enact a law to extend the right to vote to such persons. (Senate Joint Resolution 2)*

POLLING PLACES, POLL WORKERS and PARTISAN WORKERS

Vote Center 2007 Pilot Program

A "vote center" means a polling place where a voter who resides in the county in which the vote center is located may vote anywhere in the county at an established vote center, without regard to the precinct in which the voter resides, by using electronic poll books linked live to the county's voter registration records.

The secretary of state may designate up to 3 vote center pilot counties no later than October 1, 2006, and may designate replacement pilot counties if necessary. The secretary of state may adopt guidelines for administering the program.

A county wishing to be designated as a pilot county must file the required application with the secretary of state no later than August 1, 2006. The application must be signed by all of the members of the county election board, and include a resolution adopted by the county commissioners and county council that approves the application submitted by the county election board.

Among other things, the application must include a detailed plan stating the total number and location of the vote centers to be established by the county. The application must designate at least a minimum number of vote centers as set forth in law. Procedures for amending the county's vote center plan and the revocation of a county's designation as a pilot county are provided.

Once applications are submitted, the secretary of state must determine that the electronic connection between the vote center and the county's voter registration records is secure, and would prevent unauthorized voting and unauthorized access to voter registration information. Except as otherwise specified by this law, the vote center pilot county must administer the election in accordance with other provisions of Indiana law.

The law authorizing the pilot program expires December 31, 2009.

(HEA 1011 §§ 1, 119, and 148; Effective date: March 24, 2006; Citations affected: 3-5-2-49.9, 3-11-18 and noncode)

PRECINCTS

Precinct Boundary Change Orders

The co-directors of the Indiana election division may set a deadline for a county executive to submit a proposed precinct establishment order if the county wishes the boundary change to take effect before the next period that primary candidate filing begins. The election division must give counties at least 90 days notice before any established deadline.

If a proposed precinct establishment order is submitted after the deadline set by the co-directors, the co-directors may review the proposed order submitted by the county only after completing their review of orders submitted by other counties that met the deadline. If the review of an order submitted after the deadline cannot be completed before the first day for primary candidate filing, the election division may complete the review so that the order takes effect on the first day permitted under current law (the day following the next general or municipal election).

If the co-directors of the election division determine that there is insufficient time for a county to publish the legal notice of proposed precinct boundary changes required under current law to permit 10 days for objections to be filed, the co-directors may request that the election commission conduct a hearing regarding the proposed changes.

The county executive shall file a copy of the legal notice of final approval of precinct boundary changes with the co-directors of the election division, with the county auditor (who serves as secretary for the county executive in most counties), and with the county voter registration office (the circuit court clerk or board of registration). (HEA 1011 §§ 82, 83, 84, 85 and 86; Effective date: March 24, 2006 [Section 82], July 1, 2006 [Section 83-86]; Citations affected: 3-11-1.5-14; 3-11-1.5-18; 3-11-1.5-21; 3-11-1.5-27; 3-11-1.5-29)

Precincts and Polling Place Accessibility

A proposed precinct establishment order complies with the standards for precincts set by state law if the county's proposed order states either:

1. that the polling place for the precinct complies with accessibility standards; or
2. the county will designate a new polling place for the precinct before April 1, 2006 that complies with accessibility standards.

This amendment to existing law recognizes that any precinct boundary changes for 2006 had to be approved by January 17, 2006, but that counties had until April 3, 2006 to designate polling place for the 2006 primary election. (HEA 1011 § 147; Effective date: March 24, 2006; Citations affected: noncode)

LOCAL ELECTION ADMINISTRATION

Rejection of Late Election Filings

A state or local election official must reject an election filing that is presented after the deadline fixed by election law for the filing. (Current law does not permit the election official to reject the late filing; instead, a voter or other qualified person must file a challenge to bring the late filing before an election board, the election commission, or a court.)

This requirement to reject a late filing would not apply to filings which current election law **allows** to be filed late. (*One example would be campaign finance reports, which current election law allows to be filed late, but for which the late filer is subject to civil penalties [IC 3-9-4-16], Another example would be voter registration applications, which current election law allows to be filed late, but which must be designated as "pending" during the period that voter registration is closed [IC 3-7-13-12].*) (HEA 1011 § 3; Effective date: March 24, 2006; Citations affected: 3-5-4-1.9)

Certification of Primary Election Results

The circuit court clerk may send certified primary election results to the election division using the statewide voter registration system instead of preparing and mailing paper documents. (Current law allows the use of this procedure for county certification in general and other elections.) As a result, a county is no longer required to use any *paper* version of the CEB-23, CEB-24, CEB-25 forms, or CEB-9 election report form, to certify primary or school board election results to the election division.

The former requirement that these reports be signed and sealed by the circuit court clerk has been repealed so long as the county uses the SVRS to provide these reports to the State.

NOTE: There may be some additional information requested on the CEB-9 election report form that will require a county to send paper versions of the documents containing this information, however, the county is not required to send the state (or any other county) a paper copy of the CEB-23 or CEB-24 report. (HEA 1011 § 74; Effective date: March 24, 2006; Citations affected: 3-10-1-33)

Counting Split Ticket Votes When Straight Party Vote Also Cast

State law has slightly different rules, effective beginning with the 2007 municipal elections, for counting ballots in certain very specific situations when a voter casts one or more straight party votes and also casts one or more individual votes for candidates.

For example, this may occur where a voter votes a straight party vote for party “A” in a race for a multi-seat at large office (for example township board), and has also indicated one or more individual votes for candidate(s) of party “B,” or for an independent candidate, or for a combination of party “A” and party “B” candidates. In this case, all the votes for candidates, including straight party votes, are to be counted unless the total number of votes that would be counted would exceed the number of seats for the office to be elected. If the total number of votes that would be counted would exceed the number of seats for the office to be elected, the straight party votes for the multi-seat office are not counted and the individual votes will be counted. (HEA 1011 §§ 124 and 144; Effective date: January 1, 2007; Citations affected: 3-12-1-7, 3-11-7-7 [repealed], 3-11-7-8 [repealed], 3-11-7-9 [repealed], 3-11-7-10 [repealed], 3-11-7-11 [repealed])

Local Referendum Regarding Consolidation of Political Subdivisions

A uniform procedure for the reorganization of political subdivisions has been established. The reorganization process may be initiated by the legislative bodies of the reorganizing political subdivisions or by a petition signed by 5% of the voters in the reorganizing political subdivisions (as determined by the vote cast in the political subdivision for secretary of state at the most recent general election for that office). If the process is initiated by petition, the petition must be substantially in the form prescribed by the department of local government finance and be filed with the clerk of the political subdivision that:

1. proposes a reorganization; and
2. names the political subdivisions that would be reorganized in the proposed reorganization.

If the petition is signed by the required number of voters, the clerk of the political subdivision certifies the petition to the legislative body of the political subdivision.

If a political subdivision adopts a resolution proposing a reorganization, then the political subdivision may certify the resolution to the clerk of each other political subdivisions identified in the resolution. Political subdivisions that agree to participate in a reorganization would then proceed to establish a reorganization committee to develop a plan for reorganization.

A political subdivision will be deemed to agree to pursue the plan of reorganization if the political subdivision adopts a resolution approving the plan of reorganization or, if the governing body of the political subdivision has rejected a plan of reorganization, if at least 10% of the voters in a political subdivision (as determined by the vote cast in the political subdivision for secretary of state at the most recent general election for that office) submit a petition requesting the public question to be held approving the plan of reorganization rejected by the governing body.

When a county recorder has received certifications that all of the reorganizing political subdivisions have approved the plan for reorganization from all of the reorganizing political subdivisions, or from a clerk of the circuit court after receipt of a petition of 10% of the voters in a political subdivision as described above, the county recorder shall notify the county election board of each county in which a reorganizing political subdivision is located that a public question on a plan of reorganization is eligible to be placed on the ballot for consideration of the voters of each of the reorganizing political subdivisions or, in the case of a proposed reorganization of a municipality and a county that does not contain a consolidated city, for consideration by the voters of the entire county.

After the county recorder has notified the county election board that a public question on a plan of reorganization is eligible to be placed on the ballot, the county election board shall place the public question on the ballot in accordance with IC 3-10-9 on the first regularly scheduled election that will occur in all of the precincts of the reorganizing political subdivisions at least sixty (60) days after the required notices are received. A public question authorized under this procedure shall be placed on the ballot in all of the precincts that are located in the reorganizing political subdivisions in substantially the following form:

"Shall _____ (insert name of political subdivision) and _____ (insert name of political subdivision) reorganize as a single political subdivision?"

The election on the public question shall be conducted pursuant to the Indiana election code (IC 3).

A reorganization of the political subdivisions pursuant to the plan of reorganization may occur only if the voters of the reorganizing political subdivisions approve the reorganization in the public question. In the case of a proposed reorganization between a county (that does not contain a consolidated city) and a municipality, the legislative bodies of the reorganizing political subdivisions must agree on whether the public question on the proposed reorganization shall be conducted with or without a "rejection threshold" according to the reorganization plan.

(HEA 1362 § § 1-5; Effective date: March 24, 2006; Citations affected: 36-1-2-4, 36-1-2-6, 36-1-2-9, 36-1.5 [New Article])

TIE VOTES, RECOUNTS, CONTESTS AND SPECIAL ELECTIONS

Certain Vacancies in Legislative Office Filled by Special Election

If a state legislator is elected as an independent candidate (or as a member of a minor political party other than the Libertarian Party), a vacancy that later occurs in the office is filled by special election. (The caucus procedure used to fill legislative vacancies when an office was held by a member of a major political party would not apply to independent or third party legislators since no precinct committeemen are authorized by state law to fill a vacancy in those cases.) A special election would not be held if the vacancy occurred less than 30 days before a general election.

If a state legislative seat is vacated by a member of the Libertarian Party, the Libertarian Party state committee fills the vacancy.

(HEA 1011 §§ 76 and 130; Effective date: July 1, 2006; Citations affected: 3-10-8-1, 3-13-5-.01)

Recount and Contest Deadlines

The deadlines to file for a recount or election contest were extended by an additional week by legislation passed in the 2005 session. However, some of these deadlines (such as filing for a cross-petition) were missed in that 2005 law. As a result, recount and contest *cross-petition* filing deadlines are extended an additional 7 days to conform with 2005 legislation that extended the period for filing a recount or contest petition from 7 days to noon 14 days after the election. (HEA 1011 §§ 126, 128, and 129; Effective date: March 24, 2006; Citations affected: 3-12-6-4, 3-12-11-4, 3-12-12-2)

Local Referendum on Sale of Congressional Township School Lands

The law permitting this public question was repealed as part of the passage of a recodification of school finance laws (IC 21). Since this procedure was obsolete, the law permitting this public question was not included in the recodified version of IC 21. (HEA 1134 §§ 199; Effective date: July 1, 2006; Citations affected: 21-1-1-19)

CITY AND TOWN ELECTIONS

Small Town Elections

During a *general election year* (even numbered years), when an election is conducted for an office or on a public question in a small town (a town with a population of less than 3,500), the county election board conducts the election. During a year which is *not* a general election year, a small town has the authority to establish a town election board to conduct an election for an office or on a public question in the small town. (HEA 1011 § 75; Effective date: July 1, 2006; Citations affected: 3-10-7-2)

Districts in a Town Becoming a City

A town that has a population of less than 10,000 that becomes a city may adopt an ordinance dividing the town into three city legislative body districts and provide that the city legislative body shall be composed of three members elected from the three districts with two at-large members. (HEA 1102 § 51; Effective Date: March 24, 2006; Citations affected: IC 36-4-6-4)

STATE ELECTION ADMINISTRATION

Filing With the Indiana Election Division or Indiana Election Commission

A state election official may not receive an election filing that is presented after the deadline fixed by election law. (Current law does not permit the election official to reject the late filing; instead, a voter or other qualified person must file a challenge to bring the late filing before an election board, the election commission, or a court.)

This requirement to reject a late filing would not apply to filings which current election law *allows* to be filed late. (One example would be campaign finance reports, which current election law allows to be filed late, but for which the late filer is subject to civil penalties (IC 3-9-4-16).) (HEA 1011 § 3; Effective date: March 24, 2006; Citations affected: 3-5-4-1.9)

ELECTION LAW CRIMES

“Electioneering” and Absentee Ballots

During its 2005 session, the General Assembly made it a Class A Misdemeanor for a person to engage in “electioneering” (expressing support for or opposition to a candidate) in the presence of a voter known to possess the voter’s absentee ballot. However, the voter’s spouse, the guardian of an incapacitated voter, or a member of the voter’s household was not prohibited in engaging in electioneering in the presence of the absentee voter. In addition, this law did not apply to written material provided to an absentee voter through the mail.

During the 2006 session, the General Assembly amended this law to specify that it does not apply to electioneering that occurs by telephone or electronic communications (email).

(HEA 1011 § 132; Effective date: March 24, 2006; Citations affected: 3-14-3-16)

Public Employment After Vote Fraud Conviction

A city, town, or school corporation may not employ or continue to employ (or contract with) a person convicted of a felony or Class A misdemeanor for vote fraud for at least 20 years after the date that the person is convicted. If the person’s conviction is reversed, vacated, or set aside, the person shall be restored to the position that the person held prior to the conviction. The attorney general may petition a court for: (1) an injunction against a person who violates this restriction; and (2) a civil penalty of not more than \$1,000 to be imposed on the person. (HEA 1011 § 134; Effective date: March 24, 2006; Citations affected: 3-14-5-8)

Fraud in Obtaining Photo ID from BMV

A person who: (1) knowingly or intentionally uses false information or otherwise commits fraud in an application for an identification card; or (2) knowingly or intentionally uses a false name or address or otherwise commits fraud in an application for a driver's license or permit; commits application fraud, a Class D felony. (Current law provides that the offenses are Class B and Class C misdemeanors, respectively.) (SEA 297 §§ 1, 2 and 3; Effective date: July 1, 2006; Citations affected: 9-24-16-12, 9-24-18-2; 35-43-5-2)

MISCELLANEOUS TECHNICAL CHANGES

Legislation Affecting Courts or Creating New Courts; Jury Lists

2006 legislation makes the following changes concerning courts and the use of voter registration records for jury lists:

1. Jury commissioners shall use only lists approved by the Indiana supreme court to determine the names of prospective jurors to be included in a jury pool. Provisions that allowed the commissioners to select names from various other sources are repealed and references to "voter registration lists" are replaced with references to "current lists approved by the supreme court."
2. Increases the number of judges on the Marion superior court from 32 to 35 judges beginning January 1, 2007, and 35 to 36 judges beginning January 1, 2009.
3. Increases the total number of magistrates that a majority of the Marion superior court may appoint from four to eight beginning January 1, 2008.

(HEA 1146 §§ 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 19; Effective date: July 1, 2006 except as indicated following each citation; Citations affected: 33-28-4-3, 33-28-4-10 [New], 33-28-5-5, 33-28-5-13, 33-28-5-23, 33-28-6-6, 33-28-6-13, 33-28-6-27 [New], 33-33-49-6 [effective March 17, 2007], 33-33-49-13 [effective March 17, 2007], 33-33-49-32 [effective March 17, 2007], Noncode [effective March 17, 2007])

Obsolete Voter Registration Laws Repealed

An obsolete procedure requiring license branch employees to deliver voter registration forms to the branch manager, who then transmits these forms to the county voter registration office, was repealed. Under the statewide voter registration system, these forms will be transmitted electronically before a paper copy of the form is forwarded to the county. (HEA 1011 § 8; Effective date: July 1, 2006; Citations affected: 3-7-14-9)

Outdated Application Dates

A number of references in statutes to the effect that a certain procedures applied either “after December 31, 2005” or “before January 1, 2006” were repealed since those dates have passed and the references are no longer relevant. (HEA 1011 §§ 6, 7, 8, 9, 10, 11, 12, 14, 17, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, 29, 30, 31, 32, 33, 35, 36, 38, 39, 41, 42, 43, 44, 46, 47, 49, 50, 51, 52, 53, 60, 61, 66, 68, 69, 72, 73, 79, 80, 87, 88, 92, 93, 94, 99, 100, 101, 102, 103, 104, 107, 108, 109, 110, 111, 112, 113, 115, 116, 117, 118, 131, 133, 135, 136; Effective date: July 1, 2006 unless otherwise indicated after citation; Citations affected: 3-7-12-28.1, 3-7-13-13, 3-7-14-9, 3-7-14-11, IC 3-7-14-12, 3-7-14-14, 3-7-26.3-3, 3-7-26.4-1, 3-7-27-20.1, 3-7-27-20.2, 3-7-27-21.1, 3-7-27-15, 3-7-27-22, 3-7-29-3, 3-7-29-4, 3-7-30-5, 3-7-30-6, 3-7-32-2, 3-7-32-4, 3-7-34-5, 3-7-34-12, 3-7-35-2.1, 3-7-35-3.1, 3-7-38.2-2, 3-7-38.2-4, 3-7-38.2-5, 3-7-40-4, 3-7-42-4, 3-7-43-6, 3-7-43-7, 3-7-43-8, 3-7-45-2.1, 3-7-45-3, 3-7-45-4, 3-7-45-6.1, 3-7-46-4.1, 3-7-46-7.5, 3-7-46-8, 3-7-46-9, 3-9-1-1.5, 3-9-4-4, 3-10-1-7.1, 3-10-1-8, 3-10-1-10.5, 3-10-1-24, 3-10-1-24.6 [effective upon passage], 3-10-11-5, 3-10-12-3.5, 3-11-2-2.1, 3-11-4-17.5, 3-11-4-18, 3-11-6.5-1, 3-11-8-23.5, 3-11-8-25.1, 3-11-8-25.2, 3-11-8-25.5, 3-11-8-26.1, 3-11-8-27.5, 3-11-10-24.5, 3-11-10-25, 3-11-10-26, 3-11-11-1.2, 3-11-2-0.5, 3-11-11-6, 3-11-11-9, 3-11-13-4.5, 3-11-13-28.5, 3-11-13-29, 3-11-15-13.3 [effective March 24, 2006], 3-11-14-23, 3-14-2-6, 3-14-4-3.5, 3-14-6-1.1, 3-14-6-2)

Correcting or Removing Obsolete References and Cross-References

Many statutes set forth both the election law prior to, and after, the implementation of the SVRS. Therefore, obsolete descriptions in statute that applied prior to January 1, 2006 are removed. In addition, some statutes contain cross-references to other statutes that are now obsolete because they have been superseded by the operation of other statutes. A number of these cross-references were corrected to reference sections that apply to voter registration practices that apply after implementation of the SVRS on January 1, 2006. Where relevant, a description of the subject matter of these statutes follows each citation. (HEA 1011 §§ 16, 20, 21, 22, 27, 33, 36, 37, 38, 39, 40, 41, 42, 43, 44, 46, 47, 48, 52, 53, 54, 67, 68, 70, 71, 73, 87, 90, 95, 101, 102, 105, 106, 114, 118, 127, 136; Effective Date: July 1, 2006 unless otherwise noted following the citation below; Citations affected: 3-7-27-15 [repeals obsolete provisions regarding storage of original voter registration applications], 3-7-27-22 [removes reference to obsolete provisions regarding storage of original voter registration applications], 3-7-29-3 [inspector to obtain poll book produced by the SVRS], 3-7-29-4 [comparison of signatures on poll book produced by SVRS], 3-7-33-4.5 [changing reference from superseded chapter regarding voter registration practices prior to the SVRS], 3-7-38.2-2 [striking reference to superseded chapter on voter list maintenance prior to the SVRS], 3-7-38.2-4 [striking reference to superseded chapter on voter list maintenance and superseded chapter regarding voter registration practices prior to the SVRS], 3-7-38.2-5 [striking reference to superseded chapter on voter list maintenance and superseded chapter regarding voter registration practices prior to the SVRS], 3-7-39-8 [effective upon passage] [removes reference to a repealed statute and updates reference to county voter registration office], 3-7-40-4 [reference to submitting “yearly” rural route addresses to U.S. Postal Service is omitted to permit Co-Directors more discretion], 3-7-40-6 [replacing rural route address with numbered addresses], 3-7-41-2 [signing the poll book to change name], 3-7-42-4 [transferring voter registration to new precinct following precinct boundary change], 3-7-43-6 [forwarding authorization to cancel registrations on an “expedited basis”], 3-7-43-7 [entering cancellation into the SVRS], 3-7-43-8 [reporting out of state addresses on registrations to election division], 3-7-45-3 [canceling deceased voters reported by DOH via the SVRS], 3-7-45-4 [canceling deceased voters on receipt of death certificate], 3-7-45-5 [reporting out of state deaths], 3-7-46-8 [mailing notice to voters disfranchised due to imprisonment following conviction], 3-7-46-9 [mailing notice to voters disfranchised due to imprisonment following conviction], IC 3-7-48-7 [processing election records to update voter registration records after election], 3-10-1-7.2 [effective upon passage] [correct reference to statute on challenges on election day], 3-10-1-8 [person not on the poll book in the primary], 3-10-1-15 [repeal obsolete “punch card” provision], 3-10-1-19 [effective upon passage] [repeal obsolete “punch card” provision], 3-10-1-24.6 [effective upon passage] [corrects references to poll book under the SVRS and challenge procedure], 3-11-2-0.5 [repeals obsolete “punch card” provision], 3-11-3-16 [inspector to obtain poll book produced by the SVRS], 3-11-6.5-5 [effective retroactive January 1, 2006] [repeals the current January 1, 2006 expiration date for reimbursing certain counties for voting system purchases], 3-11-8-25.2 [corrects cross-reference to photo id statute], 3-11-8-25.5

[corrects cross-reference to photo id statute], 3-11-8-29 [corrects cross-reference to poll book], 3-11-10-12 [corrects cross-reference to poll book], 3-11-13-11 [repeals an obsolete reference to “punch card” ballot], 3-12-9-4 [corrects cross-reference to breaking tie votes for school board], 3-14-6-2 [updates cross-reference prohibiting certain uses of voter registration information to refer to information maintained in the SVRS])

(SEA 303 § 1; Effective date: March 24, 2006; Citations affected: 9-16-1-7) (Corrects a cross-reference to the definition of "election day")

(SEA 132 §§ 1 and 2; Effective date: July 1, 2006; Citations affected: 3-7-15-12, 3-10-8-4.5) (Correcting reference from “division of family and children” to “division of family”)

Repealed Statutes

Several statutes were repealed as obsolete or superseded. For example, since voter registration is performed via the statewide voter registration system, many voter registration provisions that applied prior to January 1, 2006 are obsolete or have been superseded by statutes applicable to the statewide voter registration system. Other statutes were superseded, or replaced, by newer statutes. A description of the subject matter of these repealed statutes follows each citation. (HEA 1011 §§ 142 and 143; Effective date: July 1, 2006 except as otherwise noted; Citations affected: 3-5-2-8.7 [Definition of “chad” expired December 31, 2005], 3-7-12-28 [NVRA reports expired January 1, 2006], 3-7-26 [Former chapter on statewide voter registration file expired January 1, 2006], 3-7-26.3-1 [Obsolete application provision for new statewide voter registration system], 3-7-27-20 [County voter records before January 1, 2006], 3-7-27-21 [County voter records prior to January 1, 2006], 3-7-27-23 [County voter records prior to January 1, 2006], 3-7-33-2 [County voter records prior to January 1, 2006], 3-7-35-2 [County voter records prior to January 1, 2006], 3-7-35-3 [County voter records prior to January 1, 2006], 3-7-38.1 [Chapter on voter list maintenance prior to January 1, 2006], 3-7-40-2 [County voter records prior to January 1, 2006], 3-7-40-7 [County voter records prior to January 1, 2006], 3-7-45-2 [County voter records prior to January 1, 2006], 3-7-45-6 [County voter records prior to January 1, 2006], 3-7-46-4 [County voter records prior to January 1, 2006], 3-10-1-7 [County voter records prior to January 1, 2006], 3-10-1-24.5 [Polling Place procedures prior computerized poll lists from statewide voter registration system after January 1, 2006], 3-10-7-14 [Small town elections superseded by other IC 3-10-7 sections], 3-11-2-2 [Obsolete county ballot printing provision expired January 1, 2005], 3-11-3-17 [County poll list printing prior to the statewide voter registration system expired January 1, 2006], 3-11-3-18 [County poll lists prior to the statewide voter registration system expired January 1, 2006], 3-11-3-19 [County poll lists prior to the statewide voter registration system expired January 1, 2006], , 3-11-3-21 [County poll lists prior to the statewide voter registration system expired January 1, 2006], 3-11-6.5-6.1 [Obsolete provision regarding replacement of punch card and lever voting equipment expired January 1, 2006], 3-11-8-25 [Polling place voting procedures expired January 1, 2006], 3-11-8-26 [Polling place voting procedures expired January 1, 2006], 3-11-15-13 [Obsolete voting system standards expired January 1, 2006], 3-11.7-1-1 [Obsolete application provision that provisional ballot laws apply “after December 31, 2003”], 3-14-6-1 [obsolete voter registration criminal section expired January 1, 2006], 3-11-8-22 [Superseded by 3-11-8-22.1 and was effective March 24, 2006] }

Election Schedule Updates

References to the election years of Marion County superior court and city and town courts are updated to refer to current and future election years. (HEA 1011 § 140 [Effective March 24, 2006] and 141 [Effective July 1, 2006]; Citations affected: 33-33-49-13, 33-35-1-1)