



2007 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 2007. 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 General Assembly's website 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 2007 Regular Session of the Indiana General Assembly enacted the following election-related bills:

Public Law 219-2007 (Senate Enrolled Act 287): Property Taxation
Public Law 224-2007 (House Enrolled Act 1478): Taxation
Public Law 234-2007 (House Enrolled Act 1001): State Budget
Public Law 179-207 (Senate Enrolled Act 103): Open Door Law

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

Public Law 1-2007 (House Enrolled Act 1084): Technical Corrections
Public Law 2-2007 (Senate Enrolled Act 526): Recodifies Law Governing Higher Education
Public Law 99-2007 (Senate Enrolled Act 94): Individuals with Disabilities
Public Law 118-2007 (House Enrolled Act 1287): Jury Selection
Public Law 161-2007 (Senate Enrolled Act 504): Temporary Assistance for Needy Families (TANF) cross-references

POLLING PLACES, POLL WORKERS and PARTISAN WORKERS

FICA Tax Withholding for Poll Workers

As party of the state's agreement with the federal Social Security Administration, the county is not required to withhold FICA tax for poll workers who receive compensation from the county in an amount less than \$1,300 per year. The \$1,300 amount excludable from FICA tax withholding can be adjusted for calendar years following 2007 to reflect changes in wages in the economy without further modification of the agreement in accordance with federal law.

(HEA 1001 § 208; Effective date: retroactive January 1, 2007; Citations affected IC 5-10.1-2-9)

CANDIDATES AND OFFICEHOLDERS

New County Level Office: County Board of Tax and Capital Projects Review

The county board of tax and capital projects review board is established as a new county level elected office and the office will be placed on the general election ballot for the first time in 2008. The office must be placed in a separate column on the ballot, after county offices (and any township, town, or school board offices on the general election ballot.)

Two individuals will be elected on a nonpartisan basis in each county (except Marion County) to serve four-year terms on this board, which will also include other elected county officials as members. The new law specifies the membership of the review board in Marion County.

A candidate for election to this office must have resided in the county for at least 1 year before the election. A person elected to this office may not be, or have been during the year preceding the person's appointment or election, an officer or employee of a political subdivision.

A candidate for this office must file a nomination petition with the signatures of at least one 100 registered voters residing in the county with the county election board not earlier than 104 days and not later than noon 74 days before the election at which the members are to be elected. The petition must also contain a certification that the prospective candidate meets the requirements to serve in this office. The 2 candidates within the county who receive the greatest number of votes in the county will be elected to office.

The county board of tax and capital projects review board will have the powers and duties held by a county board of tax adjustment before the county board of tax adjustment is abolished. In addition, the fiscal body of each political subdivision in a county must adopt a capital projects plan that must be reviewed by this board. This board shall provide a written report concerning each capital projects plan and no capital project may proceed unless the board approves it.

(HEA 1478 §§ 1, 2, 43, 52; Effective date: July 1, 2007; Citations affected 3-8-1-23.5[New]; 3-11-2-12.8 [New]; 6-1.1-29-2; 6-1.1-29.5[New Chapter])

County Assessor Candidate Qualification

Candidates for the office of county assessor who run in an election after June 30, 2008 must meet the following qualification: The candidate must have attained the certification of a level two assessor-appraiser under IC 6-1.1-35.5.

(SEA 287 § 1; Effective date: January 1, 2008; Citations affected IC 3-8-1-23)

Qualification and Duties of Person Holding Office of Township Assessor

A person who is elected to the office of township assessor in an election after June 30, 2008, but has not attained the certification of a level two assessor-appraiser under IC 6-1.1-35.5 before taking office, may perform only duties of the office other than the duties of a township assessor under IC 36-6-5-1, and has only the rights and powers of the trustee other than the rights and powers of a township assessor under IC 36-6-5-1. This restriction applies for the entire term to which the candidate was elected, even if the candidate attains certification as a level two assessor-appraiser during that term of office.

(SEA 287 § 2; Effective date: January 1, 2008; Citations affected 3-8-1-23.5[New])

LOCAL ELECTION ADMINISTRATION

Processing Remonstrance Petitions Related to Bond Issues Or Lease Rentals

Owners of real property and registered voters of a political subdivision may initiate a petition and remonstrance process with respect to a political subdivision's proposed issuance of bonds for debt service or lease payments by filing petitions signed by the lesser of: 1) 100 persons who are either owners of real property or registered voters; or 2) 5% of the registered voters residing in the political subdivision. The petition to initiate a petition and remonstrance process must be filed not later than 30 days after publication of notice of a preliminary determination to issue bonds or enter into a lease. If a successful petition is filed to initiate a petition and remonstrance process then the owners of real property and registered voters of the political subdivision may petition in favor of, or remonstrate against, the imposition of property taxes to pay debt service or lease payments.

The state board of accounts shall design and, upon request by the county voter registration office, deliver to the county voter registration office, or the county voter registration office's designated printer, the petition and remonstrance forms for these purposes.

Each person signing a petition must indicate whether the person is signing as an owner of real property or a registered voter within the political subdivision. A person who signs a petition as a registered voter must indicate the address at which the person is registered to vote. A person who signs a petition as a real property owner must indicate the address of the real property owned by the person in the political subdivision.

Once completed the petition or remonstrance is filed with the county voter registration office and processed as follows:

1. Not more than 15 business days after receiving a petition or remonstrance, the county voter registration office determines whether each person who signed the petition or remonstrance is a registered voter and forwards a copy of the petition or remonstrance to the county auditor;
2. Not more than 10 business days after receiving a copy of a petition or remonstrance, the county auditor shall provide to the county voter registration office a statement verifying the following:
 - (A) whether a person who signed the petition or remonstrance as a registered voter but is not a registered voter, as determined by the county voter registration office, is the owner of real property in the political subdivision; and
 - (B) whether a person who signed the petition or remonstrance as an owner of real property within the political subdivision does in fact own real property within the political subdivision.
3. Not more than 10 business days after receiving the statement from the county auditor, the county voter registration office shall make the final determination of the number of petitioners or remonstrators that are registered voters in the political subdivision and, based on the statement provided by the county auditor, the number of petitioners that own real property within the political subdivision.

Notwithstanding any other provision of this section, if a petition or remonstrance is presented to the county voter registration office within 35 days before an election, the county voter registration office may defer acting on the petition, and the time requirements for action by the county voter registration office do not begin to run until 5 days after the date of the election.

With respect to the petition to initiate a petition and remonstrance process, the county voter registration office must file a certificate and each petition with:

- (A) the township trustee, if the political subdivision is a township, who shall present the petition or petitions to the township board; or
- (B) the body that has the authority to authorize the issuance of the bonds or the execution of a lease, if the political subdivision is not a township;

within 35 business days of the filing of the petition requesting a petition and remonstrance process. The certificate must state the number of petitioners that are owners of real property within the political subdivision and the number of petitioners who are registered voters residing within the political subdivision.

If a sufficient petition requesting a petition and remonstrance process is not filed by owners of real property or registered voters as set forth in this section, the political subdivision may issue bonds or enter into a lease by following the provisions of law relating to the bonds to be issued or lease to be entered into.

With respect to the petition and remonstrance process (if necessary), the county voter registration office must file a certificate and the petition or remonstrance with the body of the political subdivision charged with issuing bonds or entering into leases within 35 business days of the filing of a petition or remonstrance if it contains 10,000 or less signatures. The county voter registration office may take an additional 5 days to review and certify the petition or remonstrance for each additional 5,000 signatures up to a maximum of 60 days. If the number of valid remonstrance signatures exceeds the number of valid petition signatures, then the bonds may not be issued or the lease not be entered into and the political subdivision may not make a preliminary determination to issue bonds or enter into a lease for the controlled project defeated by the petition and remonstrance process under this section or any other controlled project that is not substantially different within 1 year after the date of the county voter registration office's certificate.

A "registered voter" depends on the type of the petition and is described as follows:

1) In the case of a petition to initiate a petition and remonstrance process, a registered voter is an individual who is registered to vote in the political subdivision on the date that notice of a preliminary determination by the political subdivision to issue bonds or enter into a lease is published as required by law.

2) In the case of a petition in favor of, or a remonstrance against, the proposed debt service or lease payments, a registered voter is an individual who is registered to vote in the political subdivision on the date that is thirty (30) days after the notice of the applicability of the petition and remonstrance process is published as required by law.

Whenever the name of an individual who signs a petition form as a registered voter contains a minor variation from the name of the registered voter as set forth in the records of the county voter registration office, the signature is presumed to be valid, and there is a presumption that the individual is entitled to sign the petition under this section. An individual is not required to provide a photo identification to be considered a registered voter.

A person may sign a particular petition or remonstrance only once, regardless of whether the person owns more than one (1) parcel of real property within the subdivision and regardless of whether the person is both a registered voter in the political subdivision and the owner of real property within the political subdivision.

SEA 287 §§ 58, 59, 60, 61; Effective date: May 11, 2007; Citations affected: 6-1.1-20-1.8; 6-1.1-20-1.9; 6-1.1-20-3.1; 6-1.1-20-3.2)

Serial Meetings and Public Access

In general, the open door law requires the governing body of a public agency (which includes county election boards) to conduct official business at a public meeting and to provide notice of the meeting.

New legislation clarifies that a "meeting" under the open door law does not occur if the gathering of board members is for orientation of new members on their role and responsibilities as public officials so long as the gathering does not include any other official action. A "meeting" also does not occur if the gathering of board members is for the sole purpose of administering an oath of office to a new board member.

In addition, a member of the board who is not physically present at a meeting but communicates with other members of the board during the meeting electronically (by telephone, computer or videoconferencing, for example) may not participate in a

final action taken at the meeting or be considered to be present at the meeting unless otherwise specifically authorized by statute. The minutes of the meeting must indicate each member who was physically present, each member who participated in the meeting electronically, and each member who was absent.

The new law provides, with certain exceptions, that board members who participate in a series of gatherings either in person or by electronic means (excluding electronic mail) violate the open door law if: (1) one of the gatherings is attended by at least three members but less than a quorum of the members of the governing body and the other gatherings include at least two members of the governing body; (2) the total sum of different members attending all gatherings at least equals a quorum of the governing body; (3) all the gatherings concern the same subject matter and are held within a period of not more than seven consecutive days; and (4) the gatherings are held for the purpose of taking official action on public business.

Since in most counties the county election boards consists of only three members, the open door law is violated when two board members meet for the purpose of taking official action without complying with the notice requirements of the law so this change in the law has no practical effect on a county election board consisting of three members.

(SEA 103 §§ 1, 3, 4; Effective date: July 1, 2007; Citations affected: 5-14-1.5-2; 5-4-1.5-3; 5-4-1.5-3.1[New])

Copying Costs for Local Government

A local government agency may charge a fee of not more than \$5 for certifying a document instead of the actual cost to the agency. In addition, a local government agency may charge a fee for copying a document that does not exceed the greater of: (1) 10 cents per page (for noncolor copies) or 25 cents per page (for color copies); or (2) the actual cost to the agency. The definition of "actual cost" in the current law is repealed.

These certification and copying charge provisions do not apply to a health and hospital corporation and a local department of health's charges for certificates of birth or death.

(HEA 1379 § 1; Effective date: July 1, 2007; Citations affected: 5-14-3-8)

Town Park and Recreation Board

A town council may, by a majority vote, waive the requirement that a member of town park and recreation board member be affiliated with a political party or that not more than two (2) of the four (4) members of the town park and recreation board be affiliated with the same political party if the waiver is necessary due to the absence of persons who are willing to serve on the town park board and who satisfy those requirements.

(SEA 113 § 1 and 2; Effective date: July 1, 2007; Citations affected: 36-10-3-4; 36-10-3-4.1 [New])

MISCELLANEOUS TECHNICAL CHANGES

Legislation Affecting Courts or Creating New Courts

New courts have been created in the following counties:

1. A new superior court judge position is added in Jackson County beginning January 1, 2008. The governor shall appoint a person under IC 3-13-6-1(f) to serve as the initial judge added to the Jackson superior court, who shall serve a term beginning January 1, 2008, and ending December 31, 2010. The initial election for this new office will be the general election on November 2, 2010 for a term beginning January 1, 2011.

(HEA 1001 §§ 213 and 214; Citations affected: 33-33-36-3 [Effective January 1, 2008]; noncode [Effective July 1, 2007])

2. Two new superior court judge positions are added in Floyd County and two new divisions are added to the superior court, a small claims division and a misdemeanor division. The initial election of the two new offices shall occur November 4, 2008 for a term beginning January 1, 2009 for six year terms.

(HEA 1001 §§ 218; 219; 221; Citations affected: 33-33-22-3 [Effective January 1, 2009]; 33-33-22-7 [Effective January 1, 2009] [New]; noncode [effective July 1, 2007])

Restoration of Right to Possess Firearm

Provisions relating to the loss and restoration of the right to possess a firearm by a person convicted of a crime of domestic violence are deleted from the election code (Title 3) and reenacted in Title 33.

(HEA 1287 §§ 1 and 37; Effective date: July 1, 2007; Citations affected: 3-7-13-5; 33-47-4-7[New])

Voter List Maintenance Programs

A misspelling of the word "voters" is corrected.

(HEA 1084 § 1; Effective date: March 30, 2007; Citations affected IC 3-7-38.2-2)

Recodification of Higher Education Law

A recodification of the laws regarding higher education is enacted, including changes in the description of "institutions of higher education" to "postsecondary educational institutions," which made cross-references changes in the election code.

SEA 526 §§ 7, 8, 9, 10, 11, 12, 13, 14, 15, 16; Effective date: July 1, 2007; Citations affected: 3-6-3.7-2; 3-6-7.3-3; 3-6-5-23; 3-6-6-13; 3-7-24-6; 3-11.5-5-26; 3-11.5-6-29, 3-11.7-5-27; 3-12-2-12; 3-12-4-4)

Name Change of Agency Reflected in Election Statutes

References in the election code to "Aid to Families with Dependent Children (AFDC) program" with respect to a full service registration agency are changed to reflect the agencies new name of "Temporary Assistance for Needy Families (TANF) program".

(SEA 504; § 1; Effective Date: July 1, 2007; Citations affected: 3-7-15-2)

Technical Changes to Description of Persons with a Mental Illness and Persons with a Disability

Changes were made in many statutes which used the description of the "mentally ill" to substitute the phrase "individuals with a mental illness" and from persons who are "disabled" to persons "with a disability." Conforming changes were made to the election code regarding these phrases.

(SEA 94 § 4, 5, 6; Effective date: May 2, 2007; Citations affected: 3-5-5-17; 3-6-6-40; 3-7-16-2)

Jury Selection Rules

The provisions concerning jury selection are consolidated into one chapter of the Indiana Code, and related provisions previously outside of this chapter are repealed. The new legislation conforms the jury selection statutes to the jury selection rules adopted by the Indiana Supreme Court.

(HEA 1287 §§ 2-38; Effective date: July 1, 2007; Citations affected: 33-28-5-1; 33-28-5-2; 33-28-5-3; 33-28-5-3.5; 33-28-5-5; 33-28-5-7; 33-28-5-9; 33-28-5-10; 33-28-5-12; 33-28-5-13; 33-28-5-14; 33-28-5-16; 33-28-5-17; 33-28-5-18; 33-28-5-20; 33-28-5-21; 33-28-5-22; 33-28-5-23; 33-28-5-24; 33-28-5-24.3; 33-29-1-8; 33-33-10-11; 33-33-87-17; 33-35-5-5; 33-37-10-1; 33-37-11-3; 34-35-5-2; 35-34-2-3; 35-34-2-14; 35-34-2-15; 35-36-6-11; 35-41-1-6.3; 35-47-1-7; 35-47-2-1; 35-47-4-6; 35-47-4-7)

(The following statutes are repealed effective July 1, 2007: IC 33-28-4; IC 33-28-5-4; IC 33-28-5-6; IC 33-28-5-11; IC 33-28-5-15; IC 33-28-5-19; IC 33-28-6; IC 33-33-2-23; IC 33-33-6-6; IC 33-33-10-14; IC 33-33-27-7; IC 33-33-27.2-8; IC 33-33-27.2-9; IC 33-33-27.3-9; IC 33-33-29-5; IC 33-33-30-8; IC 33-33-32-7; IC 33-33-43-5; IC 33-33-45-45; IC 33-33-47-7; IC 33-33-49-21; IC 33-33-58-10; IC 33-33-71-4; IC 33-33-71-19; IC 33-33-78-10; IC 33-33-79.3-11; IC 33-33-79.4-10; IC 33-33-82-21; IC 33-33-84-16; IC 33-33-89.2-9; IC 33-33-89.2-10; IC 33-33-89.3-9; IC 34-36-3-7; IC 34-36-4-1; IC 35-37-1-7)