

First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

HOUSE ENROLLED ACT No. 1217

AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 3-5-2-5.3 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 5.3. "Board of elections and registration" refers to a board of elections and registration established under any of the following:**

- (1) IC 3-6-5.2.
- (2) IC 3-6-5.4.
- (3) IC 3-6-5.6.

SECTION 2. IC 3-5-2-15.9 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 15.9. "County election board" refers to a board established by IC 3-6-5-1.**

SECTION 3. IC 3-5-2-16.2, AS AMENDED BY P.L.74-2017, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 16.2. "County voter registration office" means the following:**

- (1) A board of registration established under IC 3-7-12.
- (2) A board of elections and registration. ~~established under IC 3-6-5.2 or IC 3-6-5.4.~~
- (3) The office of the circuit court clerk, in a county in which a board has not been established under subdivision (1) or (2).

SECTION 4. IC 3-6-5.6 IS ADDED TO THE INDIANA CODE AS

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A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:

Chapter 5.6. Porter County Board of Elections and Registration

Sec. 1. This chapter applies to a county having a population of more than one hundred fifty thousand (150,000) but less than one hundred seventy thousand (170,000).

Sec. 1.1. (a) On July 1, 2019, the county election board is abolished and all of its functions, powers, and duties are transferred to the board established by section 3 of this chapter.

(b) On July 1, 2019, the records, property, and appropriations of the county election board are transferred to the board established by section 3 of this chapter.

(c) This section expires July 1, 2024.

Sec. 2. As used in this chapter, "board" refers to the board of elections and registration established by section 3 of this chapter.

Sec. 3. The board of elections and registration is established and shall be known as the _____ (name of county) board of elections and registration.

Sec. 4. The board is comprised of the following five (5) members:

(1) The county chairmen of the major political parties of the county shall each appoint two (2) members of the board.

Members of the board appointed under this subdivision:

(A) must be voters of the county;

(B) serve a term of two (2) years or until their successors are appointed.

(2) The circuit court clerk, who is an ex officio member of the board.

Sec. 5. (a) A person who is a candidate for elected office or a member of a candidate's committee may not be appointed as a member of the board.

(b) If an appointed member becomes a:

(1) candidate for elected office; or

(2) member of a candidate's committee;

the member may not continue to serve on the board.

(c) An appointed member may not hold elected office while a member of the board.

(d) The circuit court clerk may not be a member of a candidate's committee other than the clerk's own candidate's committee.

Sec. 6. Each member of the board shall be paid an annual salary of not less than five thousand dollars (\$5,000). The salaries of the



board members shall be fixed in the manner prescribed by IC 36-2-5 and paid out of the county general fund in accordance with IC 3-5-3-1 as other election expenses are paid.

Sec. 7. (a) The board has all of the powers and duties given in this title (and powers and duties concerning elections or voter registration given in other titles of the Indiana Code) to the following:

- (1) The county election board.
- (2) The board of registration.
- (3) The circuit court clerk.
- (4) The county executive.

(b) The director appointed under section 8 of this chapter shall perform all the duties of the circuit court clerk under this title and perform the election or voter registration duties of the circuit court clerk under other titles of the Indiana Code. The board shall perform all the duties of the county executive under this title and perform the election duties of the county executive under other titles of the Indiana Code.

Sec. 8. (a) The board may vest day to day operations in a director of the board and in an assistant director of the board.

(b) The circuit court clerk shall appoint the director and the assistant director, subject to the following:

- (1) The director and the assistant director may not be members of the same political party.
- (2) The appointment of the director and the assistant director is subject to the approval of the board, as follows:
 - (A) At least three (3) members of the board must approve the appointment of the director and the assistant director.
 - (B) At least two (2) of the board members who vote to approve an appointment may not be members of the same political party.

(c) The assistant director shall receive an annual salary of not less than two thousand dollars (\$2,000) less than the salary of the director.

(d) The number and compensation of the employees of the board shall be fixed in the manner prescribed by IC 36-2-5 and paid out of the county general fund in accordance with IC 3-5-3-1 as other election expenses are paid.

(e) The director and the assistant director shall each appoint one-half (1/2) of the board employees, subject to the following:

- (1) A board employee may not be a relative (as defined in IC 3-6-5.9-3) of either individual making an appointment



under this section.

(2) At least three (3) members of the board must approve the appointment of an employee.

(3) At least two (2) of the board members who vote to approve an appointment may not be members of the same political party.

(f) The director and the assistant director serve at the pleasure of the appointing clerk. The board employees serve at the pleasure of the appointing director or assistant director respectively.

Sec. 9. The board may, by a vote of a majority of the members of the board, hire attorneys to provide legal services for the board, as determined by the board.

Sec. 10. Except as expressly provided by statute, an appeal may be taken from a decision of the board to the circuit court or superior court of the county. An appeal taken under this section must be filed not later than thirty (30) days after the board makes the decision subject to the appeal.

SECTION 5. IC 3-6-5.9 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:

Chapter 5.9. Appointment of Members of County Election Boards and Boards of Elections and Registration

Sec. 1. (a) This chapter applies only to an appointed member of a board.

(b) This chapter does not apply to a member of a board who serves on the board by virtue of the office the individual holds.

Sec. 2. As used in this chapter, "board" refers to any of the following:

- (1) A county election board.
- (2) A board of elections and registration.

Sec. 3. As used in this chapter, "relative" of an individual refers to any of the following:

- (1) The individual's spouse.
- (2) A parent of the individual or a parent of the individual's spouse.
- (3) A child of the individual or a child of the individual's spouse.
- (4) A sibling of the individual or a sibling of the individual's spouse.
- (5) An aunt or an uncle of the individual or an aunt or an uncle of the individual's spouse.
- (6) A niece or nephew of the individual or a niece or nephew



of the individual's spouse.

(7) A grandparent of the individual or a grandparent of the individual's spouse.

(8) A grandchild of the individual or a grandchild of the individual's spouse.

Sec. 4. An appointed member of a board may not be a relative of any individual that has the authority to appoint a member of the board.

SECTION 6. IC 3-7-12-1, AS AMENDED BY P.L.225-2011, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. (a) This section does not apply to the following counties:

(1) A county in which a board of elections and registration is established. ~~under IC 3-6-5.2 or IC 3-6-5.4.~~

(2) A county containing a consolidated city.

(3) A county in which a board of registration was established by IC 3-7-12-3 (before its repeal).

(4) A county in which a board of registration exists under an order adopted by a county acting under this chapter.

(b) The circuit court clerk:

(1) is the voter registration officer of each county; and

(2) shall supervise the registration of voters of the county.

SECTION 7. IC 3-7-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. As used in this chapter, "board of registration" includes a board of elections and registration. ~~established under IC 3-6-5.2 or IC 3-6-5.4.~~

SECTION 8. IC 3-7-12-4, AS AMENDED BY P.L.225-2011, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) This section does not apply to:

(1) a county in which a board of elections and registration is established; ~~under IC 3-6-5.2 or IC 3-6-5.4;~~ or

(2) a county containing a consolidated city.

(b) After June 30, 2011, the county executive may adopt an order by the unanimous vote of the entire membership of the county executive to:

(1) establish a board of registration; or

(2) rescind a previously adopted order establishing a board of registration.

SECTION 9. IC 3-7-12-5.5, AS ADDED BY P.L.225-2011, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5.5. (a) Except as provided in subsection (b), this section applies to a county in which a board of registration was



established by IC 3-7-12-3 (before its repeal).

(b) This section does not apply to any of the following:

(1) A county in which a board of elections and registration is established. ~~under IC 3-6-5.2 or IC 3-6-5.4.~~

(2) A county containing a consolidated city.

(c) A county executive may adopt an order by the unanimous vote of the entire membership of the county executive to:

(1) abolish the board of registration; and

(2) designate the circuit court clerk as the voter registration officer of the county to supervise the registration of voters of the county.

(d) An order adopted under subsection (c) during the final sixty (60) days before an election becomes effective on the day following the election.

SECTION 10. IC 3-11-4-4, AS AMENDED BY P.L.169-2015, SECTION 98, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) Applications may be made on application forms approved by the election division by any of the following means:

(1) In person.

(2) By fax transmission.

(3) By mail (including United States mail or bonded courier).

(4) By electronic mail with a digital image of the application and signature of the applicant.

(b) Application forms shall:

(1) be furnished to a central committee of the county at the request of the central committee;

(2) be:

(A) mailed;

(B) transmitted by fax; or

(C) transmitted by electronic mail with a digital image of the application;

upon request, to a voter; and

(3) be delivered to a voter in person who applies at the circuit court clerk's office.

(c) A county election board shall accept an application for an absentee ballot transmitted by fax even though the application is delivered to the county election board by a person other than the person submitting the application.

(d) When an application is received under subsection (a)(4), the circuit court clerk's office (or, in a county ~~subject to IC 3-6-5.2 or IC 3-6-5.4,~~ **for which a board of elections and registration is established**, the office of the board of elections and registration) shall



send an electronic mail receipt acknowledging receipt of the voter's application.

SECTION 11. IC 3-11-4-5.7, AS AMENDED BY P.L.169-2015, SECTION 100, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5.7. (a) As used in this section, "MOVE" refers to the Military and Overseas Voter Empowerment Act (P.L. 111-84, Division A, Title V, Subtitle H (Section 575 et seq.)).

(b) As used in this section, "voter" refers only to either of the following:

(1) An absent uniformed services voter.

(2) An overseas voter.

(c) Except as expressly provided by law, the state delegates its responsibilities to carry out the requirements of MOVE to each county election board or board of elections and registration. ~~established under IC 3-6-5.2 or IC 3-6-5.4~~.

(d) To implement 52 U.S.C. 20302, electronic mail, fax, and web publication are designated as means of communication for a voter to request a voter registration application and an absentee ballot application from the election division, a county election board, or a county voter registration office.

(e) An office described in subsection (d) that receives an electronic mail or fax from a voter shall provide an absentee ballot application or a voter registration application by electronic mail or fax to the voter if:

(1) requested by the voter; and

(2) the voter provides an electronic mail address or a fax number that permits the office to send an application not later than the end of the first business day after the office receives the communication from the voter.

If the electronic mail address or the fax number provided by the voter does not permit the office to send the voter an application not later than the end of the first business day after the office receives the communication, the office shall send the application to the voter by United States mail.

(f) As required by 52 U.S.C. 20302, to the extent practicable and permitted under Indiana law (including IC 3-7 and IC 5-14-3), an office described in subsection (d) shall ensure that the procedures used to transmit an absentee ballot application or a voter registration application to an absent uniformed services voter or overseas voter protect the security and integrity of the application request processes, and that the privacy of the identity and other personal data of the voter who requests or is sent an application under subsection (e) is protected throughout the process of making the request or being sent the



application.

(g) As required under 52 U.S.C. 20302, an office described in subsection (d) shall include information regarding the use of electronic mail, fax, and web publication with all informational and instructional materials that are sent with an absentee ballot application or an absentee ballot to an absent uniformed services voter or overseas voter.

(h) To implement Section 580 of MOVE, and in accordance with IC 3-7-26.3-3, the secretary of state, with the approval of the election division, shall develop a free access system that permits an absent uniformed services voter or overseas voter to determine whether the voter's absentee ballot has been received by the appropriate county election board (or board of elections and registration), regardless of the manner in which the absentee ballot was transmitted by the voter to the board. To the extent permitted by IC 3-7 and IC 5-14-3, the system must contain reasonable procedures to protect the security, confidentiality, and integrity of personal information collected, stored, or otherwise used on the system.

SECTION 12. IC 3-11-9-1, AS AMENDED BY P.L.66-2010, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. This chapter applies to:

- (1) each precinct; and
- (2) absentee voting, including the casting of an absentee ballot before an absentee voter board:
 - (A) in the office of the:
 - (i) circuit court clerk; or
 - (ii) board of elections and registration; ~~in a county subject to IC 3-6-5.2 or IC 3-6-5.4;~~ or
 - (B) at a satellite office established under IC 3-11-10-26.3.

SECTION 13. IC 3-11-15-13.1, AS AMENDED BY P.L.190-2011, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 13.1. (a) If a voting system has the capability, the voting system must display on the medium used by the voter to cast the voter's ballot the name of each candidate.

(b) A county election board or a board of elections and registration ~~established under IC 3-6-5.2 or IC 3-6-5.4)~~ may require a voting system to display on the medium used by the voter to cast the voter's ballot a ballot number or other candidate designation uniquely associated with the candidate.

SECTION 14. IC 3-11-18.1-3, AS ADDED BY P.L.1-2011, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. (a) A county must comply with this section to become a vote center county.

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(b) As used in this section, "board" refers to any of the following:

- (1) The county election board.
- (2) The board of elections and registration, ~~established under IC 3-6-5.2 or IC 3-6-5.4.~~

(c) The board shall hold a public hearing to present a draft plan for administration of vote centers in the county.

(d) After presentation of the draft plan under subsection (c), the board shall accept written public comments on the draft plan.

(e) At least thirty (30) days after the hearing held under subsection (c), the board shall hold a public hearing to consider the following:

- (1) The draft plan.
- (2) The written public comments.
- (3) Any other public comment that the board may permit on the draft plan.

(f) After consideration of the draft plan and the public comments, the board may do the following:

- (1) Adopt an order approving the draft plan.
- (2) Amend the draft plan and adopt an order approving the amended draft plan.

The board may adopt the order to approve a plan only by unanimous vote of the entire membership of the board.

(g) All members of the board must sign the order adopting the plan.

(h) The order and the adopted plan must be filed with the election division and must include a copy of:

- (1) a resolution adopted by the county executive; and
- (2) a resolution adopted by the county fiscal body;

approving the designation of the county as a vote center county.

SECTION 15. IC 3-11-18.1-15, AS ADDED BY P.L.225-2011, SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 15. (a) A county may amend a plan adopted with a county election board's order under section 3 of this chapter.

(b) For a county to amend its plan:

- (1) the county election board or board of elections and registration, ~~established under IC 3-6-5.2 or IC 3-6-5.4~~); by unanimous vote of the entire membership of the board, must approve the plan amendment;
- (2) all members of the board must sign the amendment; and
- (3) the amendment must be filed with the election division.

(c) A plan amendment takes effect immediately upon filing with the election division, unless otherwise specified by the county election board.

SECTION 16. IC 3-11.5-1-1.1, AS AMENDED BY P.L.266-2013,



SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1.1. This article applies to **the following counties:**

- (1) A county subject to IC 3-11.5-4-0.5. ~~or~~
- (2) A county that has a board of elections and registration established under IC 3-6-5.6.**
- ~~(2)~~ **(3)** A county whose county election board, by unanimous vote of the board's entire membership, has adopted a resolution under IC 3-11.5-5-1 or IC 3-11.5-6-1.

SECTION 17. IC 6-1.1-20-1.8, AS ADDED BY P.L.219-2007, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1.8. As used in this chapter, "county voter registration office" means the following:

- (1) A board of registration established under IC 3-7-12 or by a county executive acting under IC 3-7-12.
- (2) A board of elections and registration ~~established under IC 3-6-5.2 or IC 3-6-5.4.~~ **(as defined in IC 3-5-2-5.3).**
- (3) The office of the circuit court clerk of a county in which a board has not been established as described in subdivision (1) or (2).



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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