



2016 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 2016. 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 2016 Regular Session of the Indiana General Assembly enacted the following election-related bills:

Public Law 20-2016 (Senate Enrolled Act 57): Constitutional Amendment Ballot Language
Public Law 21-2016 (Senate Enrolled Act 61): Voting Systems and Ballots
Public Law 83-2016 (House Enrolled Act 1288): Poll Takers
Public Law 84-2016 (House Enrolled Act 1322): Jurisdiction of Courts in Election Matters
Public Law 127-2016 (Senate Enrolled Act 93): Terms for School Board Members in East Chicago
Public Law 138-2016 (Senate Enrolled Act 279): Referendum
Public Law 188-2016 (House Enrolled Act 1372): Public Officer Bonds

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

Public Law 22-2016 (Senate Enrolled Act 81): Administration of Oath by Justices and Judges
Public Law 149-2016 (House Enrolled Act 1036): Technical Corrections
Public Law 198-2016 (House Enrolled Act 1087): Bureau of Motor Vehicles
Public Law 215-2016 (House Enrolled Act 1173): Technical Corrections

VOTING SYSTEMS

Voting Systems Standards and Testing

The Voluntary Voting System Guidelines adopted by the United States Election Assistance Commission, as amended on March 31, 2015, were incorporated into Indiana law as an alternative set of guidelines that voting systems must meet in order to be approved by the Indiana Election Commission for use in Indiana.

When considering the application for the approval of improvement or change to an existing voting system, the Indiana Election Commission may direct that the voting system be tested by an entity other than an independent testing laboratory certified by the Election Assistance Commission if the Indiana Election Commission determines that it is impossible or impractical to have an independent laboratory conduct the testing.

(SEA 61 §§ 11, 12, 13, 14 and 21; Effective date: March 21, 2016; Citations affected: IC 3-11-7-12, IC 3-11-7-15, IC 3-11-7.5-4, IC 3-11-7.5-5, and IC 3-11-15-13.3)

Ballot Instructions and Vote Tabulation in At-Large Races

A voter who wishes to cast a ballot for a candidate for election to an at-large district in a general or municipal election for county council, township board, city common council, or town council on a ballot card voting system or an electronic voting system must make a voting mark for each individual candidate for whom the voter wishes to cast a vote in order for the vote to be counted. A ballot card voting system or electronic voting system may not count any straight party ticket voting mark as a vote for any candidate for at-large offices. At-large contests for county council, township board, city common council, or town council shall be listed on the ballot after all other offices and candidates and before school board offices and candidates.

The straight party voting instruction for ballot card voting systems and electronic voting systems that contain at-large races must conform as nearly as possible to the following:

- (1) To vote a straight (insert political party name) ticket for all (insert political party name) candidates on this ballot, except for candidates described in (2) below, make a voting mark on or in this circle and do not make any other marks on this ballot.
- (2) To vote for any candidate for an at-large office (insert county council, city common council, town council, or township board if those offices appear on this ballot), you must make another voting mark for each candidate you wish to vote for. Your straight party vote will not count as a vote for any candidate for that office.

In a general election, the straight party instruction for a ballot card voting system may be placed on the ballot beside or above the party names and devices. The straight party instruction for an electronic voting system may be placed on the ballot beside or above the party names and devices or in a location within the voting booth that permits the voter to easily read the instructions.

In addition, a ballot card voting system and an electronic voting system that contains an at-large race on the ballot must include the following instruction immediately below the name of the office and above the name of the first candidate in the at-large race:

Vote for not more than (insert the number of candidates to be elected) candidate(s) for this office. To vote for any candidate for this office, you must make a voting mark for each candidate you wish to vote for. A straight party vote will not count as a vote for any candidate for this office.

(SEA 61 §§ 4-10, 15-20, 22- 25; Effective date: March 21, 2016; Citations affected: IC 3-11-2-10, IC 3-11-2-12, IC 3-11-2-12.2, IC 3-11-2-12.4[New], IC 3-11-2-12.9, IC 3-11-7-4, IC 3-11-7-11.5, IC 3-11-7.5-10, IC 3-11-13-11, IC 3-11-13-14, IC 3-11-13-31.7, IC 3-11-14-3.5, IC 3-11-14-23, IC 3-12-1-5, IC 3-12-1-7, IC 3-12-1-7.5, IC 3-12-1-8)

Ballot Instructions Other Than Straight Party and At-Large Instructions

In a primary or general election, instructions on how to make a voting mark for paper ballots, ballot card voting systems, or electronic voting systems may be printed directly below the title of the ballot. This would place them before any races on the ballot.

OFFICIAL PRIMARY BALLOT
_____ Party (insert the name of the political party)

As an option, counties may post in the voting booth instructions regarding how to make a voting mark instead of including these specific instructions (that is, how to make a voting mark) on the ballot for either a ballot card voting system or an electronic voting system.

In general elections, counties using traditional hand-counted paper ballots have the option of locating instructions on how to make a voting mark, instructions regarding independent candidates, and instructions regarding write-in candidates either at the top of the ballot with other general instructions or posted in each voting booth. (Counties using electronic voting systems may already do this for their electronic voting systems in general elections under current law pursuant to IC 3-11-14-3.5(l).)

(SEA 61 §§ 1-4; Effective date: March 21, 2016; Citations affected: IC 3-10-1-19, IC 3-10-1-19.5, IC 3-11-2-8, IC 3-11-2-10)

State Law Providing for Grandfathering of Voting Systems Updated

The certification of all voting systems will expire on October 1, 2017, unless recertified by the Indiana Election Commission. A county may continue to use a voting system that is not recertified after October 1, 2017 (2013 under former law) provided that the following conditions are met:

- 1) the voting system was certified by the Indiana Election Commission before October 1, 2017;
- 2) the voting system was acquired by the county before October 1, 2017; and
- 3) the voting system otherwise complies with Indiana election law and the federal Help America Vote Act.

(SEA 61 § 21; Effective date: March 21, 2016; Citation affected: IC 3-11-15-13.3)

CANDIDATES AND OFFICEHOLDERS

Staggered Terms for East Chicago School Board Members

The three (3) members of the East Chicago school board that are elected from districts shall be elected in 2016 for a two (2) year term. The successors of these three (3) members shall be up for election in the general election of 2018 and every four (4) years after.

(SEA 93 §§ 5-10; Effective date unless otherwise indicated: March 23, 2016; Citations affected: IC 20-23-17.2-3 [repealed], IC 20-23-17.2-3 [repealed], IC 20-23-17.2-3.1 [effective January 1, 2017], IC 20-23-17.2-3.3 [New; Effective July 1, 2016], IC 20-23-17.2-4 [repealed], IC 20-23-17.2-9 [repealed])

Bonds

State law is amended to require surety bonds for certain individuals having public fiscal responsibilities to permit the following:

- (1) The filing of the bond in the county where the person currently holds office rather than the county of the officer's residence;
- (2) The fiscal body of a county, city or town to use a name or position schedule bond for officers; and
- (3) The use of a continuous bond.

State law also now requires a crime insurance policy approved by the fiscal body of a county, city, or town to include a faithful performance endorsement.

School board members who receive, process, deposit, disburse, or otherwise have access to school corporation funds in an amount that exceeds \$5,000 per year, must give a bond for the faithful performance of the individual's duties (former law did not specify a threshold amount).

(HEA 1372 §§ 2, 3 and 9; Effective date: July 1, 2016; Citations affected: IC 5-4-1-5.1; IC 5-4-1-18; IC 20-25-4-5)

LOCAL ELECTION ADMINISTRATION

Jurisdiction of Courts over Election Issues

State laws requiring certain election related appeals and other legal actions to only be filed in circuit court are amended to provide that such appeals and other actions may be filed in circuit, superior or probate court. The following appeals and actions may now be filed or taken in circuit, superior, or probate court:

- 1) Appeal from a decision by a county election board, or the Lake or Tippecanoe County boards of elections and registration.
- 2) Lawsuits to remove certain candidates from the ballot.
- 3) A report, brief, and relevant documents regarding a disagreement between the members of a county election board during the canvass of the vote after an election with respect to how the vote of a precinct should be counted.
- 4) Consolidation of multiple petitions and cross-petitions for local recounts.
- 5) Recounts on public questions.
- 6) Impeachment and actions to remove elected officials from office.
- 7) Appeal of a town council member removed from office by the town council because the member ceases to be a resident of the town or district as required by state law.

(HEA 1322 §§ 3-16 and 23-26; Effective date: July 1, 2016; Citations affected: IC 3-6-5-34, IC 3-6-5.2-9, IC 3-6-5.4-10, IC 3-8-2-23, IC 3-8-2.5-8, IC 3-8-6-16, IC 3-8-7-29, IC 3-12-4-16, IC 3-12-4-17, 3-12-6-8, IC 3-12-12-2, IC 3-12-12-7, IC 3-12-12-8, IC 3-12-12-21, IC 5-8-1-23, IC 5-8-1-34, IC 5-8-1-35, IC 5-8-5-5)

PUBLIC QUESTIONS (REFERENDA)

Ballot Language for Statewide Public Question Concerning Hunting and Fishing

Pursuant to Article 16, Section 1 of the Constitution of the State of Indiana, two prior successive General Assemblies passed laws (P.L. 224-2014 and P.L. 258-2015) that would require a public question in 2016 regarding a right to hunt, fish, and harvest wildlife. During its 2016 session, the General Assembly prescribed the form of the public question pursuant to IC 3-10-3 as follows:

Public Question #1

Shall the Constitution of the State of Indiana be amended by adding a Section 39 to Article 1 to provide that the right to hunt, fish, and harvest wildlife shall be forever preserved for the public good, subject only to the laws prescribed by the General Assembly and rules prescribed by virtue of the authority of the General Assembly to:

- (1) promote wildlife conservation and management; and
- (2) preserve the future of hunting and fishing?"

(SEA 57 § 1; Effective date: July 1, 2016; Citation affected: noncode)

Controlled Project Petition/Remonstrance and Public Question (Referendum)

For smaller controlled projects in a political subdivision that do not qualify for a public question (referendum) on the ballot, the petition requesting application of the petition and remonstrance process requires the lesser of the following:

- 1) Five hundred (500) persons who are either owners of property or registered voters in the political subdivision (former law required one hundred (100) persons); or
- 2) Five percent (5%) of the registered voters residing within the political subdivision.

For controlled projects in a political subdivision that do qualify for a public question on the ballot, the petition requesting the application of the local public question process requires the lesser of the following:

- 1) Five hundred (500) persons who are either owners of property or registered voters in the political subdivision (former law required one hundred (100) persons); or
- 2) Five percent (5%) of the registered voters residing within the political subdivision.

If the county voter registration office does not determine that at least five hundred twenty-five (525) persons (former law specified this threshold as one hundred twenty-five (125) persons) who signed the petition are registered voters, the county voter registration office shall forward a copy of the petition to the county auditor for a determination as to whether persons on the petition who are not registered voters own property within the political subdivision.

(SEA 279 §§ 1 and 2; Effective date: July 1, 2016; Citations affected: IC 6-1.1-20-3.1, IC 6-1.1-20-3.5)

Public Question (Referendum) to Allow School Corporation to Extend Tax Levy

A referendum to allow a school corporation to extend a referendum tax levy is now authorized by state law. The referendum question must read as follows:

"For the _____ (insert number) calendar year or years immediately following the holding of the referendum, shall the school corporation continue to impose a property tax rate that does not exceed _____ (insert amount) cents (\$0.____) (insert amount) on each one hundred dollars (\$100) of assessed valuation and for the purpose of funding _____ (insert short description of purposes)?

The tax rate requested in this referendum was originally approved by the voters in the _____ (insert name of the school corporation) in _____ (insert the year in which the referendum tax levy was approved)."

A referendum tax levy may be extended no longer than the number of years for which the expiring referendum tax levy was imposed.

A resolution to extend a referendum tax levy must be:

- 1) adopted by the governing body of a school corporation; and
- 2) approved in a referendum under this chapter;

before December 31 of the final calendar year in which the school corporation's previously approved referendum levy is imposed under this chapter.

A resolution to extend a referendum tax levy passed by the school board must be filed with the department of local government finance who shall review the language of the proposed referendum and either approve or reject the language.

(SEA 279 §§ 3-8; Effective date: March 23, 2016; Citations affected: IC 20-46-1-5.5[New], IC 20-46-1-8, IC 20-46-1-8.5[New], IC 20-46-1-10, and IC 20-46-1-10.1 [New])

MISCELLANEOUS CHANGES

Poll Takers

State law requiring a person to provide information for a poll taken by an authorized poll taker who arrives at the person's residence and presents credentials is repealed. Poll takers (for example, campaign volunteers) may still go door-to-door. This legislation repealed the requirement that a voter answer the poll takers' questions.

State laws requiring the proprietor or manager of a place of lodging (an apartment or other residential building), or an association of co-owners or a condominium, to maintain lists of residents for certain periods of time before and after an election and provide those lists to a poll taker are repealed. A proprietor or manager of a place of lodging must allow a poll taker for a political party or an independent candidate for a federal or statewide office to enter a place of lodging or a condominium during reasonable hours to take a poll of residents.

The state law making it a Class C infraction for a poll taker taking a poll to use a poll list for any purpose except conducting a campaign or voter registration, or for a poll taker to give, loan, sell, or transfer the poll list to a person who intends to use the list for any purpose except conducting a campaign or voter registration, was repealed.

(HEA 1288 §§ 1-6; Effective date: March 21, 2016; Citations affected: IC 3-6-11-4[repealed], IC 3-6-11-5, IC 3-6-11-6, IC 3-6-11-7, IC 3-6-11-7.5[repealed], IC 3-14-3-24[repealed])

Administration of Oath by Justices and Judges

Justices and judges of courts in Indiana may administer oaths and take acknowledgements on all documents pertaining to all matters where an oath is required anywhere in Indiana (former law only permitted justices and judges to administer oaths and take acknowledgements in their respective jurisdictions).

(SEA 81 § 3; Effective date: July 1, 2016; Citation affected: IC 33-42-4-1)

State Law Regarding Attorney General Qualifications Made Gender Neutral

State law with respect to Indiana attorney general qualifications and bonding was amended to make the state law gender neutral.

(HEA 1173 § 31; Effective date: July 1, 2016; Citation affected: IC 4-6-1-3)

State Law Regarding Placement of Signs on Property of Political Subdivision Relocated

State law indicating that a political subdivision authorizing or permitting electioneering material to be displayed or placed on its real or personal property must permit the display or placement of these materials from any person subject to the same time, place and manner restrictions is relocated to another section of state law.

(HEA 1036 §§ 91 and 92; Effective date: March 23, 2016; Citations affected: IC 36-1-3-9(c)[repealed], IC 36-1-4-21[New])

BMV Election Related Statutes Clarified, Updated or Relocated

State law is clarified to indicate that a reference to a “license branch” in the election code refers to a BMV location that provides full BMV services, including vehicle title, vehicle registration, driver’s license, and voter registration services. State law cross reference in election statute to the definition of “bureau” is corrected to account for the relocation of that state law in the Indiana code. Provisions requiring the BMV to post notices regarding voter registration and provide mail-in registration forms are relocated elsewhere in the Indiana code.

(HEA 1087 §§ 1, 2, 3, 180, 187, 195 and 197; Effective date: July 1, 2016; Citations affected: IC 3-7-10-2[New], IC 3-7-24-2, IC 3-7-26.7-3, IC 9-14-1[repealed], IC 9-14-7[New], IC 9-14-1-4[New], IC 9-16[repealed])

Updating or Correcting References in State Law

Internal subsection cross reference in statute regarding precinct committeemen is corrected.

(HEA 1036 § 7; Effective date: March 23, 2016; Citation affected: IC 3-10-1-4.6)

Reference to electronic poll “list” corrected to electronic poll “book” in statute setting forth standards for electronic poll books.

(HEA 1036 § 8; Effective date: March 23, 2016; Citation affected: IC 3-11-8-10.3)

Reference in controlled project public question (referendum) statute to voting on a public question at “a public question” is corrected to voting on a public question “at an election.”

(HEA 1036 § 25; Effective date: March 23, 2016; Citation affected: IC 6-1.1-20-3.6)