



Reprinted
March 17, 2015

ENGROSSED SENATE BILL No. 50

DIGEST OF SB 50 (Updated March 16, 2015 4:32 pm - DI 75)

Citations Affected: IC 3-8; IC 3-12.

Synopsis: Challenges to a candidate's eligibility. Authorizes a challenge to a candidate's eligibility to seek a office to be filed by a county chairman of a major political party of a county in which any part of the election district the candidate seeks to represent is located in addition to a registered voter of the election district the candidate seeks to represent (as current law provides). Provides that if a candidate for nomination or for election to an office is found ineligible and there are no other candidates for nomination or election, the resulting candidate or office vacancy is to be filled as is otherwise provided by law.

Effective: Upon passage; July 1, 2015.

Young R Michael, Crider

(HOUSE SPONSOR — FRIZZELL)

January 6, 2015, read first time and referred to Committee on Elections.
February 2, 2015, amended, reported favorably — Do Pass.
February 5, 2015, read second time, ordered engrossed. Engrossed.
February 10, 2015, read third time, passed. Yeas 45, nays 5.

HOUSE ACTION

March 2, 2015, read first time and referred to Committee on Elections and Apportionment.
March 12, 2015, reported — Do Pass.
March 16, 2015, read second time, amended, ordered engrossed.

ES 50—LS 6355/DI 102



Reprinted
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First Regular Session 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

ENGROSSED SENATE BILL No. 50

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

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

- 1 SECTION 1. IC 3-8-1-2, AS AMENDED BY P.L.194-2013,
2 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: Sec. 2. (a) The commission, a county election board,
4 or a town election board shall act if a candidate (or a person acting on
5 behalf of a candidate in accordance with state law) has filed any of the
6 following:
7 (1) A declaration of candidacy under IC 3-8-2 or IC 3-8-5.
8 (2) A request for ballot placement in a presidential primary under
9 IC 3-8-3.
10 (3) A petition of nomination or candidate's consent to nomination
11 under IC 3-8-2.5 or IC 3-8-6.
12 (4) A certificate of nomination under IC 3-8-5, IC 3-8-7,
13 IC 3-10-2-15, or IC 3-10-6-12.
14 (5) A certificate of candidate selection under IC 3-13-1 or
15 IC 3-13-2.
16 (6) A declaration of intent to be a write-in candidate under

ES 50—LS 6355/DI 102



1 IC 3-8-2-2.5.

2 (7) A contest to the denial of certification under IC 3-8-2.5 or
3 IC 3-8-6-12.

4 (b) The commission has jurisdiction to act under this section with
5 regard to any filing described in subsection (a) that was made with the
6 election division. Except for a filing under the jurisdiction of a town
7 election board, a county election board has jurisdiction to act under this
8 section with regard to any filing described in subsection (a) that was
9 made with the county election board, county voter registration office,
10 or the circuit court clerk. A town election board has jurisdiction to act
11 under this section with regard to any filing that was made with the
12 county election board, the county voter registration office, or the circuit
13 court clerk for nomination or election to a town office.

14 (c) Except as provided in subsection (e), before the commission or
15 election board acts under this section, a registered voter of the election
16 district that a candidate seeks to represent **or a county chairman of a**
17 **major political party of a county in which any part of the election**
18 **district is located** must file a sworn statement with the election
19 division or election board:

- 20 (1) questioning the eligibility of **a the** candidate to seek the office;
21 and
22 (2) setting forth the facts known to the voter **or county chairman**
23 **of a major political party of a county** concerning this question.

24 (d) The eligibility of a write-in candidate or a candidate nominated
25 by a convention, petition, or primary may not be challenged under this
26 section if the commission or board determines that all of the following
27 occurred:

- 28 (1) The eligibility of the candidate was challenged under this
29 section before the candidate was nominated.
30 (2) The commission or board conducted a hearing on the affidavit
31 before the nomination.
32 (3) This challenge would be based on substantially the same
33 grounds as the previous challenge to the candidate.

34 (e) Before the commission or election board can consider a contest
35 to the denial of a certification under IC 3-8-2.5 or IC 3-8-6-12, a
36 candidate (or a person acting on behalf of a candidate in accordance
37 with state law) must file a sworn statement with the election division
38 or election board:

- 39 (1) stating specifically the basis for the contest; and
40 (2) setting forth the facts known to the candidate supporting the
41 basis for the contest.

42 (f) Upon the filing of a sworn statement under subsection (c) or (e),



1 the commission or election board shall determine the validity of the
2 questioned:

- 3 (1) declaration of candidacy;
4 (2) declaration of intent to be a write-in candidate;
5 (3) request for ballot placement under IC 3-8-3;
6 (4) petition of nomination;
7 (5) certificate of nomination;
8 (6) certificate of candidate selection issued under IC 3-13-1-15 or
9 IC 3-13-2-8; or
10 (7) denial of a certification under IC 3-8-2.5 or IC 3-8-6-12.

11 (g) The commission or election board shall deny a filing if the
12 commission or election board determines that the candidate has not
13 complied with the applicable requirements for the candidate set forth
14 in the Constitution of the United States, the Constitution of the State of
15 Indiana, or this title.

16 SECTION 2. IC 3-12-8-17, AS AMENDED BY P.L.221-2005,
17 SECTION 121, IS AMENDED TO READ AS FOLLOWS
18 [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) A contest shall be heard
19 and determined by the court without a jury subject to the Indiana Rules
20 of Trial Procedure.

21 (b) The court shall determine the issues raised by the petition and
22 answer to the petition.

23 (c) After hearing and determining a petition alleging that a
24 candidate is ineligible, the court shall declare as elected or nominated
25 the qualified candidate who received the highest number of votes and
26 render judgment accordingly. **If the court rules that the contestee is**
27 **ineligible, and no other individual was a candidate for nomination**
28 **or election, the court shall declare that no candidate has been:**

- 29 (1) **nominated at the primary, and that a ballot vacancy exists**
30 **that the political party may fill under IC 3-13-1 or IC 3-13-2;**
31 **or**
32 (2) **elected at the general or municipal election, and that an**
33 **office vacancy exists that may be filled under IC 3-13, subject**
34 **to the right of an individual currently serving in the office to**
35 **hold over in that office under Article 15, Section 3 of the**
36 **Constitution of the State of Indiana.**

37 (d) If the court finds that:

- 38 (1) a mistake in the printing or distribution of the ballots used in
39 the election;
40 (2) a mistake in the programming of an electronic voting system;
41 (3) a malfunction of an electronic voting system; or
42 (4) the occurrence of a deliberate act or series of actions;



1 makes it impossible to determine which candidate received the highest
2 number of votes, the court shall order that a special election be
3 conducted under IC 3-10-8.
4 (e) The special election shall be conducted in the precincts
5 identified in the petition in which the court determines that:
6 (1) ballots containing the printing mistake or distributed by
7 mistake were cast;
8 (2) a mistake occurred in the programming of an electronic voting
9 system;
10 (3) an electronic voting system malfunctioned; or
11 (4) the deliberate act or series of actions occurred.
12 **SECTION 3. An emergency is declared for this act.**



COMMITTEE REPORT

Madam President: The Senate Committee on Elections, to which was referred Senate Bill No. 50, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 15, reset in roman "election".

Page 2, line 16, reset in roman "district that a candidate seeks to represent".

Page 2, line 16, delete "jurisdiction conducting an".

Page 2, delete line 17.

Page 2, line 18, delete "has made a filing described in subsection (a)" and insert "**or a county chairman of a major political party of a county in which any part of the election district is located**".

and when so amended that said bill do pass.

(Reference is to SB 50 as introduced.)

WALKER, Chairperson

Committee Vote: Yeas 7, Nays 2.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred Senate Bill 50, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to SB 50 as printed February 3, 2015.)

SMITH M

Committee Vote: Yeas 11, Nays 0

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 50 be amended to read as follows:

Page 2, line 22, after "voter" insert "**or county chairman of a major political party of a county**".

Page 3, after line 15, begin a new paragraph and insert:

"SECTION 2. IC 3-12-8-17, AS AMENDED BY P.L.221-2005,

ES 50—LS 6355/DI 102



SECTION 121, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) A contest shall be heard and determined by the court without a jury subject to the Indiana Rules of Trial Procedure.

(b) The court shall determine the issues raised by the petition and answer to the petition.

(c) After hearing and determining a petition alleging that a candidate is ineligible, the court shall declare as elected or nominated the qualified candidate who received the highest number of votes and render judgment accordingly. **If the court rules that the contestee is ineligible, and no other individual was a candidate for nomination or election, the court shall declare that no candidate has been:**

(1) nominated at the primary, and that a ballot vacancy exists that the political party may fill under IC 3-13-1 or IC 3-13-2;
or

(2) elected at the general or municipal election, and that an office vacancy exists that may be filled under IC 3-13, subject to the right of an individual currently serving in the office to hold over in that office under Article 15, Section 3 of the Constitution of the State of Indiana.

(d) If the court finds that:

- (1) a mistake in the printing or distribution of the ballots used in the election;
- (2) a mistake in the programming of an electronic voting system;
- (3) a malfunction of an electronic voting system; or
- (4) the occurrence of a deliberate act or series of actions;

makes it impossible to determine which candidate received the highest number of votes, the court shall order that a special election be conducted under IC 3-10-8.

(e) The special election shall be conducted in the precincts identified in the petition in which the court determines that:

- (1) ballots containing the printing mistake or distributed by mistake were cast;
- (2) a mistake occurred in the programming of an electronic voting system;
- (3) an electronic voting system malfunctioned; or
- (4) the deliberate act or series of actions occurred.

SECTION 3. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

(Reference is to ESB 50 as printed March 13, 2015.)

SMITH M

