

HOUSE BILL No. 1042

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-8-1-5; IC 3-12-1-20; IC 3-13-10-1.3; IC 36-6.

Synopsis: Township trustees and board members. Provides that in a county other than Marion County, an individual may not be a candidate for township trustee or a member of the township board if a member of the individual's immediate family (parent, sibling, or spouse) is the township trustee or a member of the township board and whose term of office does not end after that election. Provides that in a county other than Marion County, if an immediate family member of a candidate for election to a township board is elected as the township trustee, the candidate for election to the township board is not elected to the township board (if the township board candidate would otherwise be elected). Provides that in a county other than Marion County, if two or more candidates for election to a township board are immediate family members, only one of the candidates can be elected. Provides that if an individual is an immediate family member of the township trustee of a township, or of a member of the township board of the township, that individual is not eligible to fill a vacancy in the office of township trustee or township board member.

Effective: July 1, 2019.

Bacon

January 3, 2019, read first time and referred to Committee on Local Government.



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 BILL No. 1042

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 3-8-1-5, AS AMENDED BY P.L.74-2017,
2 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 5. (a) This section does not apply to a candidate
4 for federal office.
5 (b) As used in this section, "felony" means a conviction in any
6 jurisdiction for which the convicted person might have been
7 imprisoned for more than one (1) year.
8 (c) A person is not disqualified under this section for:
9 (1) a felony conviction for which the person has been pardoned;
10 (2) a felony conviction that has been:
11 (A) reversed;
12 (B) vacated;
13 (C) set aside;
14 (D) not entered because the trial court did not accept the
15 person's guilty plea; or
16 (E) expunged under IC 35-38-9; or
17 (3) a person's plea of guilty or nolo contendere at a guilty plea



1 hearing that is not accepted and entered by a trial court.

2 (d) A person is disqualified from assuming or being a candidate for
3 an elected office if **any of the following apply to the person:**

4 (1) The person gave or offered a bribe, threat, or reward to
5 procure the person's election, as provided in Article 2, Section 6
6 of the Constitution of the State of Indiana.

7 (2) The person does not comply with IC 5-8-3 because of a
8 conviction for a violation of the federal laws listed in that statute.

9 (3) In a:

10 (A) jury trial, a jury publicly announces a verdict against the
11 person for a felony;

12 (B) bench trial, the court publicly announces a verdict against
13 the person for a felony; or

14 (C) guilty plea hearing, the person pleads guilty or nolo
15 contendere to a felony.

16 (4) The person has been removed from the office the candidate
17 seeks under Article 7, Section 11 or Article 7, Section 13 of the
18 Constitution of the State of Indiana.

19 (5) The person is a member of the United States armed forces on
20 active duty and prohibited by the United States Department of
21 Defense from being a candidate. ~~or~~

22 (6) The person is subject to:

23 (A) 5 U.S.C. 1502 (the Little Hatch Act); or

24 (B) 5 U.S.C. 7321-7326 (the Hatch Act);

25 and would violate either federal statute by becoming or remaining
26 the candidate of a political party for nomination or election to an
27 elected office or a political party office.

28 **(7) The office is a township office described in IC 36-6-9-2 and**
29 **the person is disqualified from being a candidate for the office**
30 **under IC 36-6-9-4.**

31 (e) The subsequent reduction of a felony to a Class A misdemeanor
32 under IC 35 after the:

33 (1) jury has announced its verdict against the person for a felony;

34 (2) court has announced its verdict against the person for a felony;

35 or

36 (3) person has pleaded guilty or nolo contendere to a felony;

37 does not affect the operation of subsection (d).

38 SECTION 2. IC 3-12-1-20 IS ADDED TO THE INDIANA CODE
39 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
40 1, 2019]: **Sec. 20. (a) This section does not apply in a county**
41 **containing a consolidated city.**

42 **(b) This section applies to an election for either of the following:**



1 **(1) A township trustee.**

2 **(2) A member of a township board.**

3 **(c) IC 36-6-9 applies to determining the result of an election**
4 **described in subsection (b).**

5 SECTION 3. IC 3-13-10-1.3 IS ADDED TO THE INDIANA CODE
6 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
7 1, 2019]: **Sec. 1.3. (a) This chapter does not apply in a county**
8 **containing a consolidated city.**

9 **(b) As used in this section, "immediate family member" has the**
10 **meaning set forth in IC 36-6-9-3.**

11 **(c) An individual who is an immediate family member of**
12 **another individual who serves on the township board may not be**
13 **selected to fill a vacancy in the office of township trustee of that**
14 **township.**

15 **(d) An individual who is an immediate family member of**
16 **another individual who serves either as:**

17 **(1) the township trustee; or**

18 **(2) a member of the township board;**

19 **may not be selected to fill a vacancy in the office of township board**
20 **of that township.**

21 SECTION 4. IC 36-6-6-2.3, AS ADDED BY P.L.10-2018,
22 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 2019]: **Sec. 2.3. (a) This section does not apply to a township**
24 **board in a county containing a consolidated city.**

25 **(b) During the year preceding a general election for the members of**
26 **the township board conducted under section 2 of this chapter, a**
27 **township board may adopt a resolution under this section to provide for**
28 **the staggering of the terms of its members.**

29 **(c) The resolution described in subsection (b) must provide all the**
30 **following:**

31 **(1) That, notwithstanding section 2 of this chapter, the terms of**
32 **the board members elected at the next general election must be as**
33 **follows:**

34 **(A) The candidate who receives the greatest number of votes**
35 **among all the candidates at the election, **subject to IC 36-6-9,****
36 **shall serve a four (4) year term, beginning on January 1 after**
37 **the next general election.**

38 **(B) The candidate who receives the second greatest number of**
39 **votes among all the candidates at the election, **subject to****
40 **IC 36-6-9, shall serve a two (2) year term, beginning on**
41 **January 1 after the next general election.**

42 **(C) The candidate who receives the third greatest number of**



- 1 votes among all the candidates at the election, **subject to**
 2 **IC 36-6-9**, shall serve a two (2) year term, beginning on
 3 January 1 after the next general election.
- 4 (2) That the term of office of each board member elected after the
 5 first election after adoption of the resolution is four (4) years,
 6 beginning January 1 after each board member's general election.
- 7 (d) If a township board adopts a resolution under this section,
 8 election of the board members must occur at the elections as provided
 9 in the resolution.
- 10 (e) If a vacancy occurs in one (1) or more of the offices elected
 11 under subsection (c), because there are fewer candidates than the
 12 number of board members to be elected, the vacancy is filled:
- 13 (1) by a caucus as provided under IC 3-13-10-1, if the office was
 14 last held by a person elected or selected as a candidate of a major
 15 political party; or
- 16 (2) by the board of commissioners of the county under
 17 IC 3-13-10-4, if the office was last held by a person elected or
 18 selected as a candidate of other than a major political party.
- 19 If there is more than one (1) vacancy to be filled, the authority filling
 20 the vacancy determines the length of the term in accordance with
 21 subsection (c) for a person selected to fill a vacancy under this
 22 subsection.
- 23 (f) If a tie occurs among the candidates for an office elected under
 24 subsection (c), the tie is resolved under IC 3-12-9-4. The authority
 25 resolving the tie determines the length of the term in accordance with
 26 subsection (c) for a person selected to fill an office under this
 27 subsection.
- 28 (g) A township board may repeal a resolution adopted under
 29 subsection (b) subject to the following:
- 30 (1) The resolution may not be repealed earlier than twelve (12)
 31 years after the resolution was adopted.
- 32 (2) The resolution may be repealed only in a year in which an
 33 election for members of the township board is not held.
- 34 (3) The resolution must provide for the election of all members of
 35 the township board at the next general election. Notwithstanding
 36 subsection (c)(2) and section 2 of this chapter, the term of all the
 37 members of the township board ends January 1 after the next
 38 general election.
- 39 (4) The term of office of the members elected at the next general
 40 election is four (4) years, beginning January 1 after that general
 41 election.
- 42 (h) A resolution described in subsection (b) or a resolution repealing



1 a resolution previously adopted under subsection (b):

2 (1) must be filed with the circuit court clerk before January 1 of
3 a year in which an election of board members is scheduled to be
4 held; and

5 (2) takes effect when the ordinance is filed with the circuit court
6 clerk.

7 SECTION 5. IC 36-6-9 IS ADDED TO THE INDIANA CODE AS
8 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
9 1, 2019]:

10 **Chapter 9. Certain Township Elections**

11 **Sec. 1. This chapter does not apply in a county containing a**
12 **consolidated city.**

13 **Sec. 2. This chapter applies only to the election of the following:**

14 (1) A township trustee.

15 (2) A member of a township board.

16 **Sec. 3. (a) As used in this chapter, "immediate family member"**
17 **refers only to any of the following relatives of an individual:**

18 (1) A parent.

19 (2) A sibling.

20 (3) A spouse.

21 (b) A relative by adoption, half-blood, marriage, or remarriage
22 is considered as a relative of whole kinship.

23 **Sec. 4. (a) This section applies if:**

24 (1) an individual's immediate family member is the township
25 trustee or a member of the township board; and

26 (2) that immediate family member's term of office does not
27 expire on the January 1 following the election.

28 (b) Notwithstanding any other law, an individual described in
29 subsection (a) is disqualified from being a candidate for election:

30 (1) for township trustee of that township; or

31 (2) to the township board of that township.

32 **Sec. 5. (a) This section applies if an immediate family member**
33 **of a candidate for election to the township board is elected as the**
34 **township trustee of that township at that election.**

35 (b) Notwithstanding IC 3 or any other law, in the circumstance
36 described in subsection (a), the following apply:

37 (1) A candidate described in subsection (a) is not elected to be
38 a member of the township board.

39 (2) The candidate with the next greatest number of votes after
40 the candidate described in subsection (a) is elected to the
41 township board, unless that candidate is also described in
42 subsection (a), in which case this subsection also applies to



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that candidate.

(3) If application of subdivisions (1) and (2) results in fewer candidates than there are township board members to be elected at that election, the following apply to each township board office for which there is no candidate elected under this section:

(A) The office is considered vacant.

(B) The vacancy shall be filled as provided in IC 3-13-10.

Sec. 6. (a) This section applies if two (2) or more individuals are:

(1) immediate family members; and

(2) candidates for election to the same township board at the same election.

(b) Notwithstanding IC 3 or any other law, in the circumstance described in subsection (a), the following apply:

(1) Only the immediate family member who receives the greatest number of votes among the immediate family members is considered elected, subject to subdivision (2).

(2) The candidate described in subdivision (1) is elected only if that candidate's vote total, when compared to the vote totals of all other candidates who are not immediate family members of that candidate, would result in that candidate's election.

(3) If application of subdivisions (1) and (2) results in fewer candidates than there are township board members to be elected at that election, the following apply to each township board office for which there is no candidate elected under this section:

(A) The office is considered vacant.

(B) The vacancy shall be filled as provided in IC 3-13-10.

