

## **IC 3-11-13**

### **Chapter 13. Voting by Ballot Card Voting System**

#### **IC 3-11-13-1**

##### **Application of chapter**

Sec. 1. This chapter applies to each precinct where voting is by ballot card voting system.

*As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.302.*

#### **IC 3-11-13-2**

##### **Permissible use of system; generally**

Sec. 2. A county election board may use an approved ballot card voting system:

- (1) in any election;
- (2) in all or in some of the precincts within a political subdivision holding an election; and
- (3) instead of or in combination with any other voting method.

*As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.303.*

#### **IC 3-11-13-3**

##### **Use of system at primary election; requisites**

Sec. 3. A ballot card voting system may be used at a primary election only if the automatic tabulating machines for the system will:

- (1) count only votes for the candidates of one (1) political party;
- (2) reject all votes for an office when the number of votes for the office exceeds the number that the voter is entitled to cast; and
- (3) reject all votes cast for candidates of more than one (1) political party.

*As added by P.L.5-1986, SEC.7. Amended by P.L.6-1986, SEC.23; P.L.3-1987, SEC.304.*

#### **IC 3-11-13-4**

##### **Repealed**

*(Repealed by P.L.66-2003, SEC.55.)*

#### **IC 3-11-13-4.5**

##### **Education program to inform of effect of casting multiple ballots for single office**

Sec. 4.5. As required by 42 U.S.C. 15481, an election board must establish a voter education program to notify a voter of the effect of casting multiple ballots for a single office on an optical scan ballot card tabulated at a central location.

*As added by P.L.209-2003, SEC.155. Amended by P.L.164-2006, SEC.113.*

#### **IC 3-11-13-5**

##### **Repealed**

*(Repealed by P.L.3-1987, SEC.570.)*

### **IC 3-11-13-6**

#### **Marking devices; preparation; time of system delivery to polls**

Sec. 6. (a) Before an election at which a ballot card voting system is used, a county election board shall:

- (1) have the marking devices prepared for the election;
- (2) have the marking devices put in order, set and adjusted, and made ready for voting when delivered to the precincts; and
- (3) provide the precinct election officers with marking devices, a demonstration marking device, ballot cards, ballot boxes, ballot labels, and other records and supplies as required.

(b) While acting under subsection (a), the county election board may restrict access to parts of the room where marking devices and other election material are being handled to safeguard this material.

(c) Each county election board shall have each ballot card voting system, along with all necessary furniture and appliances that go with the system at the polls, delivered to the appropriate precinct not later than 6 p.m. of the day before election day. The county executive shall provide transportation for the systems if requested to do so by the county election board.

*As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.306; P.L.3-1997, SEC.320; P.L.176-1999, SEC.79; P.L.239-2001, SEC.9; P.L.221-2005, SEC.76.*

### **IC 3-11-13-7**

#### **Demonstration marking devices**

Sec. 7. Demonstration marking devices may not bear the name of any candidate or the text of any public question at an election.

*As added by P.L.5-1986, SEC.7. Amended by P.L.10-1988, SEC.120.*

### **IC 3-11-13-8**

#### **Marking of ballot cards in secret**

Sec. 8. Unless the marking devices enable the voter to mark a ballot card in secret, a sufficient number of voting booths for each precinct shall be provided. The booths must be of a size and design so as to enable a voter to mark a ballot card in secret.

*As added by P.L.5-1986, SEC.7.*

### **IC 3-11-13-9**

#### **Sample ballots; requirements**

Sec. 9. The public officials charged with the duty of providing ballot cards or ballot labels shall also provide sample ballots. A sample ballot must be:

- (1) a copy of the official ballot cards or ballot labels;
- (2) arranged in the form of a diagram showing the front of the marking device as it will appear at the election; and
- (3) altered so marks on the sample ballot cannot be counted as votes.

*As added by P.L.5-1986, SEC.7. Amended by P.L.190-2011, SEC.9.*

### **IC 3-11-13-10**

#### **Posting sample ballots**

Sec. 10. The appropriate precinct election officers shall post sample ballots near the entrance to the polls on election day and see that they are available to public inspection throughout the day.

*As added by P.L.5-1986, SEC.7.*

### **IC 3-11-13-11**

#### **Ballot information; arrangement**

Sec. 11. (a) The ballot information, whether placed on the ballot card or on the marking device, must be in the order of arrangement provided for ballots under this section.

(b) Each county election board shall have the names of all candidates for all elected offices, political party offices, and public questions printed on a ballot card as provided in this chapter. The county may:

- (1) print all offices and questions on a single ballot card; and
- (2) include a ballot variation code to ensure that the proper version of a ballot is used within a precinct.

(c) Each type of ballot card must be of uniform size and of the same quality and color of paper (except as permitted under IC 3-10-1-17).

(d) The nominees of a political party or an independent candidate or independent ticket (described in IC 3-11-2-6) nominated by petitioners shall be listed on the ballot with the name and device set forth on the certification or petition. The circle containing the device may be of any size that permits a voter to readily identify the device. IC 3-11-2-5 applies if the certification or petition does not include a name or device, or if the same device is selected by two (2) or more parties or petitioners.

(e) The offices and public questions on the general election ballot must be placed on the ballot in the order listed in IC 3-11-2-12, IC 3-11-2-12.2, IC 3-11-2-12.5, IC 3-11-2-12.7(b), IC 3-11-2-12.9(a), IC 3-11-2-13(a) through IC 3-11-2-13(c), IC 3-11-2-14(a), and IC 3-11-2-14(d). The offices and public questions may be listed in a continuous column either vertically or horizontally and on a number of separate pages.

(f) The name of each office must be printed in a uniform size in bold type. A statement reading substantially as follows must be placed immediately below the name of the office and above the name of the first candidate:

- (1) "Vote for one (1) only.", if only one (1) candidate is to be elected to the office.
- (2) "Vote for not more than (insert the number of candidates to be elected) candidate(s) for this office.", if more than one (1) candidate is to be elected to the office.

(g) Below the name of the office and the statement required by subsection (f), the names of the candidates for each office must be grouped together in the following order:

- (1) The major political party whose candidate received the

highest number of votes in the county for secretary of state at the last election is listed first.

(2) The major political party whose candidate received the second highest number of votes in the county for secretary of state is listed second.

(3) All other political parties listed in the order that the parties' candidates for secretary of state finished in the last election are listed after the party listed in subdivision (2).

(4) If a political party did not have a candidate for secretary of state in the last election or a nominee is an independent candidate or independent ticket (described in IC 3-11-2-6), the party or candidate is listed after the parties described in subdivisions (1), (2), and (3).

(5) If more than one (1) political party or independent candidate or ticket described in subdivision (4) qualifies to be on the ballot, the parties, candidates, or tickets are listed in the order in which the party filed its petition of nomination under IC 3-8-6-12.

(6) A space for write-in voting is placed after the candidates listed in subdivisions (1) through (5), if required by law.

(7) The name of a write-in candidate may not be listed on the ballot.

(h) The names of the candidates grouped in the order established by subsection (g) must be printed in type with uniform capital letters and have a uniform space between each name. The name of the candidate's political party, or the word "Independent" if the:

(1) candidate; or

(2) ticket of candidates for:

(A) President and Vice President of the United States; or

(B) governor and lieutenant governor;

is independent, must be placed immediately below or beside the name of the candidate and must be printed in a uniform size and type.

(i) All the candidates of the same political party for election to at-large seats on the fiscal or legislative body of a political subdivision must be grouped together:

(1) under the name of the office that the candidates are seeking;

(2) in the order established by subsection (g); and

(3) within the political party, in alphabetical order according to surname.

A statement reading substantially as follows must be placed immediately below the name of the office and above the name of the first candidate: "Vote for not more than (insert the number of candidates to be elected) candidate(s) of ANY party for this office.".

(j) Candidates for election to at-large seats on the governing body of a school corporation must be grouped:

(1) under the name of the office that the candidates are seeking; and

(2) in alphabetical order according to surname.

A statement reading substantially as follows must be placed immediately below the name of the office and above the name of the

first candidate: "Vote for not more than (insert the number of candidates to be elected) candidate(s) for this office."

(k) The following information must be placed at the top of the ballot before the first public question is listed:

- (1) The cautionary statement described in IC 3-11-2-7.
- (2) The instructions described in IC 3-11-2-8, IC 3-11-2-10(d), and IC 3-11-2-10(e).

(l) The ballot must include a single connectable arrow, circle, oval, or square, or a voting position for voting a straight party or an independent ticket (described in IC 3-11-2-6) by one (1) mark as required by section 14 of this chapter, and the single connectable arrow, circle, oval, or square, or the voting position for casting a straight party or an independent ticket ballot must be identified by:

- (1) the name of the political party or independent ticket (described in IC 3-11-2-6); and
- (2) immediately below or beside the political party's or independent ticket's name, the device of that party or ticket (described in IC 3-11-2-5).

The name and device of each political party or independent ticket must be of uniform size and type and arranged in the order established by subsection (g) for listing candidates under each office. The instructions described in IC 3-11-2-10(c) for voting a straight party ticket and the statement concerning presidential electors required under IC 3-10-4-3 may be placed on the ballot beside or above the names and devices within the voting booth in a location that permits the voter to easily read the instructions.

(m) A public question must be in the form described in IC 3-11-2-15(a) and IC 3-11-2-15(b), except that a single connectable arrow, a circle, or an oval may be used instead of a square. Except as expressly authorized or required by statute, a county election board may not print a ballot card that contains language concerning the public question other than the language authorized by a statute.

(n) The requirements in this section:

- (1) do not replace; and
- (2) are in addition to;

any other requirements in this title that apply to optical scan ballots.

(o) The procedure described in IC 3-11-2-16 must be used when a ballot does not comply with the requirements imposed by this title or contains another error or omission that might result in confusion or mistakes by voters.

(p) This subsection applies to an optical scan ballot that does not list:

- (1) the names of political parties or candidates; or
- (2) the text of public questions;

on the face of the ballot. The ballot must be prepared in accordance with this section, except that the ballot must include a numbered circle or oval to refer to each political party, candidate, or public question.

*As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.307; P.L.58-2005, SEC.19; P.L.164-2006, SEC.114; P.L.190-2011,*

*SEC.10; P.L.194-2013, SEC.67.*

**IC 3-11-13-12**

**Ballot labels; office title with statement of number, name, and party designation of candidates**

Sec. 12. If ballot labels consist of a number of separate pages, the office title with a statement of the number of candidates to be voted for may be printed above or at the side of the name of each candidate for that office. Except in a primary election, the political party designation or independent status of each candidate, which may be abbreviated, shall be printed following the candidate's name.

*As added by P.L.5-1986, SEC.7. Amended by P.L.3-1993, SEC.165.*

**IC 3-11-13-13**

**Ballot labels; marking to indicate list of candidates continued on following page**

Sec. 13. If there are more candidates for an office than can be printed on one (1) ballot page, the ballot label shall be clearly marked that the list of candidates is continued on the following page. Arrows and numbers may be used to indicate the place to vote for each candidate and on each public question.

*As added by P.L.5-1986, SEC.7.*

**IC 3-11-13-14**

**Straight party or independent ticket voting; provision for single mark designation on ballot**

Sec. 14. In partisan elections, the ballot labels must include a voting square or position where a voter may by one (1) mark on each card record a straight party or an independent ticket vote for all the candidates of one (1) political party or the independent ticket, except for offices for which the voter has voted individually for a candidate. If the voter records a vote for the two (2) candidates comprising an independent ticket, the vote must not count for any other independent candidate on the ballot.

*As added by P.L.5-1986, SEC.7. Amended by P.L.3-1993, SEC.166; P.L.221-2005, SEC.77.*

**IC 3-11-13-15**

**Repealed**

*(Repealed by P.L.3-1987, SEC.570.)*

**IC 3-11-13-16**

**Rotation of names of candidates for nomination at primary election**

Sec. 16. If a county election board requires that the names of candidates for nomination at a primary election be rotated alphabetically on the marking devices, then the names shall be rotated by precincts in regular serial sequence, so that each name of a list or group of candidates for an office appears upon the marking devices an equal number of times, as nearly as practicable, at the top,

at the bottom, and in each intermediate place under the title of the office sought. Each type card within a precinct must be of the same rotation series.

*As added by P.L.5-1986, SEC.7.*

### **IC 3-11-13-17**

#### **Precinct to be provided ballot cards suitable for processing by automatic data processing machines**

Sec. 17. Each county election board shall provide each precinct where a ballot card voting system is used with a sufficient number of ballot cards of the size, design, and stock suitable for processing by automatic data processing machines.

*As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.308.*

### **IC 3-11-13-18**

#### **Ballot cards for write-in voting; when not required; standards to define a vote**

Sec. 18. (a) Except as provided in subsection (d), the county election board in a county using a ballot card voting system shall provide ballot cards to the precinct election board that permit voters to cast write-in votes for each officer to be voted for at that election.

(b) The ballot cards provided under subsection (a) must be:

- (1) designed to be folded; or
- (2) accompanied by a secrecy envelope;

to ensure the secrecy of each of the votes cast by a voter.

(c) This subsection is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what constitutes a vote on an optical scan voting system. Except as provided in subsection (d), a write-in vote shall be cast by printing the name of the candidate and the title of the office in the space provided for write-in votes on a ballot card or secrecy envelope.

(d) Space for write-in voting for an office is not required if:

- (1) there are no declared write-in candidates for that office; or
- (2) the marking device allows for entry of a write-in candidate that can be read by a tabulator.

However, procedures must be implemented to permit write-in voting for candidates for federal offices.

*As added by P.L.5-1986, SEC.7. Amended by P.L.4-1991, SEC.106; P.L.38-1999, SEC.47; P.L.176-1999, SEC.80; P.L.239-2001, SEC.10; P.L.209-2003, SEC.156; P.L.14-2004, SEC.131; P.L.221-2005, SEC.78; P.L.13-2014, SEC.4.*

### **IC 3-11-13-19**

#### **Ballot cards and secrecy envelopes; precinct number or designation; line for poll clerk's initials**

Sec. 19. (a) Except as provided in subsection (b), each circuit court clerk shall print or stamp the precinct number or designation and a line for each poll clerk's initials on both a ballot card and the ballot card's secrecy envelope before the election.

(b) In a vote center county using an electronic poll list, the circuit

court clerk shall not print or stamp the information required by subsection (a) if the precinct number or designation and the printed initials of the poll clerks captured through the electronic signature pad or tablet at the time the poll clerks log into the electronic poll book system are printed by a printer separate from the electronic poll list on the back of each ballot card immediately before the ballot card is delivered to the voter.

*As added by P.L.5-1986, SEC.7. Amended by P.L.4-1991, SEC.107; P.L.55-2014, SEC.6.*

### **IC 3-11-13-20**

#### **Repealed**

*(Repealed by P.L.221-2005, SEC.145.)*

### **IC 3-11-13-21**

#### **Ballot cards to be used in primary election to be distinctively marked or be of different color to distinguish party**

Sec. 21. In a primary election, the ballot cards of each political party must be distinctively marked or be of a different color so that the ballot cards of each party are easily distinguishable.

*As added by P.L.5-1986, SEC.7. Amended by P.L.199-2001, SEC.25.*

### **IC 3-11-13-22**

#### **Automatic tabulating machines; testing**

Sec. 22. (a) At least fourteen (14) days before election day, the county election board of each county planning to use automatic tabulating machines at the next election shall have the automatic tabulating machines tested to ascertain that the machines will correctly count the votes cast for all candidates and on all public questions. Not later than seven (7) days after conducting the test under this subsection, the county election board shall certify to the election division that the test has been conducted in conformity with this subsection.

(b) Public notice of the time and place shall be given at least forty-eight (48) hours before the test. The notice shall be published once in accordance with IC 5-3-1-4.

*As added by P.L.5-1986, SEC.7. Amended by P.L.6-1986, SEC.24; P.L.176-1999, SEC.81; P.L.26-2000, SEC.16.*

### **IC 3-11-13-23**

#### **Observation of machine tests; certification**

Sec. 23. (a) The two (2) appointed members of the county election board shall observe the test required by section 22 of this chapter and certify the test as meeting the requirements of section 22 of this chapter.

(b) A copy of the certification of the test conducted under section 22(b) of this chapter shall be filed with the election returns.

(c) The test must be open to representatives of political parties, candidates, the media, and the public.

*As added by P.L.5-1986, SEC.7. Amended by P.L.6-1986, SEC.25;*



*P.L.2-1996, SEC.193; P.L.3-1997, SEC.321; P.L.176-1999, SEC.82; P.L.26-2000, SEC.17; P.L.14-2004, SEC.132.*

### **IC 3-11-13-24**

#### **Testing machines; requirements**

Sec. 24. The test required by section 22 of this chapter must:

- (1) be conducted by processing a preaudited group of ballot cards marked so as to record a predetermined number of valid votes for each candidate and on each public question; and
- (2) include for each office one (1) or more ballot cards that have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating machines to reject the votes.

*As added by P.L.5-1986, SEC.7. Amended by P.L.6-1986, SEC.26; P.L.26-2000, SEC.18; P.L.221-2005, SEC.79.*

### **IC 3-11-13-25**

#### **Testing machines; detection of error; determination of cause and correction**

Sec. 25. If an error is detected during the test required by section 22 of this chapter, the cause of the error shall be determined and corrected, and an errorless count shall be made before the automatic tabulating machines are approved.

*As added by P.L.5-1986, SEC.7. Amended by P.L.6-1986, SEC.27; P.L.5-1988, SEC.9; P.L.26-2000, SEC.19.*

### **IC 3-11-13-26**

#### **Sealing tabulating machines following completion of count**

Sec. 26. After completion of the count, the tabulating machines shall be sealed as provided in IC 3-12-3-10. The ballot cards and all other election materials shall be sealed, retained, and disposed of as provided for paper ballots.

*As added by P.L.5-1986, SEC.7. Amended by P.L.6-1986, SEC.28; P.L.3-1987, SEC.309; P.L.176-1999, SEC.83; P.L.26-2000, SEC.20; P.L.221-2005, SEC.80.*

### **IC 3-11-13-26.5**

#### **Instructional displays**

Sec. 26.5. (a) Each county election board may make available at convenient places throughout the county ballot card voting systems for the instruction of the voters. The board shall locate the systems at places where people usually assemble, such as shopping centers. The board shall have the systems attended at convenient hours designated by the board by persons able to instruct others in their use. The county chairmen of the major political parties of the state must approve the persons attending the systems under this section.

(b) Each ballot card voting system used for instructional purposes must contain the names of all candidates and a description of all public questions as they will appear on the official sample ballot for the system on election day. However, the system may not be set to record a tally or total.

*As added by P.L.3-1987, SEC.310. Amended by P.L.3-1993, SEC.167.*

### **IC 3-11-13-27**

#### **Determination of system readiness; certification**

Sec. 27. (a) After the delivery of a ballot card voting system to a precinct, the precinct election board may meet at the polls on the same day and open the package containing the sample ballot cards, to determine whether the system is ready for use in accordance with section 16 of this chapter. If a ballot card voting system is not in compliance with that section, the board shall immediately label, set and adjust, and place the system in order or have it done.

(b) While acting under subsection (a), the precinct election board may restrict access to parts of the room where marking devices and other election material are being handled to safeguard this material.

(c) On the morning of election day, the precinct election officers shall meet at the polls at least one (1) hour before the time for opening the polls. The inspector then shall have:

- (1) the boundaries of the chute designated;
- (2) the sample ballots and instruction cards posted; and
- (3) everything put in readiness for the commencement of voting at the opening of the polls.

(d) Before the opening of the polls, the precinct election officers shall do the following:

- (1) Compare the ballot cards used in the marking device with the sample ballots furnished and determine whether the names, numbers, and letters are in agreement.
- (2) Determine that the system records that zero (0) votes have been cast for each candidate and on each public question.
- (3) Assure that the system is otherwise in perfect order.

(e) The officers then shall certify that:

- (1) the marking device and the sample ballots are in agreement;
- (2) the system records zero (0) votes cast; and
- (3) the system appears to be in perfect order.

Forms shall be provided for certification, and the certification shall be filed with the election returns.

*As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.311; P.L.3-1997, SEC.322; P.L.221-2005, SEC.81.*

### **IC 3-11-13-27.5**

#### **Opening and delivering ballots and marking devices**

Sec. 27.5. At the opening of the polls, after the organization of and in the presence of the precinct election board, the inspector shall:

- (1) open the packages of ballot cards in a manner that preserves the seals intact;
- (2) deliver fifty (50) of each of the state and local ballots to the poll clerk representing the opposite political party; and
- (3) deliver to the other poll clerk a device for marking the ballots.

*As added by P.L.3-1987, SEC.312. Amended by P.L.176-1999,*

SEC.84.

**IC 3-11-13-28 Version a**

**Initial of poll clerks on ballot card**

*Note: This version of section effective until 3-24-2014. See also following version of this section, effective 3-24-2014 until 4-1-2014, and following repeal of this section, effective 4-1-2014.*

Sec. 28. (a) This section does not apply to a ballot card voted by absentee ballot.

(b) The two (2) poll clerks of each precinct shall place their initials in ink on the back of each ballot card:

- (1) at the time the card is issued to a voter; or
- (2) in the case of a ballot marked by a marking device for an optical scan ballot, before the ballot is placed into the tabulating device.

The initials must be in the poll clerks' ordinary handwriting or printing and without a distinguishing mark of any kind.

(c) Except as provided in IC 3-12-1-12, a ballot card is not valid unless it is initialed by both poll clerks.

*As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.313; P.L.3-1993, SEC.168; P.L.176-1999, SEC.85; P.L.13-2014, SEC.5.*

**IC 3-11-13-28 Version b**

**Initial of poll clerks on ballot card**

*Note: This version of section effective 3-24-2014 until 4-1-2014. See also preceding version of this section, effective until 3-24-2014, and following repeal of this section, effective 4-1-2014.*

Sec. 28. (a) This section does not apply to a ballot card voted by absentee ballot.

(b) Except as provided in subsection (c), the two (2) poll clerks of each precinct shall place their initials in ink on the back of each ballot card:

- (1) at the time the card is issued to a voter; or
- (2) in the case of a ballot marked by a marking device for an optical scan ballot, before the ballot is placed into the tabulating device.

The initials must be in the poll clerks' ordinary handwriting or printing and without a distinguishing mark of any kind.

(c) In a vote center county using an electronic poll list and a printer separate from the electronic poll list, the printed initials of the poll clerks captured through the electronic signature pad or tablet at the time the poll clerks log into the electronic poll book system may be printed by a printer separate from the electronic poll list on the back of each ballot card immediately before the ballot card is delivered to the voter.

(d) Except as provided in IC 3-12-1-12, a ballot card is not valid unless, immediately before the ballot card is delivered to the voter:

- (1) the ballot card is initialed by both poll clerks; or
- (2) the initials of both poll clerks are printed on the back of the ballot card in accordance with subsection (c).

*As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.313; P.L.3-1993, SEC.168; P.L.176-1999, SEC.85; P.L.13-2014, SEC.5; P.L.55-2014, SEC.7.*

### **IC 3-11-13-28 Version c**

#### **Repealed**

*(Repealed by P.L.76-2014, SEC.39.)*

*Note: This repeal of section effective 4-1-2014. See also preceding version of this section, effective until 3-24-2014, and preceding version of this section, effective 3-24-2014 until 4-1-2014.*

### **IC 3-11-13-28.1**

#### **Applicability; initials of poll clerks on ballot card**

Sec. 28.1. (a) This section does not apply:

- (1) to a ballot card voted by absentee ballot; or
- (2) in a vote center county using an electronic poll book and a printer separate from the electronic poll book.

(b) Except as provided in subsection (c), the two (2) poll clerks of each precinct shall place their initials in ink on the back of each ballot card:

- (1) at the time the card is issued to a voter; or
- (2) in the case of a ballot marked by a marking device for an optical scan ballot, before the ballot is placed into the tabulating device.

The initials must be in the poll clerks' ordinary handwriting or printing and without a distinguishing mark of any kind.

(c) In a vote center county using an electronic poll list and a printer separate from the electronic poll list, the printed initials of the poll clerks captured through the electronic signature pad or tablet at the time the poll clerks log into the electronic poll book system may be printed by a printer separate from the electronic poll list on the back of each ballot card immediately before the ballot card is delivered to the voter.

(d) Except as provided in IC 3-12-1-12, a ballot card is not valid unless, immediately before the ballot card is delivered to the voter:

- (1) the ballot card is initialed by both poll clerks; or
- (2) the initials of both poll clerks are printed on the back of the ballot card in accordance with subsection (c).

*As added by P.L.76-2014, SEC.40.*

### **IC 3-11-13-28.2**

#### **Applicability; initials of poll clerks on ballot card**

Sec. 28.2. (a) This section:

- (1) does not apply to a ballot card voted by absentee ballot; and
- (2) applies in a vote center county using an electronic poll book and a printer separate from the electronic poll book.

(b) The printed initials of the poll clerks captured through the electronic signature pad or tablet at the time the poll clerks log onto the electronic poll book system may be printed by a printer separate from the electronic poll book on the back of each ballot card

immediately before the ballot card is delivered to the voter.

(c) Except as provided in IC 3-12-1-12, a ballot card is not valid unless immediately before the ballot card is delivered to the voter:

- (1) the ballot card is initialed by both poll clerks; and
- (2) the initials of both poll clerks are printed on the back of the ballot in accordance with subsection (b).

*As added by P.L.76-2014, SEC.41.*

### **IC 3-11-13-28.5**

#### **Poll clerk initials on ballot cards; information for voters on effect of casting multiple votes for single office; correction of ballot by voter**

Sec. 28.5. (a) Unless challenged, a voter may proceed to vote.

(b) This subsection does not apply in a precinct where a marking device for an optical scan ballot is being used. As each successive voter calls for a ballot, the poll clerks shall deliver to the voter the first initialed ballot of each type. The inspector shall then deliver to the poll clerks another ballot of each type, which the clerks shall initial as before.

(c) This subsection applies to an optical scan ballot card ballot tabulated at a central location. As provided by 42 U.S.C. 15481, when a voter receives an optical scan ballot card ballot, the board must also provide the voter with:

- (1) information concerning the effect of casting multiple votes for an office; and
- (2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

*As added by P.L.3-1987, SEC.314. Amended by P.L.4-1996, SEC.70; P.L.38-1999, SEC.48; P.L.176-1999, SEC.86; P.L.239-2001, SEC.12; P.L.209-2003, SEC.158; P.L.221-2005, SEC.82; P.L.164-2006, SEC.115; P.L.13-2014, SEC.6.*

### **IC 3-11-13-28.7**

#### **Poll clerk initials on secrecy envelopes; standards to define a vote**

Sec. 28.7. (a) The two (2) poll clerks of each precinct shall place their initials in ink on the secrecy envelope of a ballot card (or on the fold-over part of a ballot card described in section 18(b)(1) of this chapter) at the time the card is issued to a voter. The initials must be in the poll clerk's ordinary handwriting or printing and without a distinguishing mark of any kind.

(b) This subsection is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what constitutes a vote on an optical scan voting system. A write-in vote cast on a secrecy envelope or fold-over envelope:

- (1) is not valid unless:
  - (A) the secrecy envelope is initialed by both poll clerks; and
  - (B) the vote includes both the name of the write-in candidate and the office for which the write-in vote is cast; and
- (2) makes the secrecy envelope or fold-over envelope a ballot for purposes of this title.

*As added by P.L.4-1991, SEC.108. Amended by P.L.3-1993, SEC.169; P.L.3-1997, SEC.323; P.L.176-1999, SEC.87; P.L.209-2003, SEC.159; P.L.221-2005, SEC.83.*

### **IC 3-11-13-29**

#### **Instructions to voters; location of instructions; rights of voter in casting ballot**

Sec. 29. (a) In addition to the instructions printed on the ballot card or ballot labels, instructions to voters shall be posted in each voting booth or placed on the marking device. Each voter shall be instructed by both judges, on request, on how to operate the voting device before the voter enters the voting booth.

(b) The instructions posted in the voting booth or placed on the marking device must state the following:

(1) That the voter should examine the ballot card to determine whether the back of the ballot card has:

(A) the initials of the poll clerks in ink; or

(B) the printed initials of the poll clerks, in a vote center county using an electronic poll list and a printer separate from the electronic poll list that prints on the back of each ballot card, immediately before the ballot card is delivered to the voter, the printed initials of the poll clerks captured through the electronic signature pad or tablet at the time the poll clerks log into the electronic poll book system.

(2) That the voter should not make an unnecessary mark on the ballot card because the mark may void the card.

(3) That the voter should examine the ballot card to determine if the card has any mark (other than the initials of the poll clerks) before voting.

(4) That the voter should return the ballot card to the poll clerks and request another ballot card if:

(A) the poll clerks' initials have not been properly placed on the card;

(B) the card has a mark (other than the initials of the poll clerks) before the voter places a voting mark on the ballot;  
or

(C) the voter has improperly marked the card.

(5) That the voter should examine the ballot card after voting to determine that all marks made on the card to indicate the voter's selections have been completely marked.

(c) As provided by 42 U.S.C. 15481, a voter casting an optical scan ballot card under this section must be:

(1) permitted to verify in a private and independent manner the votes selected by the voter before the ballot is cast and counted;

(2) provided the opportunity to change the ballot or correct any error in a private and independent manner before the ballot is cast and counted, including the opportunity to receive a replacement ballot if the voter is otherwise unable to change or correct the ballot; and

(3) notified before the ballot is cast regarding the effect of

casting multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted.

*As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.315; P.L.209-2003, SEC.160; P.L.221-2005, SEC.84; P.L.164-2006, SEC.116; P.L.55-2014, SEC.8.*

### **IC 3-11-13-30**

#### **Instructions to voter**

Sec. 30. When a voter is handed a ballot card, the voter shall be instructed to:

- (1) use only the marking device provided for marking the cards and that the voter is not to mark a card in any other way;
- (2) be certain that the initials of the poll clerks appear on the voter's card and that if the initials are not on the card it will not be counted, except as provided by IC 3-12-1-12; and
- (3) place the voter's card in an envelope after the voter has voted or to fold the card in a manner so that no card is exposed upon which a choice is indicated.

*As added by P.L.5-1986, SEC.7. Amended by P.L.176-1999, SEC.88; P.L.221-2005, SEC.85.*

### **IC 3-11-13-31**

#### **Assisting voter in determining proper initials on ballot card**

Sec. 31. If necessary, a precinct election officer shall assist a voter in determining if the proper initials appear on a ballot card.

*As added by P.L.5-1986, SEC.7.*

### **IC 3-11-13-31.5**

#### **Visual placement of voting booths**

Sec. 31.5. (a) The exterior of a voting booth or compartment and each area of the polls must be in plain view of the precinct election board. Each voting booth or compartment shall be placed so that a person voting on the opposite side of the railing or a person on the outside of the polls cannot see or determine how a voter votes. The inspector, judges, and poll clerks may not remain or allow any other person to remain in a position or near a position that would permit them to see or ascertain how a voter votes.

(b) Only one (1) voter may occupy a booth or compartment at one time. Booths shall be constructed and arranged so that all members of the precinct election board can see whether more than one (1) voter enters a booth at any one time.

*As added by P.L.3-1987, SEC.316.*

### **IC 3-11-13-31.6**

#### **Voting mark; instructions**

Sec. 31.6. Whenever a ballot card voting system is used in a precinct and a ballot form prescribed by this title refers to a voting mark, the county election board shall approve voting instructions indicating that a specific type of marking device is employed on the

system to indicate a vote.  
*As added by P.L.225-2011, SEC.66.*

### **IC 3-11-13-31.7**

#### **Voting procedure; standards to define a vote**

Sec. 31.7. (a) This section is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what constitutes a vote on an optical scan voting system.

(b) After receiving ballot cards, a voter shall, without leaving the room, go alone into one (1) of the booths or compartments that is unoccupied and indicate:

(1) the candidates for whom the voter desires to vote by marking the connectable arrows, circles, ovals, or squares immediately beside:

(A) the candidates' names; or

(B) the numbers referring to the candidates; and

(2) the voter's preference on each public question by marking the connectable arrow, oval, or square beside:

(A) the word "yes" or "no" under the question; or

(B) the number referring to the word "yes" or "no" on the ballot.

(c) If an election is a general or municipal election and a voter desires to vote for all the candidates of one (1) political party or independent ticket (described in IC 3-11-2-6), the voter may mark:

(1) the circle enclosing the device; or

(2) the connectable arrow, circle, oval, or square described in section 11 of this chapter;

that designates the candidates of that political party or independent ticket (described in IC 3-11-2-6). The voter's vote shall then be counted for all the candidates of that political party or included in the independent ticket (described in IC 3-11-2-6). However, if the voter marks the circle, arrow, oval, or square of an independent ticket (described in IC 3-11-2-6), the vote shall not be counted for any other independent candidate on the ballot.

(d) This subsection applies to a voter casting a ballot on a voting system that includes features of both an optical scan ballot card voting system and a direct record electronic voting system. After entering into a booth used with the voting system, the voter shall indicate the candidates for whom the voter desires to vote and the voter's preference on each public question by:

(1) inserting a paper ballot or an optical scan ballot into the voting system; or

(2) using headphones to listen to a recorded list of political parties, candidates, and public questions.

(e) A voter using a voting system described in subsection (d) may indicate the voter's selections by:

(1) touching a device on or in the squares immediately adjacent to the name of a political party, candidate, or response to a public question; or

(2) indicating the voter's choices by using a sip puff device that



enables the voter to indicate a choice by inhaling or exhaling.  
*As added by P.L.3-1987, SEC.317. Amended by P.L.3-1993, SEC.170; P.L.176-1999, SEC.89; P.L.209-2003, SEC.161; P.L.58-2005, SEC.20; P.L.221-2005, SEC.86; P.L.76-2014, SEC.42.*

### **IC 3-11-13-32**

#### **Additional instruction to voter after entering voting booth**

Sec. 32. If a voter needs additional instruction after entering the voting booth, the voter may request assistance from the two (2) judges. The judges shall then approach but not enter the booth and call out the additional instructions to the voter.

*As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.318.*

### **IC 3-11-13-32.5**

#### **Occupation of voting booth; time limits; refusal to leave**

Sec. 32.5. (a) At a primary election, a voter may not remain in the voting booth or compartment longer than three (3) minutes.

(b) At a general, municipal, or special election, a voter may not remain in the voting booth or compartment longer than two (2) minutes.

(c) If a voter refuses to leave a voting booth or compartment after the lapse of the time provided under subsection (a) or (b), the precinct election board, or the election sheriff or sheriffs upon the order of the board, shall immediately remove the voter from the booth or compartment.

*As added by P.L.3-1987, SEC.319.*

### **IC 3-11-13-32.8**

#### **Disclosure of vote by voter before its registration; effect**

Sec. 32.8. If a voter shows the voter's ballot card or a part of the card to another person after the card has been marked so as to disclose any of the candidates voted for or how the voter voted on a public question, the ballot card may not be deposited in a ballot box. A record of the occurrence shall be made on the poll list, and the voter may not vote again at the election.

*As added by P.L.3-1987, SEC.320. Amended by P.L.10-1988, SEC.121.*

### **IC 3-11-13-33**

#### **Processing voted ballot; poll list entry of voting**

Sec. 33. (a) After a voter has marked a ballot card, the voter shall place it inside the envelope provided for this purpose or fold the envelope described in section 18(b)(1) of this chapter and return the ballot card to the judge.

(b) The judge shall offer to return the envelope with the ballot card inside to the voter. The voter shall:

- (1) accept the envelope and deposit it in the ballot box; or
- (2) decline the envelope and require the judge to deposit it in the ballot box.

(c) If a voter offers to vote a ballot card that is not inside the

envelope provided for this purpose or with the envelope not folded if the ballot is described in section 18(b)(1) of this chapter, the precinct election board shall direct the voter to return to the booth and place the ballot card in the envelope provided for this purpose or fold the envelope.

(d) After a voter's ballot cards have been deposited in the ballot box, the poll clerks shall make a voting mark after the voter's name on the poll list.

(e) After voting, a voter shall leave the polls. However, a voter to whom ballot cards and a marking device have been delivered may not leave the polls without voting the ballot cards or returning them to the poll clerk from whom the voter received them.

*As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.321; P.L.4-1996, SEC.71; P.L.38-1999, SEC.49; P.L.176-1999, SEC.90; P.L.239-2001, SEC.13; P.L.221-2005, SEC.87.*

### **IC 3-11-13-34**

#### **Repealed**

*(Repealed by P.L.176-1999, SEC.134.)*

### **IC 3-11-13-34.5**

#### **Repealed**

*(Repealed by P.L.176-1999, SEC.134.)*

### **IC 3-11-13-35**

#### **Defaced or defective ballot cards**

Sec. 35. If a voter spoils or defaces a ballot card or marks it erroneously, the voter shall return the card so as not to disclose any choices that the voter has made.

*As added by P.L.5-1986, SEC.7. Amended by P.L.38-1999, SEC.52; P.L.176-1999, SEC.91; P.L.239-2001, SEC.14; P.L.221-2005, SEC.88.*

### **IC 3-11-13-36**

#### **Securing marking devices on closing of polls**

Sec. 36. As soon as the polls are closed, the inspector shall secure the marking devices against further voting.

*As added by P.L.5-1986, SEC.7.*

### **IC 3-11-13-37**

#### **Confirmation of count**

Sec. 37. If a petition is filed under section 38 of this chapter, the county election board shall confirm that the votes cast in an election:

- (1) for each candidate and each public question; and
- (2) on a ballot card voting system in a precinct specified under section 38 of this chapter;

were correctly counted by the system.

*As added by P.L.6-1986, SEC.29. Amended by P.L.3-1987, SEC.322.*

### **IC 3-11-13-38**

### **Petition for confirmation of vote cast**

Sec. 38. Each county chairman for either of the major parties in the county may petition the county election board for confirmation of the vote cast on a ballot card voting system no earlier than the Saturday before an election and no later than the Thursday after an election. The petition may specify not more than five percent (5%) of the precincts or five (5) precincts, whichever is greater, in which a ballot card voting system was used for an audit under section 37 of this chapter.

*As added by P.L.6-1986, SEC.30. Amended by P.L.3-1987, SEC.323.*

### **IC 3-11-13-39**

#### **Audit requirement**

Sec. 39. The county election board shall conduct an audit under section 37 of this chapter by means of tests and procedures that are approved by the commission and independent of the provider of the ballot card voting system being audited.

*As added by P.L.6-1986, SEC.31. Amended by P.L.3-1987, SEC.324; P.L.2-1996, SEC.194.*

### **IC 3-11-13-40**

#### **Certification of results of audit**

Sec. 40. The county election board shall certify the results of an audit under section 37 of this chapter not later than noon twelve (12) days after the election. The certification must be on the form prescribed by the commission. One (1) copy shall be filed with the election returns, and one (1) copy must be delivered to the election division.

*As added by P.L.6-1986, SEC.32. Amended by P.L.2-1996, SEC.195; P.L.3-1997, SEC.325.*

### **IC 3-11-13-41**

#### **Notice of audit**

Sec. 41. Public notice of the time and place of an audit under section 37 of this chapter shall be given at least forty-eight (48) hours before the audit. The notice shall be published once in accordance with IC 5-3-1-4. However, if publication in accordance with IC 5-3-1-4 will not allow the county election board to certify the results of the audit within ten (10) days after the election, notice shall be given by posting it:

- (1) at or near the county courthouse; and
- (2) at the post office serving the county courthouse.

*As added by P.L.6-1986, SEC.33.*

### **IC 3-11-13-42**

#### **Municipal election use of ballot card voting system**

Sec. 42. If a county has procured ballot card voting systems for use, the ballot card voting systems may be used at a municipal election. If there are not sufficient ballot card voting systems on hand for each precinct of the municipality, the county election board shall

determine in what precincts ballot card voting systems will be used at the election.

*As added by P.L.3-1987, SEC.325.*

#### **IC 3-11-13-43**

##### **Municipal elections where ballot card voting system supplied; supplies; expenses**

Sec. 43. (a) If ballot card voting systems are used in a municipal election, the county election board shall furnish to the municipality:

- (1) the requisite number of ballot card voting systems; and
- (2) all the furniture and appliances that go with the ballot card voting systems.

(b) However, the municipality shall pay the expenses of moving the ballot card voting systems and furniture to and from the polls and also for any damage or loss to the ballot card voting systems or furniture.

*As added by P.L.3-1987, SEC.326.*

#### **IC 3-11-13-44**

##### **Appointment of person to observe preparation of automatic tabulating machines; term; duties; compensation**

Sec. 44. (a) The county chairman of each major political party of the county may appoint one (1) person to observe:

- (1) the ordering and the setting and adjustment of automatic tabulating machines under section 6 of this chapter;
- (2) the testing of automatic tabulating machines under section 22 of this chapter; and
- (3) the determination of the cause of and correction of errors in the counting of ballot cards under section 25 of this chapter.

(b) The county chairman shall file the name of a person appointed under this section with the circuit court clerk.

(c) A person appointed under this section serves until:

- (1) the county chairman notifies the circuit court clerk that the person's appointment has been revoked;
- (2) the county chairman notifies the clerk that the person has died; or
- (3) the person files a letter of resignation with the clerk.

(d) A person appointed under subsection (a):

- (1) may attend the ordering and the setting and the adjustment of the automatic tabulating machines only as a witness;
- (2) shall remain silent and subject to the orders of the board; and
- (3) may not obstruct or interfere with the ordering and setting and adjustment of the automatic tabulating machines.

(e) A person appointed under subsection (a) is not entitled to compensation for services except from the political party of the county chairman making the appointment.

*As added by P.L.5-1989, SEC.62.*