

IC 3-12-2

Chapter 2. Counting of Paper Ballot Votes

IC 3-12-2-1

Chapter establishes standards to define vote; ballot counting procedures

Sec. 1. (a) This chapter:

(1) is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what will be counted as a vote on a paper ballot; and

(2) applies to each precinct where voting is by paper ballot.

(b) After the polls have closed, each precinct election board shall count the paper ballot votes for each candidate for each office and on each public question. The ballots shall be counted by laying each ballot upon a table in the order in which it is taken from the ballot box.

(c) Notwithstanding subsection (b), the precinct election board may count absentee ballots before the polls have closed. If the precinct election board counts absentee ballots under this subsection, a member of the precinct election board may not, before the polls have closed, provide any person other than a member of the precinct election board with information concerning the number of votes:

(1) a candidate received for an office; or

(2) cast to approve or reject a public question;

on absentee ballots counted under this subsection.

(d) If a precinct election board administers more than one (1) precinct, the board shall keep the ballots cast in each precinct separate from ballots cast in any other precinct, so that the votes cast for each candidate and on each public question in each of the precincts administered by the board may be determined.

As added by P.L.5-1986, SEC.8. Amended by P.L.3-1987, SEC.339; P.L.10-1988, SEC.123; P.L.3-1995, SEC.119; P.L.209-2003, SEC.181; P.L.230-2005, SEC.56.

IC 3-12-2-2

Viewing of counting of votes by inspector and judge of opposite political party

Sec. 2. During the counting of the votes, the inspector and the judge of the opposite political party from the inspector shall view the ballots as the names of the candidates voted for are read from the ballots.

As added by P.L.5-1986, SEC.8.

IC 3-12-2-3

Protest of ballot by member of precinct election board

Sec. 3. During the counting of the votes, any member of the precinct election board may protest the counting of any ballot or any part of a ballot.

As added by P.L.5-1986, SEC.8.

IC 3-12-2-4

Protest of ballot; duties of poll clerks

Sec. 4. If a ballot or any part of a ballot is protested, the poll clerks immediately shall write on the back of each protested ballot the word "counted" or the words "not counted", as appropriate. The clerks then shall officially sign each protested ballot.

As added by P.L.5-1986, SEC.8.

IC 3-12-2-5

Vote count procedure where more than one precinct located in same room

Sec. 5. Except as provided in section 1(c) of this chapter, if the polls for more than one (1) precinct are located in the same room, the inspector of a precinct using the room may not begin the vote count procedure until all the polls in the room are officially closed and no more persons are waiting in line to vote.

As added by P.L.5-1986, SEC.8. Amended by P.L.3-1987, SEC.340; P.L.3-1995, SEC.120.

IC 3-12-2-6

Certificate and memorandum of votes cast

Sec. 6. When all votes have been counted, the precinct election board shall prepare a certificate stating the number of votes that each candidate received for each office and the number of votes cast on each public question. The number of votes that each candidate and public question received shall be written in words and numbers. The board shall also prepare a memorandum of the total vote cast for each candidate and ensure that each member of the board receives a copy of the memorandum.

As added by P.L.5-1986, SEC.8. Amended by P.L.3-1987, SEC.341; P.L.221-2005, SEC.101.

IC 3-12-2-7

Delivery of certificates, list of voters, and tally papers upon vote tabulation

Sec. 7. The inspector and the judge of the opposite political party shall deliver the certificates prepared under section 6 of this chapter, the list of voters, and the tally papers to the county election board immediately upon the tabulation of the vote.

As added by P.L.5-1986, SEC.8. Amended by P.L.3-1987, SEC.342; P.L.3-1993, SEC.179.

IC 3-12-2-7.5

Counting certain federal write-in absentee ballots

Sec. 7.5. (a) This section applies to the counting of federal write-in absentee ballots described in IC 3-11-4-12.5.

(b) If a voter writes an abbreviation, misspelling, or other minor variation instead of the correct name of a candidate or political party, that vote shall be counted if the intent of the voter can be determined.

(c) If a voter casts a ballot under this section for President or Vice

President of the United States and writes in the name of a candidate or political party that has not:

- (1) certified a list of electors under IC 3-10-4-5; or
- (2) included a list of electors on the declaration for candidacy filed by a write-in candidate under IC 3-8-2-2.5;

the vote for President or Vice President is void. The remaining votes on the ballot may be counted.

(d) As required by 42 U.S.C. 1973ff-2(b), and except as provided in this section, an absentee ballot subject to this section shall be submitted and processed in the same manner provided by this title for a regular absentee ballot.

(e) IC 3-12-1-7 applies to a ballot subject to this section.

(f) As required by 42 U.S.C. 1973ff-2(b), a ballot subject to this section may not be counted if:

- (1) the ballot was submitted:
 - (A) by an overseas voter who is not an absent uniformed services voter; and
 - (B) from within the United States;
- (2) the overseas voter's application for a regular absentee ballot was received by the county election board after the applicable absentee ballot application deadline set forth in IC 3-11-4-3;
- (3) the voter's completed regular state absentee ballot was received by the county election board by the deadline for receiving absentee ballots under IC 3-11-10-11; or
- (4) the ballot subject to this section was not received by the county election board by the deadline for receiving absentee ballots under IC 3-11-10-11.

(g) If a federal write-in absentee ballot is received by the county election board in an envelope that does not indicate that the envelope contains the ballot, and the envelope is opened by the county election board, the absentee ballot shall nevertheless be counted if otherwise valid. The county election board shall:

- (1) immediately seal the absentee ballot and the envelope in which the ballot was received in a carrier envelope indicating that a voted absentee ballot is enclosed; and
- (2) document the date the absentee ballot was sealed within the carrier envelope, attested to by the signature of each member of the county election board.

As added by P.L.3-1987, SEC.343. Amended by P.L.10-1992, SEC.23; P.L.3-1993, SEC.180; P.L.198-2005, SEC.15; P.L.66-2010, SEC.30; P.L.219-2013, SEC.65.

IC 3-12-2-8

Inspector's duty after ballots have been counted

Sec. 8. As soon as the ballots have been counted, the inspector shall, in the presence of the judges and poll clerks:

- (1) place in a strong and stout paper envelope or bag:
 - (A) all ballots, voted and not voted, together with all protested, disputed, and uncounted ballots;
 - (B) the seals of the ballot packages; and

- (C) one (1) copy of each of the certificates, list of voters, and tally papers;
- (2) securely seal the envelope or bag;
- (3) have both clerks initial the envelope or bag; and
- (4) plainly mark on the outside of the envelope or bag, in ink, the precinct where the ballots were cast.

As added by P.L.5-1986, SEC.8.

IC 3-12-2-9

Delivery of envelope or bag containing ballots to circuit court clerk; notification of number of ballots in bag and condition of seals of ballot packages

Sec. 9. The inspector and the judge of the opposite political party shall deliver the envelope or bag prepared under section 8 of this chapter to the circuit court clerk immediately upon tabulation of the votes. The inspector shall notify the clerk of the number of ballots placed in the envelope or bag and the condition of the seals of the ballot packages.

As added by P.L.5-1986, SEC.8. Amended by P.L.3-1987, SEC.344.

IC 3-12-2-10

Oath of inspector upon delivery of envelope or bag; contents

Sec. 10. Upon delivery of the envelope or bag to the circuit court clerk under section 9 of this chapter, the inspector shall take and subscribe an oath before the clerk stating that the inspector:

- (1) closed and sealed the envelope or bag in the presence of the judges and poll clerks;
- (2) securely kept the ballots and papers in the envelope or bag;
- (3) did not permit any person to open the envelope or bag or to otherwise touch or tamper with the ballots; and
- (4) has no knowledge of any other person opening the envelope or bag.

The oath shall be filed in the circuit court clerk's office with other election papers.

As added by P.L.5-1986, SEC.8.

IC 3-12-2-11

Envelope or bag to be placed in receptacle having two locks; disposition of keys

Sec. 11. Upon receipt of the envelope or bag under section 9 of this chapter, the envelope or bag shall be placed in a receptacle having two (2) different locks provided by the county executive. The receptacle shall be locked, and one (1) key shall be given to the circuit court clerk and the other key shall be given to the county election board member of the other political party.

As added by P.L.5-1986, SEC.8. Amended by P.L.3-1993, SEC.181.

IC 3-12-2-12

Preservation of receptacle containing envelope or bag; contest of election; disposition of envelope or bag; use of ballots for election

research

Sec. 12. (a) The circuit court clerk shall preserve the receptacle containing the envelope or bag in the clerk's office for the period required under IC 3-10-1-31 or IC 3-10-1-31.1. However, if the election is contested, then the clerk shall preserve the receptacle containing the envelope or bag as long as the contest is undetermined. During those periods the clerk shall keep the receptacle securely locked, subject only to an order of the court trying a contest.

(b) When permitted under IC 3-10-1-31 or IC 3-10-1-31.1, the clerk and county election board member of the opposite political party shall remove the envelope or bag from the receptacle and destroy the envelope or bag.

(c) A county election board may contract with a state educational institution to dispose of ballots. The contract must provide that:

(1) the ballots will be used by the state educational institution to conduct election research; and

(2) the state educational institution may not receive any ballots under this subsection until the period for retention under IC 3-10-1-31 or IC 3-10-1-31.1 has expired.

As added by P.L.5-1986, SEC.8. Amended by P.L.7-1986, SEC.4; P.L.3-1987, SEC.345; P.L.3-1993, SEC.182; P.L.14-2004, SEC.157; P.L.2-2007, SEC.15.

IC 3-12-2-13

Repealed

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

IC 3-12-2-14

Repealed

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

IC 3-12-2-15

Certificate for news media of results; delivery to circuit court clerk and news media

Sec. 15. Immediately upon completion of the vote count, each precinct election board shall make and sign a certificate for the news media showing the total number of votes received by each candidate and on each public question in the precinct. The inspector and judge of the opposite political party shall deliver the certificate to the circuit court clerk at the same time that the certificates, lists of voters, and tally papers are delivered under section 7 of this chapter. The circuit court clerk immediately shall deliver the certificate made for the news media to any person designated to receive the certificate by the editors of the newspapers published in the county or by the managers of the radio and television stations operating in the county. The county election board shall furnish each precinct election board with the forms on which the certificates are to be prepared.

As added by P.L.5-1986, SEC.8. Amended by P.L.3-1987, SEC.346.

IC 3-12-2-16

Canvass to continue to completion

Sec. 16. To minimize the delay in the counting of the vote, canvassing must begin immediately upon the closing of the polls and continue without interruption until all votes are canvassed and all certificates of the vote required by section 6 of this chapter are completed and delivered to the persons entitled to receive the certificates.

As added by P.L.5-1986, SEC.8. Amended by P.L.3-1987, SEC.347; P.L.3-1989, SEC.11.