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# SENATE BILL No. 138

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 20-23; IC 20-26-4-7.

**Synopsis:** School board elections. Requires that the members of the governing body of a school corporation be elected. Repeals a superseded statute providing for the option of appointment of members of a governing body.

**Effective:** July 1, 2006.

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January 9, 2006, read first time and referred to Committee on Elections and Civic Affairs.

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Second Regular Session 114th General Assembly (2006)

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 2005 Regular Session of the General Assembly.

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## SENATE BILL No. 138



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

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

- 1 SECTION 1. IC 20-23-4-12, AS ADDED BY P.L.1-2005,
- 2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2006]: Sec. 12. (a) In formulating a preliminary reorganization
- 4 plan and with respect to each of the community school corporations
- 5 that are a part of the reorganization plan, the county committee shall
- 6 determine the following:
- 7 (1) The name of the community school corporation.
- 8 (2) Subject to subsection (e), a general description of the
- 9 boundaries of the community school corporation.
- 10 (3) With respect to the board of school trustees:
- 11 (A) whether the number of members is:
- 12 (i) three (3);
- 13 (ii) five (5); or
- 14 (iii) seven (7);
- 15 ~~(B) whether the members are elected or appointed;~~
- 16 ~~(C) if the members are appointed:~~
- 17 (i) when the appointments are made; and



- 1                   (ii) who makes the appointments;
- 2                   ~~(D)~~ if **(B) whether** the members are elected ~~whether the~~
- 3                   election is at:
- 4                   (i) the primary election at which county officials are
- 5                   nominated; or
- 6                   (ii) the general election at which county officials are elected;
- 7                   and
- 8                   ~~(E)~~ **(C)** subject to sections 21 and 22 of this chapter, the
- 9                   manner in which members are elected. ~~or appointed.~~
- 10                  (4) The compensation, if any, of the members of the regular and
- 11                  interim board of school trustees, which may not exceed the
- 12                  amount provided in IC 20-26-4-6.
- 13                  (5) Subject to subsection (f), qualifications required of the
- 14                  members of the board of school trustees, including limitations on:
- 15                    (A) residence; and
- 16                    (B) term of office.
- 17                  (6) If an existing school corporation is divided in the
- 18                  reorganization, the disposition of assets and liabilities.
- 19                  (7) The disposition of school aid bonds, if any.
- 20                  (b) If existing school corporations are not divided in the
- 21                  reorganization, the:
- 22                    (1) assets;
- 23                    (2) liabilities; and
- 24                    (3) obligations;
- 25                  of the existing school corporations shall be transferred to and assumed
- 26                  by the new community school corporation of which they are a part,
- 27                  regardless of whether the plan provides for transfer and assumption.
- 28                  (c) The preliminary plan must be supported by a summary statement
- 29                  of:
- 30                    (1) the educational improvements the plan's adoption will make
- 31                    possible;
- 32                    (2) data showing the:
- 33                        (A) assessed valuation;
- 34                        (B) number of resident students in average daily attendance in
- 35                        grades 1 through 12;
- 36                        (C) assessed valuation per student referred to in clause (B);
- 37                        and
- 38                        (D) property tax levies;
- 39                  of each existing school corporation to which the plan applies;
- 40                  (3) the:
- 41                    (A) assessed valuation;
- 42                    (B) resident average daily attendance; and

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1 (C) assessed valuation per student;  
 2 data referred to in subdivision (2)(A) through (2)(C) that would  
 3 have applied for each proposed community school corporation if  
 4 the corporation existed in the year the preliminary plan is  
 5 prepared or notice of a hearing or hearings on the preliminary  
 6 plan is given by the county committee; and  
 7 (4) any other data or information the county committee considers  
 8 appropriate or that may be required by the state board in its rules.  
 9 (d) The county committee:  
 10 (1) shall base the assessed valuations and tax levies referred to in  
 11 subsection (c)(2) through (c)(3) on the valuations applying to  
 12 taxes collected in:  
 13 (A) the year the preliminary plan is prepared; or  
 14 (B) the year notice of a hearing or hearings on the preliminary  
 15 plan is given by the county committee;  
 16 (2) may base the resident average daily attendance figures on the  
 17 calculation of the figures under the rules under which they are  
 18 submitted to the state superintendent by existing school  
 19 corporations; and  
 20 (3) shall set out the resident average daily attendance figures for:  
 21 (A) the school year in progress if the figures are available for  
 22 that year; or  
 23 (B) the immediately preceding school year if the figures are  
 24 not available for the school year in progress.  
 25 The county committee may obtain the data and information referred to  
 26 in this subsection from any source the committee considers reliable. If  
 27 the county committee attempts in good faith to comply with this  
 28 subsection, the summary statement referred to in subsection (c) is  
 29 sufficient regardless of whether the statement is exactly accurate.  
 30 (e) The general description referred to in subsection (a)(2) may  
 31 consist of an identification of an existing school corporation that is to  
 32 be included in its entirety in the community school corporation. If a  
 33 boundary does not follow the boundary of an existing civil unit of  
 34 government or school corporation, the description must set out the  
 35 boundary:  
 36 (1) as near as reasonably possible by:  
 37 (A) streets;  
 38 (B) rivers; and  
 39 (C) other similar boundaries;  
 40 that are known by common names; or  
 41 (2) if descriptions as described in subdivision (1) are not possible,  
 42 by section lines or other legal description.

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1 The description is not defective if there is a good faith effort by the  
2 county committee to comply with this subsection or if the boundary  
3 may be ascertained with reasonable certainty by a person skilled in the  
4 area of real estate description. The county committee may require the  
5 services of the county surveyor in preparing a description of a boundary  
6 line.

- 7 (f) A member of the board of school trustees:
  - 8 (1) may not serve ~~an appointive or elective~~ a term of more than
  - 9 four (4) years; and
  - 10 (2) may serve more than one (1) consecutive ~~appointive or~~
  - 11 ~~elective~~ term.

12 SECTION 2. IC 20-23-4-16, AS ADDED BY P.L.1-2005,  
13 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
14 JULY 1, 2006]: Sec. 16. The form of a preliminary or final  
15 comprehensive plan of reorganization is sufficient if the plan contains  
16 in its own terms or by reference the following for each proposed  
17 community school corporation:

- 18 (1) The name of the proposed community school corporation.
- 19 (2) A general description of the boundaries of the community
- 20 school corporation as provided in section 12 of this chapter.
- 21 (3) The number of members of the board of school trustees. ~~and~~
- 22 ~~whether the members are elected or appointed:~~
- 23 (4) The manner in which the board of school trustees, other than
- 24 the interim board, is elected. ~~or appointed:~~
- 25 (5) If a school corporation is divided as part of the reorganization,
- 26 the disposition of assets and liabilities of the school corporation.
- 27 (6) The statement required by section 12 of this chapter if that
- 28 statement is submitted or adopted with the plan.

29 SECTION 3. IC 20-23-4-19, AS ADDED BY P.L.1-2005,  
30 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
31 JULY 1, 2006]: Sec. 19. (a) If the creation of a community school  
32 corporation out of an existing corporation would not involve a change  
33 in its territorial boundaries or in its board of school trustees or other  
34 governing body, other than a change, if any, in the time of election ~~or~~  
35 ~~appointment~~ or the time the board members take office, and the  
36 creation is consistent with the standards set up under this chapter as  
37 modified, if any, by the standards set out in this section, the state board  
38 may upon its own motion or upon petition of the governing body of the  
39 existing school corporation at any time with hearing in the county  
40 where such school corporation is located, after notice by publication at  
41 least once in one (1) newspaper of general circulation published in the  
42 county where such school corporation is located, at least ten (10) but

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1 not more than thirty (30) days before the date of a hearing, and without  
 2 action of the county committee declare such existing school  
 3 corporation to be a community school corporation by adopting a  
 4 resolution to this effect. The existing school corporation qualifies as to  
 5 size and financial resources if it has an average daily attendance of at  
 6 least two hundred seventy (270) students in grades 9 through 12 or at  
 7 least one thousand (1,000) students in grades 1 through 12, and has an  
 8 assessed valuation per student of at least five thousand dollars  
 9 (\$5,000). For the purposes of this provision, the following terms have  
 10 the following meanings:

11 (1) "County tax" means a property tax that is levied at an equal  
 12 rate in the entire county in which any school corporation is  
 13 located, other than a tax qualifying as a countywide tax within the  
 14 meaning of Acts 1959, c.328, s.2, or any similar statute, and the  
 15 net proceeds of which are distributed to school corporations in the  
 16 county.

17 (2) "Assessed valuation" of any school corporation means the net  
 18 assessed value of its real and personal property as of March 1,  
 19 1964, adjusted in the same manner as such assessed valuation is  
 20 adjusted for each county by the department of local government  
 21 finance under Acts 1949, c.247, s.5, as amended, unless that  
 22 statute has been repealed or no longer provides for such  
 23 adjustment. If a county has a county tax, the assessed valuation of  
 24 each school corporation in the county shall be increased by the  
 25 amount of assessed valuation, if any, that would be required to  
 26 raise an amount of money, equal to the excess of the amount  
 27 distributed to any school corporation from the county tax over the  
 28 amount collected from the county tax in the school corporation,  
 29 using total taxes levied by the school corporation in terms of rate,  
 30 excluding the countywide tax under Acts 1959, c.328, s.2, or any  
 31 similar statute and including all other taxes levied by or for the  
 32 school corporation, including but not limited to the county tax,  
 33 bond fund levy, lease rental levy, library fund levy, special school  
 34 fund levy, tuition fund levy, capital projects fund levy, and special  
 35 funds levies. The increased valuation shall be based on the excess  
 36 distributed to the school corporation from the county tax levied  
 37 for the year 1964 and the total taxes levied for the year, or if the  
 38 county tax is first applied or is raised for years after 1964, then the  
 39 excess distributions and total taxes levied for the year in which  
 40 the tax is first applied or raised. If the excess distribution and total  
 41 taxes levied cannot be determined accurately on or before the  
 42 adoption of the resolution provided in this section, excess

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1 distribution and taxes levied shall be estimated by the department  
 2 of local government finance using the last preceding assessed  
 3 valuations and tax rates or such other information as that  
 4 department determines, certifying the increased assessment to the  
 5 state board before such time. In all cases, the excess distribution  
 6 shall be determined upon the assumption that the county tax is  
 7 one hundred percent (100%) collected and all collections are  
 8 distributed.

9 (3) "Assessed valuation per student" of any school corporation  
 10 means the assessed valuation of any school corporation divided  
 11 by its average daily attendance in grades 1 through 12.

12 (4) "Average daily attendance" in any school corporation means  
 13 the average daily attendance of students who are residents in the  
 14 school corporation and in the particular grades to which the term  
 15 refers for the school year 1964-1965 in accordance with the  
 16 applicable regulations of the state superintendent, used in  
 17 determining average daily attendance in the distribution of the  
 18 tuition funds by the state to its various school corporations where  
 19 funds are distributed on such basis and irrespective of whether the  
 20 figures are the actual resident daily attendance of the school for  
 21 the school year.

22 (b) The community school corporation shall automatically come into  
 23 being on either July 1 or January 1 following the date of approval,  
 24 whichever is earlier. The state board shall mail by certified United  
 25 States mail, return receipt requested, a copy of the resolution certified  
 26 by county committee's chairperson or secretary to the recorder of the  
 27 county from which the county committee having jurisdiction of such  
 28 existing school corporation was appointed and to such county  
 29 committee. The resolution may change the time of election ~~or~~  
 30 ~~appointment~~ of the board of trustees of the school corporation or the  
 31 time such trustees take office. The recorder shall without cost record  
 32 the certified resolution in the miscellaneous records of the county. The  
 33 recording shall constitute a permanent record of the action of the state  
 34 board and may be relied on by any person. Unless the resolution  
 35 provides that an interim member of the board of trustees shall not be  
 36 appointed, the board of trustees in office on the date of the action shall  
 37 continue to constitute the board of trustees of the school corporation  
 38 until their successors are qualified, and the terms of their respective  
 39 office and board membership shall remain unchanged except to the  
 40 extent that the resolution otherwise provides. For purposes of this  
 41 chapter and IC 20-23-16-1 through IC 20-23-16-11, a community  
 42 school corporation shall be regarded as a school corporation created

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1 under section 16 of this chapter.

2 SECTION 4. IC 20-23-4-20, AS ADDED BY P.L.1-2005,  
3 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4 JULY 1, 2006]: Sec. 20. (a) After the state board approves a  
5 comprehensive plan or partial plan for reorganization of school  
6 corporations as submitted to the state board by a county committee, the  
7 state board shall promptly, by certified mail with return receipt  
8 requested, give written notice of the approval to:

9 (1) the chairperson of the county committee submitting the plan;  
10 and

11 (2) the judge of the circuit court of the county from which the  
12 county committee was appointed.

13 (b) After notice is given under subsection (a), a community school  
14 corporation proposed by a plan referred to in subsection (a) may be  
15 created:

16 (1) by petition as provided in this section;

17 (2) by election as provided in section 21 of this chapter; or

18 (3) under section 22 of this chapter.

19 (c) After receipt of the plan referred to in subsection (a) by the  
20 county committee and before or after the election described in section  
21 21 of this chapter, a community school corporation proposed by a plan  
22 referred to in subsection (a) may be created by a petition. The petition  
23 must be signed by at least fifty-five percent (55%) of the registered  
24 voters residing in the community school corporation, determined in the  
25 manner set out in this section, and filed by any signer or by the county  
26 committee with the clerk or clerks of the circuit court or courts of the  
27 county or counties where the voters reside. The petition must state that  
28 the signers request the establishment of a community school  
29 corporation and must contain the following information:

30 (1) The name of the proposed community school corporation.

31 (2) A general description of the boundaries as set out in the plan.

32 (3) The number of members of the board of school trustees.

33 (4) The manner in which:

34 (A) the permanent board of school trustees **will be elected;**

35 and

36 (B) if covered in the plan, the interim board of school trustees  
37 will be elected or appointed.

38 (5) The compensation, if any, of the members of:

39 (A) the permanent board of school trustees; and

40 (B) if covered in the plan, the interim board of school trustees.

41 (6) The disposition, if any, of assets and liabilities of each existing  
42 school corporation that:

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- 1 (A) is included in the proposed community school corporation;
- 2 and
- 3 (B) has been divided.
- 4 (7) The disposition of school aid bonds, if any.
- 5 (d) The petition referred to in subsection (c) must show:
- 6 (1) the date on which each person signed the petition; and
- 7 (2) the person's residence address on that date.

8 The petition may be executed in several counterparts, the total of which  
 9 constitutes the petition described in this section. An affidavit of the  
 10 person circulating a counterpart must be attached to the counterpart.  
 11 The affidavit must state that each signature appearing on the  
 12 counterpart was affixed in the person's presence and is the true and  
 13 lawful signature of the signer. Each signer on the petition may  
 14 withdraw the signer's signature from the petition before the petition is  
 15 filed with the clerk of the circuit court. Names may not be added to the  
 16 petition after the petition is filed with the clerk of the circuit court.

17 (e) After receipt of the petition referred to in subsection (c), the  
 18 clerk of the circuit court shall make a certification under the clerk's  
 19 hand and seal of the clerk's office as to:

- 20 (1) the number of signers of the petition;
- 21 (2) the number of signers of the petition who are registered voters  
 22 residing in:
  - 23 (A) the proposed community school corporation; or
  - 24 (B) the part of the school corporation located in the clerk's  
 25 county;
 as disclosed by the voter registration records of the county;
- 26 (3) the number of registered voters residing in:
  - 27 (A) the proposed community school corporation; or
  - 28 (B) the part of the school corporation located in the clerk's  
 29 county;
 as disclosed by the voter registration records of the county; and
- 30 (4) the date of the filing of the petition with the clerk.

31 If a proposed community school corporation includes only part of a  
 32 voting precinct, the clerk of the circuit court shall ascertain from any  
 33 means, including assistance from the county committee, the number of  
 34 registered voters residing in the part of the voting precinct.

35 (f) The clerk of the circuit court shall make the certification referred  
 36 to in subsection (e):

- 37 (1) not later than thirty (30) days after the filing of the petition  
 38 under subsection (c), excluding from the calculation of that period  
 39 the time during which the registration records are unavailable to  
 40 the clerk; or
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1 (2) within any additional time as is reasonably necessary to permit  
 2 the clerk to make the certification.  
 3 In certifying the number of registered voters, the clerk shall disregard  
 4 any signature on the petition not made in the ninety (90) days that  
 5 immediately precede the filing of the petition with the clerk as shown  
 6 by the dates set out in the petition. The clerk shall establish a record of  
 7 the certification in the clerk's office and shall return the certification to  
 8 the county committee.  
 9 (g) If the certification or combined certifications received from the  
 10 clerk or clerks disclose that the petition was signed by at least fifty-five  
 11 percent (55%) of the registered voters residing in the community  
 12 school corporation, the county committee shall publish a notice in two  
 13 (2) newspapers of general circulation in the community school  
 14 corporation. The notice must:  
 15 (1) state that the steps necessary for the creation and  
 16 establishment of the community school corporation have been  
 17 completed; and  
 18 (2) set forth:  
 19 (A) the number of registered voters residing in the community  
 20 school corporation who signed the petition; and  
 21 (B) the number of registered voters residing in the community  
 22 school corporation.  
 23 (h) A community school corporation created by a petition under this  
 24 section takes effect on the earlier of:  
 25 (1) July 1; or  
 26 (2) January 1;  
 27 that next follows the date of publication of the notice referred to in  
 28 subsection (g).  
 29 (i) If a public official fails to perform a duty required of the official  
 30 under this chapter within the time prescribed in this section and  
 31 sections 21 through 24 of this chapter, the omission does not invalidate  
 32 the proceedings taken under this chapter.  
 33 (j) An action:  
 34 (1) to contest the validity of the formation or creation of a  
 35 community school corporation under this section;  
 36 (2) to declare that a community school corporation:  
 37 (A) has not been validly formed or created; or  
 38 (B) is not validly existing; or  
 39 (3) to enjoin the operation of a community school corporation;  
 40 may not be instituted later than thirty (30) days after the date of  
 41 publication of the notice referred to in subsection (g).  
 42 SECTION 5. IC 20-23-4-28.1 IS ADDED TO THE INDIANA

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1 CODE AS A NEW SECTION TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2006]: **Sec. 28.1. (a) This section applies to**  
3 **members of the governing body of a school corporation, who**  
4 **before January 1, 2007, are appointed.**

5 (b) After December 31, 2006, the members of the governing  
6 body shall be elected as provided in this chapter.

7 (c) Before January 1, 2007, the governing body shall amend the  
8 school corporation's plan to provide for the election of the  
9 members of the governing body as provided in section 29 of this  
10 chapter. The amendment must provide that the successor of an  
11 appointed member shall be elected at either:

12 (1) the primary election at which county officials are  
13 nominated; or

14 (2) the general election at which county officials are elected;  
15 held immediately before that member's term of office is scheduled  
16 to expire.

17 (d) If the governing body fails to amend the school corporation's  
18 plan as required by subsection (c), the following apply:

19 (1) The successor of each appointed member of the governing  
20 body shall be elected at the general election at which county  
21 officials are elected and that is held in the year:

22 (A) that the appointed member's term expires, if the  
23 appointed member's term expires July 1; or

24 (B) immediately before the appointed member's term  
25 expires, if the appointed member's term expires January  
26 1.

27 (2) The successor elected at the general election takes office on  
28 January 1 following the successor's election.

29 (3) The school corporation's plan is considered to provide  
30 that:

31 (A) the members of the governing body shall be elected at  
32 a general election at which county officials are elected; and

33 (B) a member of the governing body takes office January  
34 1 after the member's election.

35 SECTION 6. IC 20-23-4-30, AS ADDED BY P.L.230-2005,  
36 SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
37 JULY 1, 2006]: Sec. 30. (a) This section applies to each school  
38 corporation.

39 (b) If the governing body is to be elected at the primary election,  
40 each registered voter may vote in the governing body election without  
41 otherwise voting in the primary election.

42 (c) If a tie vote occurs among any of the candidates, the tie vote

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1 shall be resolved under IC 3-12-9-4.

2 (d) If after the first governing body takes office, there is a vacancy

3 on the governing body for any reason, including the failure of the

4 sufficient number of petitions for candidates being filed, ~~whether the~~

5 ~~vacating member was elected or appointed~~, the remaining members of

6 the governing body, whether or not a majority of the governing body,

7 shall by a majority vote fill the vacancy by appointing a person from

8 within the boundaries of the community school corporation to serve for

9 the term or balance of the term. An individual appointed under this

10 subsection must possess the qualifications provided for a ~~regularly~~

11 ~~elected or appointed~~ governing body member. ~~filling the office.~~ If:

12 (1) a tie vote occurs among the members of the governing body

13 under this subsection or IC 3-12-9-4; or

14 (2) the governing body fails to act within thirty (30) days after any

15 vacancy occurs;

16 the judge of the circuit court in the county where the majority of

17 registered voters of the school corporation reside shall make the

18 appointment.

19 (e) A vacancy in the governing body occurs if a member ceases to

20 be a resident of any community school corporation. A vacancy does not

21 occur when the member moves from a district of the school corporation

22 ~~from which the member was elected or appointed~~ **represents** if the

23 member continues to be a resident of the school corporation.

24 (f) At the first primary or general election in which members of the

25 governing body are elected:

26 (1) a simple majority of the candidates elected as members of the

27 governing body who receive the highest number of votes shall be

28 elected for four (4) year terms; and

29 (2) the balance of the candidates elected as members of the

30 governing body receiving the next highest number of votes shall

31 be elected for two (2) year terms.

32 Thereafter, all school board members shall be elected for four (4) year

33 terms.

34 (g) Governing body members elected:

35 (1) in November take office and assume their duties on January

36 1 or July 1 after their election, as determined by the board of

37 school trustees before the election; and

38 (2) in May take office and assume their duties on July 1 after their

39 election.

40 SECTION 7. IC 20-23-4-31, AS ADDED BY P.L.1-2005,

41 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

42 JULY 1, 2006]: Sec. 31. (a) This section applies to each school

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1 corporation.

2 (b) ~~If the plan provides for the election of members of the governing~~

3 ~~body of the community school corporation:~~

4 ~~(1) The judge of the circuit court, or~~

5 ~~(2) in the case of a united school corporation, the judge of the~~

6 ~~circuit court of the county having the most students enrolled in the~~

7 ~~united school corporation~~

8 shall appoint interim governing body members in accordance with the

9 plan approved by the county committee and the state board.

10 (c) The members of the governing body appointed serve until their

11 successors are elected and qualified.

12 (d) Instead of appointment, the plan may provide for an alternative

13 method of appointing the members of the interim governing body of a

14 community or united school corporation. The appointment under this

15 subsection must be made by one (1) or more of the ~~class of officials~~

16 ~~listed in section 28(e) of this chapter: following:~~

17 **(1) The judge of the circuit or superior court.**

18 **(2) The city executive.**

19 **(3) The legislative body of a city.**

20 **(4) The board of commissioners of a county.**

21 **(5) The county fiscal body.**

22 **(6) The town legislative body.**

23 **(7) The township executive.**

24 **(8) The township legislative body.**

25 **(9) A township executive and legislative body jointly.**

26 **(10) More than one (1) township executive and legislative**

27 **body jointly.**

28 SECTION 8. IC 20-23-5-11, AS ADDED BY P.L.1-2005,

29 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

30 JULY 1, 2006]: Sec. 11. (a) Within sixty (60) days after the annexation

31 takes place, the governing body of the acquiring school corporation and

32 losing school corporation shall adopt a plan determining the manner in

33 which the governing body shall be constituted. The plan shall be

34 adopted in accordance with the requirements and procedures of

35 IC 20-23-8, except as set out in subsection (b).

36 (b) The adoption of a plan by the governing body in accordance with

37 IC 20-23-8-10 and its submission to the state board under

38 IC 20-23-8-15 are the only procedures required when an existing plan

39 is changed as follows:

40 (1) All governing body members are elected at large, and there

41 are no governing body member residency districts.

42 (2) Governing body members are elected from governing body

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1 member residency districts, and the annexed territory is added to  
 2 or deleted from one (1) or more districts.  
 3 ~~(3) A governing body member is appointed from a given area or~~  
 4 ~~district, and the annexed territory is added to or deleted from one~~  
 5 ~~(1) or more districts or areas.~~  
 6 ~~(4)~~ **(3)** A governing body member is elected solely by the voters  
 7 in a school governing body member district, but the addition or  
 8 deletion of the annexed territory to or from an existing district  
 9 does not constitute a denial of equal protection of the laws.  
 10 If a school corporation elects ~~or appoints~~ members of its governing  
 11 body both from a school governing body member district encompassing  
 12 the entire school corporation and from smaller districts, the governing  
 13 body of the acquiring school corporation shall add the annexed territory  
 14 both to the district consisting of the entire school corporation and to  
 15 one (1) or more smaller districts. In a comparable situation, the losing  
 16 school corporation shall delete the annexed territory both from the  
 17 district consisting of the entire school corporation and from any smaller  
 18 district or districts. The change in the plan becomes effective upon its  
 19 approval by the state board. The application of this subsection does not  
 20 limit the initiation of, or further changes in, any plan under IC 20-23-8.  
 21 SECTION 9. IC 20-23-6-3, AS ADDED BY P.L.1-2005, SECTION  
 22 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
 23 2006]: Sec. 3. (a) If the governing bodies of at least two (2) school  
 24 corporations desire to consolidate school corporations, the governing  
 25 bodies may meet together and adopt a joint resolution declaring  
 26 intention to consolidate school corporations. The resolution must set  
 27 out the following information concerning the proposed consolidation:  
 28 (1) The name of the proposed new school corporation.  
 29 (2) The number of members on the governing body and the  
 30 manner in which they shall be elected. ~~or appointed:~~  
 31 ~~(A) If members are to be elected;~~ The resolution must provide  
 32 for:  
 33 ~~(i)~~ **(A)** the manner of the nomination of members;  
 34 ~~(ii)~~ **(B)** who shall constitute the board of election  
 35 commissioners;  
 36 ~~(iii)~~ **(C)** who shall appoint inspectors, judges, clerks, and  
 37 sheriffs; and  
 38 ~~(iv)~~ **(D)** any other provisions desirable in facilitating the  
 39 election.  
 40 ~~(B)~~ Where applicable and not in conflict with the resolution, the  
 41 election is governed by the general election laws of Indiana,  
 42 including the registration laws.

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1 (3) Limitations on residences, term of office, and other  
2 qualifications required of the members of the governing body. A  
3 resolution may not provide for ~~an appointive or elective~~ a term of  
4 more than four (4) years. A member may succeed himself or  
5 herself in office.

6 (4) Names of present school corporations that are to be merged  
7 together as a consolidated school corporation.

8 In addition, the resolution may specify the time when the consolidated  
9 school corporation comes into existence.

10 (b) The number of members on the governing body as provided in  
11 the resolution may not be less than three (3) or more than seven (7).  
12 However, the joint resolution may provide for a board of nine (9)  
13 members if the proposed consolidated school corporation is formed out  
14 of two (2) or more school corporations that:

15 (1) have entered into an interlocal agreement to construct and  
16 operate a joint high school; or

17 (2) are operating a joint high school that has an enrollment of at  
18 least six hundred (600) in grades 9 through 12 at the time the joint  
19 resolution is adopted.

20 (c) The members of the governing body shall, after adopting a joint  
21 resolution, give notice by publication once each week for two (2)  
22 consecutive weeks in a newspaper of general circulation, if any, in each  
23 of the school corporations. If a newspaper is not published in the school  
24 corporation, publication shall be made in the nearest newspaper  
25 published in the county in which the school corporation is located. The  
26 governing bodies of school corporations shall meet one (1) week  
27 following the date of the appearance of the last publication of notice of  
28 intention to consolidate. If a protest has not been filed, as provided in  
29 this chapter, the governing bodies shall declare by joint resolution the  
30 consolidation of the school corporations to be accomplished, to take  
31 effect as provided in section 8 of this chapter. However, on or before  
32 the sixth day following the last publication of the notice of intention to  
33 consolidate, twenty percent (20%) of the legal voters residing in any  
34 school corporation may petition the governing body of the school  
35 corporations for an election to determine whether or not the majority  
36 of the voters of the school corporation is in favor of consolidation.

37 SECTION 10. IC 20-23-6-6, AS ADDED BY P.L.1-2005,  
38 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
39 JULY 1, 2006]: Sec. 6. (a) On the day and hour named in the notice  
40 filed under section 5 of this chapter, polls shall be opened and the votes  
41 of the registered voters shall be taken upon the public question of  
42 consolidating school corporations. The election shall be governed by

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1 IC 3, except as provided in this chapter.  
 2 (b) The county election board shall conduct the election. The public  
 3 question shall be placed on the ballot in the form prescribed by  
 4 IC 3-10-9-4 and must state "Shall (here insert the names of the school  
 5 corporations that the resolution proposes to consolidate) be  
 6 consolidated into a consolidated school corporation?".  
 7 (c) A brief statement of the provisions in the resolution for  
 8 ~~appointment or~~ election of a governing body may be placed on the  
 9 ballot in the form prescribed by IC 3-10-9-4. A certificate of the votes  
 10 cast for and against the consolidation of the school corporations shall  
 11 be filed with:  
 12 (1) the governing body of the school corporations subject to the  
 13 election;  
 14 (2) the state superintendent; and  
 15 (3) the county recorder of each county in which a consolidated  
 16 school corporation is located;  
 17 together with a copy of the resolution.  
 18 (d) If a majority of the votes cast at each of the elections is in favor  
 19 of the consolidation of two (2) or more school corporations, the trustees  
 20 of the school corporations shall proceed to consolidate the schools and  
 21 provide the necessary buildings and equipment. In any school  
 22 corporation where a petition was not filed and an election was not held,  
 23 the failure on the part of the voters to file a petition for an election shall  
 24 be considered to give the consent of the voters of the school  
 25 corporation to the consolidation as set out in the resolution.  
 26 (e) If the special election is not conducted at a primary or general  
 27 election, the expense of the election shall be borne by the school  
 28 corporation or each of the school corporations subject to the election  
 29 and shall be paid out of the special school fund.  
 30 SECTION 11. IC 20-23-6-8, AS ADDED BY P.L.1-2005,  
 31 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 32 JULY 1, 2006]: Sec. 8. (a) Consolidated schools are under the control  
 33 and management of the consolidated governing body created under this  
 34 chapter, and a new consolidated school corporation comes into  
 35 existence:  
 36 (1) at the time specified in the resolutions provided in section 3  
 37 or 4 of this chapter; or  
 38 (2) if a time is not specified, at the following times:  
 39 (A) If a protest has not been filed and the creation is  
 40 accomplished by the adoption of a joint resolution following  
 41 publication of notice as provided in section 3 of this chapter,  
 42 thirty (30) days following the adoption of the joint resolution.

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1 (B) If the creation is accomplished after an election as  
 2 provided in section 6 of this chapter, thirty (30) days following  
 3 the election.

4 (b) The members of the governing body shall:  
 5 (1) take an oath to faithfully discharge the duties of office; and  
 6 (2) meet at least five (5) days before the time the new  
 7 consolidated school corporation comes into existence to organize.

8 (c) The governing body shall meet to reorganize on August 1 of  
 9 each year and at any time the personnel of the board is changed. At the  
 10 organization or reorganization meeting, the members of the governing  
 11 body shall elect the following:  
 12 (1) A president.  
 13 (2) A secretary.  
 14 (3) A treasurer.

15 (d) The treasurer, before starting the duties of the treasurer's office,  
 16 shall execute a bond to the acceptance of the county auditor. The fee  
 17 for the bond shall be paid from the special school fund of the  
 18 consolidated school corporation. Any vacancy occurring in governing  
 19 body membership in any governing body, other than vacancy in the  
 20 office of an ex officio member, shall be filled in the following manner:  
 21 (1) If the membership was originally made by appointment, the  
 22 vacancy shall be filled by appointment by the legislative body of  
 23 the:  
 24 (A) city;  
 25 (B) town;  
 26 (C) township; or  
 27 (D) other body;  
 28 or other official making the original appointment.  
 29 (2) If the membership was elected, the vacancy shall be filled by  
 30 a majority vote of the remaining members of the governing body  
 31 of the consolidated school corporation.

32 (e) The members of the governing body, other than the township  
 33 executive or ex officio member, shall receive compensation for services  
 34 as fixed by resolution of the governing body. The members, other than  
 35 the township executive or any ex officio member, may not receive more  
 36 than two hundred dollars (\$200) annually. Any:  
 37 (1) township executive; or  
 38 (2) ex officio member of the governing body;  
 39 shall serve without additional compensation.

40 (f) The governing body of a consolidated school corporation may  
 41 elect and appoint personnel it considers necessary.

42 SECTION 12. IC 20-23-6-9, AS ADDED BY P.L.1-2005,

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1 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 2 JULY 1, 2006]: Sec. 9. (a) When any:  
 3 (1) school town;  
 4 (2) school city;  
 5 (3) school township;  
 6 (4) joint school; or  
 7 (5) consolidated school;  
 8 has become consolidated by resolution or election and the new  
 9 governing body has been ~~appointed~~ and legally organized, the former  
 10 school township, school town, school city, joint school, or consolidated  
 11 school is considered abandoned.  
 12 (b) All school:  
 13 (1) property;  
 14 (2) rights;  
 15 (3) privileges; and  
 16 (4) any indebtedness;  
 17 from the abandoned school is considered to have accrued to and be  
 18 assumed by the new consolidated school corporation.  
 19 (c) The title of property shall pass to and become vested in the new  
 20 consolidated school corporation. All debts of the former school  
 21 corporations shall be assumed and paid by the new consolidated school  
 22 corporation. All the privileges and rights conferred by law upon the  
 23 former:  
 24 (1) school township;  
 25 (2) school town;  
 26 (3) school city;  
 27 (4) joint school; or  
 28 (5) consolidated school;  
 29 are granted to the newly consolidated school corporation.  
 30 (d) This subsection applies when the consolidated governing body  
 31 of a consolidated school corporation decides that property acquired  
 32 under subsection (b) from a township is no longer needed for school  
 33 purposes. The governing body shall offer the property as a gift for park  
 34 and recreation purposes to the township that owned the property before  
 35 the school was consolidated. If the township board accepts the offer,  
 36 the governing body shall give the township a quitclaim deed to the  
 37 property. The deed must state that the township is required to use the  
 38 property for park and recreation purposes. If the township board refuses  
 39 the offer, the governing body may sell the property in the manner  
 40 provided in subsection (e).  
 41 (e) This subsection provides the procedure for the sale of school  
 42 property that is no longer needed for school purposes by the governing

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1 body of a consolidated school corporation. The governing body shall  
2 cause the property to be appraised at a fair cash value by three (3)  
3 reputable resident freeholders of the school corporation offering the  
4 property for sale. The appraisals shall be made under oath and spread  
5 of record upon the records of the governing body. A sale may not be  
6 made for less than the appraised value, and the sale must be made for  
7 cash. The sale shall take place after the governing body gives notice  
8 under IC 5-3-1 of the terms, date, time, and place of sale.

9 (f) Proceeds from a sale under subsection (e) shall be placed in a  
10 special school fund of the consolidated school corporation designated  
11 as the capital outlay fund that shall be available for capital outlay of the  
12 school corporation.

13 SECTION 13. IC 20-23-7-6, AS ADDED BY P.L.1-2005,  
14 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
15 JULY 1, 2006]: Sec. 6. (a) The first metropolitan board of education  
16 shall be composed of the:

- 17 (1) trustees; and
  - 18 (2) members of school boards;
- 19 of the school corporations forming the metropolitan board of education.

20 (b) The members of the metropolitan board of education shall serve  
21 ex officio as members subject to the laws concerning length of terms,  
22 powers of election, ~~or appointment~~ and filling vacancies applicable to  
23 their respective offices.

24 (c) If a metropolitan school district is comprised of only two (2)  
25 board members, the two (2) members shall appoint a third board  
26 member not more than ten (10) days after the creation of the  
27 metropolitan school district. If the two (2) members are unable to agree  
28 on or do not make the appointment of a third board member within the  
29 ten (10) day period after the creation of the metropolitan school district,  
30 the third member shall be appointed not more than twenty (20) days  
31 after the creation of the metropolitan school district by the judge of the  
32 circuit court of the county in which the metropolitan school district is  
33 located. If the metropolitan school district is located in two (2) or more  
34 counties, the judge of the circuit court of the county containing that part  
35 of the metropolitan school district having more students than the part  
36 or parts located in another county or counties shall appoint the third  
37 member. The members of the metropolitan board of education serve  
38 until their successors are elected ~~or appointed~~ and qualified.

39 (d) The first meeting of the first metropolitan board of education  
40 shall be held not more than one (1) month after the creation of the  
41 metropolitan school district. The first meeting shall be called by the  
42 superintendent of schools, or township trustee of a school township, of

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1 the school corporation in the district having the largest number of  
2 students. At the first meeting, the board shall organize, and during the  
3 first ten (10) days of each July the board shall reorganize, by electing  
4 a president, a vice president, a secretary, and a treasurer.

5 (e) The secretary of the board shall keep an accurate record of the  
6 minutes of the metropolitan board of education and the minutes shall  
7 be kept in the superintendent's office. When a metropolitan school  
8 district is formed, the metropolitan superintendent shall act as  
9 administrator of the board and shall carry out the acts and duties as  
10 designated by the board. A quorum consists of a majority of the  
11 members of the board. A quorum is required for the transaction of  
12 business. The vote of a majority of those present is required for a:

- 13 (1) motion;
- 14 (2) ordinance; or
- 15 (3) resolution;

16 to pass.

17 (f) The board shall conduct its affairs in the manner described in this  
18 section. Except in unusual cases, the board shall hold its meetings at  
19 the office of the metropolitan superintendent or at a place mutually  
20 designated by the board and the superintendent. Board records are to  
21 be maintained and board business is to be conducted from the office of  
22 the metropolitan superintendent or a place designated by the board and  
23 the superintendent.

24 (g) The metropolitan board of education shall have the power to pay  
25 to a member of the board:

- 26 (1) a reasonable per diem for service on the board not to exceed  
27 one hundred twenty-five dollars (\$125) per year; and
- 28 (2) for travel to and from a member's home to the place of the  
29 meeting within the district, a sum for mileage equal to the amount  
30 per mile paid to state officers and employees. The rate per mile  
31 shall change when the state government changes its rate per mile.

32 SECTION 14. IC 20-23-7-12, AS ADDED BY P.L.1-2005,  
33 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
34 JULY 1, 2006]: Sec. 12. (a) As used in this section, "school township"  
35 means a school township of this state that:

- 36 (1) for the last full school semester immediately preceding the  
37 adoption of a preliminary resolution by the township trustee and  
38 the township board under subsection (f) or their adoption of a  
39 resolution of disapproval under subsection (g) had an average  
40 daily membership of at least six hundred (600) students in  
41 kindergarten through grade 12 in the public schools of the school  
42 township; or

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1 (2) is part of a township in which there were more votes cast for  
 2 township trustee outside the school township than inside the  
 3 school township in the general election at which the trustee was  
 4 elected and that preceded the adoption of the preliminary or  
 5 disapproving resolution.

6 (b) As used in this section, "township trustee" means the township  
 7 trustee of the township in which the school township is located.

8 (c) As used in this section, "township board" means the township  
 9 board of the township in which the school township is located.

10 (d) As used in this section, "county" means the county in which the  
 11 school township is located.

12 (e) In a school township, a metropolitan school district may be  
 13 created by complying with this section. A metropolitan school district  
 14 created under this section shall have the same boundaries as the school  
 15 township. After a district has been created under this section, the  
 16 school township that preceded the metropolitan school district is  
 17 abolished. None of the procedures or provisions governing the creation  
 18 of a metropolitan school district under another section of this chapter  
 19 are applicable to the creation of a district under this section. After a  
 20 district is created under this section, the metropolitan school district  
 21 shall, except as otherwise provided in this section, be governed by and  
 22 operate in accordance with this chapter governing the operation of a  
 23 metropolitan school district as established under section 2 of this  
 24 chapter.

25 (f) Except as provided in subsection (g), a metropolitan school  
 26 district provided for in subsection (e) may be created in the following  
 27 manner:

28 (1) The township trustee shall call a meeting of the township  
 29 board. At the meeting the township trustee and a majority of the  
 30 township board shall adopt a resolution that a metropolitan school  
 31 district shall be created in the school township. The township  
 32 trustee shall then give notice:

33 (A) by publication by two (2) insertions one (1) week apart in  
 34 a newspaper of general circulation published in the school  
 35 township, or

36 (B) if there is no newspaper as described in clause (A), in a  
 37 newspaper of general circulation in the county;

38 of the adoption of the resolution setting forth the text of the  
 39 resolution.

40 (2) On the thirtieth day after the date of the last publication of the  
 41 notice under subdivision (1) and if a protest has not been filed, the  
 42 township trustee and a majority of the township board shall

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1 confirm their preliminary resolution. If, however, on or before the  
 2 twenty-ninth day after the date of the last publication of the  
 3 notice, a number of registered voters of the school township,  
 4 equal to five percent (5%) or more of the number of votes cast in  
 5 the school township for secretary of state at the last preceding  
 6 general election for that office, sign and file with the township  
 7 trustee a petition requesting an election in the school township to  
 8 determine whether or not a metropolitan school district must be  
 9 created in the township in accordance with the preliminary  
 10 resolution, then an election must be held as provided in  
 11 subsection (h). The preliminary resolution and confirming  
 12 resolution provided in this subsection shall both be adopted at a  
 13 meeting of the township trustee and township board in which the  
 14 township trustee and each member of the township board received  
 15 or waived a written notice of the date, time, place, and purpose of  
 16 the meeting. The resolution and the proof of service or waiver of  
 17 the notice shall be made a part of the records of the township  
 18 board.

19 (g) Except as provided in subsection (f), a metropolitan school  
 20 district may also be created in the following manner:

21 (1) A number of registered voters of the school township, equal  
 22 to five percent (5%) or more of the votes cast in the school  
 23 township for secretary of state at the last general election for that  
 24 office, shall sign and file with the township trustee a petition  
 25 requesting the creation of a metropolitan school district under this  
 26 section.

27 (2) The township trustee and a majority of the township board  
 28 shall, not more than ten (10) days after the filing of a petition:

29 (A) adopt a preliminary resolution that a metropolitan school  
 30 district shall be created in the school township and proceed as  
 31 provided in subsection (f); or

32 (B) adopt a resolution disapproving the creation of the district.

33 (3) If either the township trustee or a majority of township board  
 34 members vote in favor of disapproving the resolution, an election  
 35 must be held to determine whether or not a metropolitan school  
 36 district shall be created in the school township in the same  
 37 manner as is provided in subsection (f) if an election is requested  
 38 by petition.

39 (h) An election required under subsection (f) or (g) may, at the  
 40 option of the township trustee, be held either as a special election or in  
 41 conjunction with a primary or general election to be held not more than  
 42 one hundred twenty (120) days after the filing of a petition under

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1 subsection (f) or the adoption of the disapproving resolution under  
2 subsection (g). The township trustee shall certify the question to the  
3 county election board under IC 3-10-9-3 and give notice of an election:

- 4 (1) by two (2) insertions one (1) week apart in a newspaper of
- 5 general circulation in the school township; or
- 6 (2) if a newspaper described in subdivision (1) does not exist, in
- 7 a newspaper of general circulation published in the county.

8 The notice must provide that on a day and at an hour named in the  
9 notice, the polls shall be opened at the usual voting places in the  
10 various precincts in the school township for the purpose of taking the  
11 vote of the registered voters of the school township regarding whether  
12 a metropolitan school district shall be created in the township. The  
13 election shall be held not less than twenty (20) days and not more than  
14 thirty (30) days after the last publication of the notice unless a primary  
15 or general election will be conducted not more than six (6) months after  
16 the publication. In that case, the county election board shall place the  
17 public question on the ballot at the primary or general election. If the  
18 election is to be a special election, the township trustee shall give  
19 notice not more than thirty (30) days after the filing of the petition or  
20 the adoption of the disapproving resolution.

21 (i) On the day and time named in the notice, the polls shall be  
22 opened and the votes of the voters shall be taken regarding whether a  
23 metropolitan school district shall be created in the school township.  
24 IC 3 governs the election except as otherwise provided in this chapter.  
25 The county election board shall conduct the election. The public  
26 question shall be placed on the ballot in the form prescribed by  
27 IC 3-10-9-4 and must state "Shall a metropolitan school district under  
28 IC 20-23-7 be formed in the \_\_\_\_\_ School Township of  
29 \_\_\_\_\_ County, Indiana?". The name of the school township  
30 shall be inserted in the blanks.

31 (j) The votes cast in the election shall be canvassed at a place in the  
32 school township determined by the county election board. The  
33 certificate of the votes cast for and against the creation of a  
34 metropolitan school district shall be filed in the records of the township  
35 board and recorded with the county recorder. If the special election is  
36 not conducted at a primary or general election, the school township  
37 shall pay the expense of holding the election out of the special school  
38 fund that is appropriated for this purpose.

39 (k) A metropolitan school district shall, subject to section 7 of this  
40 chapter, be created on the thirtieth day after the date of the adoption of  
41 the confirming resolution under subsection (f) or an election held under  
42 subsection (h). If a public official fails to do the official's duty within

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1 the time prescribed in this section, the failure does not invalidate the  
 2 proceedings taken under this section. An action to contest the validity  
 3 of the creation of a metropolitan school district under this section or to  
 4 enjoin the operation of a metropolitan school district may not be  
 5 instituted later than the thirtieth day following the date of the adoption  
 6 of the confirming resolution under subsection (f) or of the election held  
 7 under subsection (h). Except as provided in this section, an election  
 8 under this subsection may not be held sooner than twelve (12) months  
 9 after another election held under subsection (h).

10 (l) A metropolitan school district is known as "The Metropolitan  
 11 School District of \_\_\_\_\_ Township, \_\_\_\_\_ County,  
 12 Indiana". The first metropolitan board of education in a metropolitan  
 13 school district created under this section consists of five (5) members.  
 14 The township trustee and the township board members are ex officio  
 15 members of the first board, subject to the laws concerning length of  
 16 their respective terms of office, manner of election, ~~or appointment~~,  
 17 and the filling of vacancies applicable to their respective offices. The  
 18 ex officio members serve without other compensation or  
 19 reimbursement for expenses than that which they may receive from  
 20 their respective offices. The township board shall, by a resolution  
 21 recorded in its records, appoint the fifth member of the metropolitan  
 22 board of education. The fifth member shall meet the qualifications of  
 23 a member of a metropolitan board of education under this chapter, with  
 24 the exception of the board member district requirements provided in  
 25 sections 4, 5, and 8 of this chapter.

26 (m) A fifth board member shall be appointed not more than fifteen  
 27 (15) days after the date of the adoption of the confirming resolution  
 28 under subsection (f)(2) or an election held under subsection (h). The  
 29 first board shall hold its first meeting not more than fifteen (15) days  
 30 after the date when the fifth board member is ~~appointed~~ or elected, on  
 31 a date established by the township board in the resolution in which it  
 32 appoints the fifth board member. The first board shall serve until July  
 33 1 following the election of a metropolitan school board at the first  
 34 primary election held more than sixty (60) days following the creation  
 35 of the metropolitan school district.

36 (n) After the creation of a metropolitan school district under with  
 37 this section, the president of the metropolitan school board of the  
 38 district shall serve as a member of the county board of education and  
 39 perform the duties on the county board of education that were  
 40 previously performed by the township trustee. The metropolitan school  
 41 board and superintendent of the district may call upon the assistance of  
 42 and use the services provided by the county superintendent of schools.

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1 This subsection does not limit or take away the powers, rights,  
2 privileges, or duties of the metropolitan school district or the board or  
3 superintendent of the district provided in this chapter.

4 SECTION 15. IC 20-23-8-4, AS ADDED BY P.L.1-2005,  
5 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
6 JULY 1, 2006]: Sec. 4. As used in this chapter, "plan" means the  
7 manner in which the governing body of a school corporation is  
8 constituted, including the number, qualifications, length of terms,  
9 manner, and time of ~~selection either by appointment or by election~~ of  
10 the members of the governing body.

11 SECTION 16. IC 20-23-8-7, AS ADDED BY P.L.1-2005,  
12 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
13 JULY 1, 2006]: Sec. 7. (a) A plan or proposed plan must contain the  
14 following items:

15 (1) The number of members of the governing body, which shall  
16 be:

- 17 (A) three (3);
- 18 (B) five (5); or
- 19 (C) seven (7);

20 members.

21 ~~(2) Whether the governing board shall be elected or appointed;~~

22 ~~(3) If appointed, when and by whom, and a general description of~~  
23 ~~the manner of appointment that conforms with the requirements~~  
24 ~~of IC 20-23-4-28.~~

25 ~~(4) If elected;~~ **(2) Whether the election of the members** shall be  
26 at the primary or at the general election that county officials are  
27 nominated or elected, and a general description of the manner of  
28 election that conforms with the requirements of IC 20-23-4-27.

29 ~~(5)~~ **(3) The limitations on:**

- 30 (A) residence;
- 31 (B) term of office; and
- 32 (C) other qualifications;

33 required by members of the governing body.

34 ~~(6)~~ **(4) The time the plan takes effect.**

35 A plan or proposed plan may have additional details to make the  
36 provisions of the plan workable. The details may include provisions  
37 relating to the commencement or length of terms of office of the  
38 members of the governing body taking office under the plan.

39 (b) Except as provided in subsection (a)(1), in a city having a  
40 population of more than fifty-nine thousand seven hundred (59,700)  
41 but less than sixty-five thousand (65,000), the governing body  
42 described in a plan may have up to nine (9) members.

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1 SECTION 17. IC 20-23-8-8, AS ADDED BY P.L.1-2005,  
 2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 JULY 1, 2006]: Sec. 8. (a) A plan is subject to the following  
 4 limitations:

5 (1) A member of the governing body may not serve for a term of  
 6 more than four (4) years, but a member may succeed himself or  
 7 herself in office. This limitation does not apply to members who  
 8 hold over during an interim period to effect a new plan awaiting  
 9 the selection and qualification of a member under the new plan.

10 (2) The plan if the members are:

11 ~~(A) to be elected;~~ shall conform with one (1) of the types of  
 12 board organization permitted by IC 20-23-4-27. ~~or~~

13 ~~(B) appointed;~~ shall conform with one (1) of the types  
 14 permitted by IC 20-23-4-28.

15 (3) The terms of the members of the governing body, either  
 16 elected to or taking office on or before the time the plan takes  
 17 effect, may not be shortened. The terms of the members taking  
 18 office under the plan may be shortened to make the plan workable  
 19 on a permanent basis.

20 (4) If the plan provides for electoral districts, where a member of  
 21 the governing body is elected solely by the voters of a single  
 22 district, the districts must be as near as practicable equal in  
 23 population. The districts shall be reapportioned and their  
 24 boundaries changed, if necessary, by resolution of the governing  
 25 body before the election next following the effective date of the  
 26 subsequent decennial census to preserve the equality by  
 27 resolution of the governing body.

28 (5) The plan shall comply with the:

29 (A) Constitution of the State of Indiana; and

30 (B) Constitution of the United States;

31 including the equal protection clauses of both constitutions.

32 (6) The provisions of IC 20-23-4-26 through IC 20-23-4-33 and  
 33 IC 20-23-16-4 relating to the board of trustees of a community  
 34 school corporation and to the community school corporation,  
 35 including provisions relating to powers of the board and  
 36 corporation and provisions relating to the mechanics of selection  
 37 of the board, ~~where elected and where appointed;~~ apply to a  
 38 governing body set up by a plan under this chapter and to the  
 39 school corporation.

40 (b) The limitations set forth in this section do not have to be  
 41 specifically set forth in a plan but are a part of the plan. A plan shall be  
 42 construed, if possible, to comply with this chapter. If a provision of the

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1 plan or an application of the plan violates this chapter, the invalidity  
2 does not affect the other provisions or applications of the plan that can  
3 be given effect without the invalid provision or application. The  
4 provisions of a plan are severable.

5 SECTION 18. IC 20-23-8-13, AS ADDED BY P.L.1-2005,  
6 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
7 JULY 1, 2006]: Sec. 13. (a) This section applies to a school corporation  
8 located in a city having a population of more than ninety thousand  
9 (90,000) but less than one hundred five thousand (105,000).

10 (b) The city legislative body may adopt an ordinance to increase the  
11 membership of the governing body of a school corporation to seven (7)  
12 members.

13 (c) The ordinance must provide the following:

14 (1) The **initial** additional members of the governing body are to  
15 be appointed by the city executive.

16 (2) ~~If the plan is subsequently changed to provide for the election~~  
17 ~~of governing body members:~~

18 (A) ~~the membership of the governing body may not be less~~  
19 ~~than seven (7); and~~

20 (B) ~~After appointment of the initial additional members, all~~  
21 ~~the members of the governing body are to be elected.~~

22 (3) The initial terms of the members appointed under this section.

23 (4) The effective date of the ordinance.

24 (d) An ordinance adopted under this section:

25 (1) supersedes a part of the plan that conflicts with the ordinance;

26 (2) must be filed with the state superintendent under section 22 of  
27 this chapter; and

28 (3) may only be amended or repealed by the city legislative body.

29 SECTION 19. IC 20-26-4-7, AS ADDED BY P.L.1-2005,  
30 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
31 JULY 1, 2006]: Sec. 7. ~~(a)~~ Except as provided in IC 20-25-3-3, the  
32 governing body of a school corporation by resolution has the power to  
33 pay each member of the governing body a reasonable amount for  
34 service as a member, not to exceed:

35 (1) two thousand dollars (\$2,000) per year; and

36 (2) a per diem not to exceed the rate approved for members of the  
37 board of school commissioners under IC 20-25-3-3(d).

38 (b) ~~If the members of the governing body are totally comprised of~~  
39 ~~appointed members; the appointive authority under IC 20-23-4-28(c)~~  
40 ~~shall approve the per diem rate allowable under subsection (a)(2)~~  
41 ~~before the governing body may make the payments.~~

42 (c) ~~To make a valid approval under subsection (b); the appointive~~

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1 authority must approve the per diem rate with the same endorsement  
2 required under IC 20-23-4-28(f) to make the appointment of the  
3 member.

4 SECTION 20. IC 20-23-4-28 IS REPEALED [EFFECTIVE JULY  
5 1, 2006].

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