
HOUSE BILL No. 1319

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-8-2-2.2; IC 20-23; IC 20-26-4.

Synopsis: Elected school boards. Requires that the members of the governing body of a school corporation be elected. Repeals obsolete statutes providing for the option of appointment of members of a governing body, and repeals superseded statutes relating to election of members of a governing body.

Effective: July 1, 2007.

Neese

January 16, 2007, read first time and referred to Committee on Elections and Apportionment.

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First Regular Session 115th General Assembly (2007)

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 2006 Regular Session of the General Assembly.

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HOUSE BILL No. 1319



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

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

1 SECTION 1. IC 3-8-2-2.2, AS AMENDED BY P.L.1-2005,
2 SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2007]: Sec. 2.2. (a) A candidate for a school board office must
4 file a petition of nomination in accordance with IC 3-8-6 and as
5 required under **IC 20-23-11.9**, IC 20-23-12, **or** IC 20-23-14. ~~or~~
6 ~~IC 20-23-4~~. The petition of nomination, once filed, serves as the
7 candidate's declaration of candidacy for a school board office.

8 (b) A candidate for a school board office is not required to file a
9 statement of organization for the candidate's principal committee by
10 noon seven (7) days after the final date for filing a petition of
11 nomination or declaration of intent to be a write-in candidate unless the
12 candidate has received contributions or made expenditures requiring
13 the filing of a statement under IC 3-9-1-5.5.

14 SECTION 2. IC 20-23-4-12, AS AMENDED BY P.L.2-2006,
15 SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2007]: Sec. 12. (a) In formulating a preliminary reorganization
17 plan and with respect to each of the community school corporations



1 that are a part of the reorganization plan, the county committee shall
2 determine the following:

- 3 (1) The name of the community school corporation.
4 (2) Subject to subsection (e), a general description of the
5 boundaries of the community school corporation.
6 (3) With respect to the board of school trustees:

7 (A) whether the number of members is:

- 8 (i) three (3);
9 (ii) five (5); or
10 (iii) seven (7);

11 ~~(B) whether the members are elected or appointed;~~

12 ~~(C) if the members are appointed:~~

- 13 ~~(i) when the appointments are made; and~~
14 ~~(ii) who makes the appointments;~~

15 ~~(D) if (B) whether the members are elected whether the~~
16 ~~election is at:~~

- 17 (i) the primary election at which county officials are
18 nominated; or
19 (ii) the general election at which county officials are elected;
20 and

21 ~~(E) (C) subject to sections 21 and 22 of this chapter, the~~
22 ~~manner in which members are elected. or appointed.~~

23 (4) The compensation, if any, of the members of the regular and
24 interim board of school trustees, which may not exceed the
25 amount provided in IC 20-26-4-7.

26 (5) Subject to subsection (f), qualifications required of the
27 members of the board of school trustees, including limitations on:

- 28 (A) residence; and
29 (B) term of office.

30 (6) If an existing school corporation is divided in the
31 reorganization, the disposition of assets and liabilities.

32 (7) The disposition of school aid bonds, if any.

33 (b) If existing school corporations are not divided in the
34 reorganization, the:

- 35 (1) assets;
36 (2) liabilities; and
37 (3) obligations;

38 of the existing school corporations shall be transferred to and assumed
39 by the new community school corporation of which they are a part,
40 regardless of whether the plan provides for transfer and assumption.

41 (c) The preliminary plan must be supported by a summary statement
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1 (1) the educational improvements the plan's adoption will make
 2 possible;
 3 (2) data showing the:
 4 (A) assessed valuation;
 5 (B) number of resident students in ADA in grades 1 through
 6 12;
 7 (C) assessed valuation per student referred to in clause (B);
 8 and
 9 (D) property tax levies;
 10 of each existing school corporation to which the plan applies;
 11 (3) the:
 12 (A) assessed valuation;
 13 (B) resident ADA; and
 14 (C) assessed valuation per student;
 15 data referred to in subdivision (2)(A) through (2)(C) that would
 16 have applied for each proposed community school corporation if
 17 the corporation existed in the year the preliminary plan is
 18 prepared or notice of a hearing or hearings on the preliminary
 19 plan is given by the county committee; and
 20 (4) any other data or information the county committee considers
 21 appropriate or that may be required by the state board in its rules.
 22 (d) The county committee:
 23 (1) shall base the assessed valuations and tax levies referred to in
 24 subsection (c)(2) through (c)(3) on the valuations applying to
 25 taxes collected in:
 26 (A) the year the preliminary plan is prepared; or
 27 (B) the year notice of a hearing or hearings on the preliminary
 28 plan is given by the county committee;
 29 (2) may base the resident ADA figures on the calculation of the
 30 figures under the rules under which they are submitted to the state
 31 superintendent by existing school corporations; and
 32 (3) shall set out the resident ADA figures for:
 33 (A) the school year in progress if the figures are available for
 34 that year; or
 35 (B) the immediately preceding school year if the figures are
 36 not available for the school year in progress.
 37 The county committee may obtain the data and information referred to
 38 in this subsection from any source the committee considers reliable. If
 39 the county committee attempts in good faith to comply with this
 40 subsection, the summary statement referred to in subsection (c) is
 41 sufficient regardless of whether the statement is exactly accurate.
 42 (e) The general description referred to in subsection (a)(2) may

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1 consist of an identification of an existing school corporation that is to
 2 be included in its entirety in the community school corporation. If a
 3 boundary does not follow the boundary of an existing civil unit of
 4 government or school corporation, the description must set out the
 5 boundary:

6 (1) as near as reasonably possible by:

7 (A) streets;

8 (B) rivers; and

9 (C) other similar boundaries;

10 that are known by common names; or

11 (2) if descriptions as described in subdivision (1) are not possible,
 12 by section lines or other legal description.

13 The description is not defective if there is a good faith effort by the
 14 county committee to comply with this subsection or if the boundary
 15 may be ascertained with reasonable certainty by a person skilled in the
 16 area of real estate description. The county committee may require the
 17 services of the county surveyor in preparing a description of a boundary
 18 line.

19 (f) A member of the board of school trustees:

20 (1) may not serve ~~an appointive or elective~~ a term of more than
 21 four (4) years; and

22 (2) may serve more than one (1) consecutive ~~appointive or~~
 23 ~~elective~~ term.

24 SECTION 3. IC 20-23-4-16, AS ADDED BY P.L.1-2005,
 25 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2007]: Sec. 16. The form of a preliminary or final
 27 comprehensive plan of reorganization is sufficient if the plan contains
 28 in its own terms or by reference the following for each proposed
 29 community school corporation:

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

31 (2) A general description of the boundaries of the community
 32 school corporation as provided in section 12 of this chapter.

33 (3) The number of members of the board of school trustees. ~~and~~
 34 ~~whether the members are elected or appointed:~~

35 (4) The manner in which the board of school trustees, other than
 36 the interim board, is elected. ~~or appointed:~~

37 (5) If a school corporation is divided as part of the reorganization,
 38 the disposition of assets and liabilities of the school corporation.

39 (6) The statement required by section 12 of this chapter if that
 40 statement is submitted or adopted with the plan.

41 SECTION 4. IC 20-23-4-19, AS AMENDED BY P.L.2-2006,
 42 SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 JULY 1, 2007]: Sec. 19. (a) If the creation of a community school
2 corporation out of an existing corporation:

3 (1) would not involve a change in its territorial boundaries or in
4 its board of school trustees or other governing body, other than a
5 change in the time of election or appointment or the time the
6 board members take office; and

7 (2) is consistent with the standards set up under this chapter and
8 the standards set out in this section;

9 the state board may on its own motion or on petition of the governing
10 body of the existing school corporation at any time with hearing in the
11 county where the school corporation is located, after notice by
12 publication at least once in one (1) newspaper of general circulation
13 published in the county where the school corporation is located, at least
14 ten (10) but not more than thirty (30) days before the date of a hearing,
15 and without action of the county committee declare the existing school
16 corporation to be a community school corporation by adopting a
17 resolution to this effect. The existing school corporation qualifies as to
18 size and financial resources if it has an ADA of at least two hundred
19 seventy (270) students in grades 9 through 12 or at least one thousand
20 (1,000) students in grades 1 through 12, and has an assessed valuation
21 per student of at least five thousand dollars (\$5,000).

22 (b) For purposes of this section, the following terms have the
23 following meanings:

24 (1) "County tax" means a property tax:
25 (A) that is levied at an equal rate in the entire county in which
26 any school corporation is located, other than a tax qualifying
27 as a countywide tax within the meaning of Acts 1959, c.328,
28 s.2, or any similar statute; and

29 (B) for which the net proceeds of which are distributed to
30 school corporations in the county.

31 (2) "Assessed valuation" of any school corporation means the net
32 assessed value of its real and personal property as of March 1,
33 1964, adjusted in the same manner as the assessed valuation is
34 adjusted for each county by the department of local government
35 finance under Acts 1949, c.247, s.5, as amended, unless that
36 statute has been repealed or no longer provides for an adjustment.
37 If a county has a county tax, the assessed valuation of each school
38 corporation in the county shall be increased by the amount of
39 assessed valuation, if any, that would be required to raise an
40 amount of money, equal to the excess of the amount distributed
41 to any school corporation from the county tax over the amount
42 collected from the county tax in the school corporation, using

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total taxes levied by the school corporation in terms of rate:

- (A) excluding the countywide tax under Acts 1959, c.328, s.2, or any similar statute; and
- (B) including all other taxes levied by or for the school corporation.

The increased valuation shall be based on the excess distributed to the school corporation from the county tax levied for the year 1964 and the total taxes levied for the year, or if the county tax is first applied or is raised for years after 1964, then the excess distributions and total taxes levied for the year in which the tax is first applied or raised. If the excess distribution and total taxes levied cannot be determined accurately on or before the adoption of the resolution provided in this section, excess distribution and taxes levied shall be estimated by the department of local government finance using the last preceding assessed valuations and tax rates or such other information as that department determines, certifying the increased assessment to the state board before such time. In all cases, the excess distribution shall be determined upon the assumption that the county tax is one hundred percent (100%) collected and all collections are distributed.

(3) "Assessed valuation per student" of any school corporation means the assessed valuation of any school corporation divided by its ADA in grades 1 through 12.

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

(c) The community school corporation automatically comes into being on either July 1 or January 1 following the date of approval, whichever is earlier. The state board shall mail by certified mail, return receipt requested, a copy of the resolution certified by the county committee's chairperson or secretary to:

- (1) the recorder of the county from which the county committee having jurisdiction of the existing school corporation was appointed; and
- (2) the county committee.

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1 The resolution may change the time of election ~~or appointment~~ of the
 2 board of trustees of the school corporation or the time the trustees take
 3 office. The recorder shall without cost record the certified resolution in
 4 the miscellaneous records of the county. The recording constitutes a
 5 permanent record of the action of the state board and may be relied on
 6 by any person. Unless the resolution provides that an interim member
 7 of the board of trustees shall not be appointed, the board of trustees in
 8 office on the date of the action continues to constitute the board of
 9 trustees of the school corporation until their successors are qualified,
 10 and the terms of their respective office and board membership remain
 11 unchanged except to the extent the resolution otherwise provides. For
 12 purposes of this chapter and IC 20-23-16-1 through IC 20-23-16-11, a
 13 community school corporation shall be regarded as a school
 14 corporation created under section 16 of this chapter.

15 SECTION 5. IC 20-23-4-20, AS ADDED BY P.L.1-2005,
 16 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2007]: Sec. 20. (a) After the state board approves a
 18 comprehensive plan or partial plan for reorganization of school
 19 corporations as submitted to the state board by a county committee, the
 20 state board shall promptly, by certified mail with return receipt
 21 requested, give written notice of the approval to:

- 22 (1) the chairperson of the county committee submitting the plan;
 23 and
 24 (2) the judge of the circuit court of the county from which the
 25 county committee was appointed.

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

- 29 (1) by petition as provided in this section;
 30 (2) by election as provided in section 21 of this chapter; or
 31 (3) under section 22 of this chapter.

32 (c) After receipt of the plan referred to in subsection (a) by the
 33 county committee and before or after the election described in section
 34 21 of this chapter, a community school corporation proposed by a plan
 35 referred to in subsection (a) may be created by a petition. The petition
 36 must be signed by at least fifty-five percent (55%) of the registered
 37 voters residing in the community school corporation, determined in the
 38 manner set out in this section, and filed by any signer or by the county
 39 committee with the clerk or clerks of the circuit court or courts of the
 40 county or counties where the voters reside. The petition must state that
 41 the signers request the establishment of a community school
 42 corporation and must contain the following information:

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- 1 (1) The name of the proposed community school corporation.
- 2 (2) A general description of the boundaries as set out in the plan.
- 3 (3) The number of members of the board of school trustees.
- 4 (4) The manner in which:
 - 5 (A) the permanent board of school trustees **will be elected**;
 - 6 and
 - 7 (B) if covered in the plan, the interim board of school trustees
 - 8 will be elected or appointed.
- 9 (5) The compensation, if any, of the members of:
 - 10 (A) the permanent board of school trustees; and
 - 11 (B) if covered in the plan, the interim board of school trustees.
- 12 (6) The disposition, if any, of assets and liabilities of each existing
- 13 school corporation that:
 - 14 (A) is included in the proposed community school corporation;
 - 15 and
 - 16 (B) has been divided.
- 17 (7) The disposition of school aid bonds, if any.
- 18 (d) The petition referred to in subsection (c) must show:
 - 19 (1) the date on which each person signed the petition; and
 - 20 (2) the person's residence address on that date.
- 21 The petition may be executed in several counterparts, the total of which
- 22 constitutes the petition described in this section. An affidavit of the
- 23 person circulating a counterpart must be attached to the counterpart.
- 24 The affidavit must state that each signature appearing on the
- 25 counterpart was affixed in the person's presence and is the true and
- 26 lawful signature of the signer. Each signer on the petition may
- 27 withdraw the signer's signature from the petition before the petition is
- 28 filed with the clerk of the circuit court. Names may not be added to the
- 29 petition after the petition is filed with the clerk of the circuit court.
- 30 (e) After receipt of the petition referred to in subsection (c), the
- 31 clerk of the circuit court shall make a certification under the clerk's
- 32 hand and seal of the clerk's office as to:
 - 33 (1) the number of signers of the petition;
 - 34 (2) the number of signers of the petition who are registered voters
 - 35 residing in:
 - 36 (A) the proposed community school corporation; or
 - 37 (B) the part of the school corporation located in the clerk's
 - 38 county;
 - 39 as disclosed by the voter registration records of the county;
 - 40 (3) the number of registered voters residing in:
 - 41 (A) the proposed community school corporation; or
 - 42 (B) the part of the school corporation located in the clerk's

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- 1 county;
 2 as disclosed by the voter registration records of the county; and
 3 (4) the date of the filing of the petition with the clerk.
 4 If a proposed community school corporation includes only part of a
 5 voting precinct, the clerk of the circuit court shall ascertain from any
 6 means, including assistance from the county committee, the number of
 7 registered voters residing in the part of the voting precinct.
 8 (f) The clerk of the circuit court shall make the certification referred
 9 to in subsection (e):
 10 (1) not later than thirty (30) days after the filing of the petition
 11 under subsection (c), excluding from the calculation of that period
 12 the time during which the registration records are unavailable to
 13 the clerk; or
 14 (2) within any additional time as is reasonably necessary to permit
 15 the clerk to make the certification.
 16 In certifying the number of registered voters, the clerk shall disregard
 17 any signature on the petition not made in the ninety (90) days that
 18 immediately precede the filing of the petition with the clerk as shown
 19 by the dates set out in the petition. The clerk shall establish a record of
 20 the certification in the clerk's office and shall return the certification to
 21 the county committee.
 22 (g) If the certification or combined certifications received from the
 23 clerk or clerks disclose that the petition was signed by at least fifty-five
 24 percent (55%) of the registered voters residing in the community
 25 school corporation, the county committee shall publish a notice in two
 26 (2) newspapers of general circulation in the community school
 27 corporation. The notice must:
 28 (1) state that the steps necessary for the creation and
 29 establishment of the community school corporation have been
 30 completed; and
 31 (2) set forth:
 32 (A) the number of registered voters residing in the community
 33 school corporation who signed the petition; and
 34 (B) the number of registered voters residing in the community
 35 school corporation.
 36 (h) A community school corporation created by a petition under this
 37 section takes effect on the earlier of:
 38 (1) July 1; or
 39 (2) January 1;
 40 that next follows the date of publication of the notice referred to in
 41 subsection (g).
 42 (i) If a public official fails to perform a duty required of the official

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1 under this chapter within the time prescribed in this section and
 2 sections 21 through 24 of this chapter, the omission does not invalidate
 3 the proceedings taken under this chapter.

4 (j) An action:

5 (1) to contest the validity of the formation or creation of a
 6 community school corporation under this section;

7 (2) to declare that a community school corporation:

8 (A) has not been validly formed or created; or

9 (B) is not validly existing; or

10 (3) to enjoin the operation of a community school corporation;

11 may not be instituted later than thirty (30) days after the date of
 12 publication of the notice referred to in subsection (g).

13 SECTION 6. IC 20-23-4-27, AS ADDED BY P.L.1-2005,
 14 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2007]: Sec. 27. (a) Subsections (b) and (c) do not apply to a
 16 community school corporation created before March 12, 1965. A
 17 community school corporation created before March 12, 1965, shall
 18 operate in accordance with the plan under which it was created and the
 19 statutes applicable to that plan, as if Acts 1965, c.336, s.4 had not been
 20 enacted.

21 (b) ~~If the members of a governing body are elected;~~ The members
 22 shall be elected in accordance with one (1) of the options set forth in
 23 subsection (c) or in accordance with section 35 of this chapter. The
 24 options must be set out in the plan with sufficient description to permit
 25 the plan to be operable with respect to the community school
 26 corporation. The description may be partly or wholly by reference to
 27 the applicable option.

28 (c) The options described in subsection (b) are the following:

29 (1) Members of a governing body:

30 (A) may reside anywhere in the school corporation; and

31 (B) shall be voted upon by all registered voters living within
 32 the school corporation voting at any governing body member
 33 election.

34 (2) The community school corporation shall be divided into two
 35 (2) or more residence districts with one (1) or more members of
 36 the governing body resident within each of the residence districts.
 37 The plan may also provide that one (1) or more members of the
 38 governing body may reside anywhere in the community school
 39 corporation. The plan:

40 (A) must set out the number of members to be elected from
 41 each district;

42 (B) may provide for the election of an equal number of

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1 members from each district; and
 2 (C) must set out the number, if any, to be elected at large
 3 without reference to governing body member districts.
 4 Under this option, all candidates must be voted on by all
 5 registered voters of the community school corporation voting at
 6 any governing body member election.
 7 (3) The community school corporation shall be divided into three
 8 (3) residence districts of approximately equal population. In a
 9 district divided into three (3) residence districts, if:
 10 (A) the governing body consists of three (3) members, one (1)
 11 member must reside in each residence district;
 12 (B) the governing body consists of five (5) members, two (2)
 13 members may not reside in any one (1) residence district; and
 14 (C) the governing body consists of seven (7) members, at least
 15 two (2) shall be elected from each residence district.
 16 Candidates shall be voted on by all registered voters of the
 17 community school corporation voting at any governing body
 18 member election.
 19 (4) The community school corporation shall be divided into two
 20 (2) or more electoral districts. Each member:
 21 (A) serves from one (1) electoral district;
 22 (B) must be a resident of the district; and
 23 (C) must be voted upon by the registered voters residing
 24 within the electoral district and voting at any governing body
 25 member election.
 26 The plan must set out the number to be elected from each
 27 electoral district and may provide for election of an equal number
 28 of members from each district. The plan must provide that not
 29 less than one (1) less than a majority of the governing body may
 30 reside anywhere in the community school corporation and must
 31 be voted upon by all its registered voters voting at any governing
 32 body member election.
 33 (5) The community school corporation consists of one (1)
 34 electoral district that must embrace the entire community school
 35 corporation from which a majority of the members of the
 36 governing body shall be elected by all the registered voters of the
 37 community school corporation voting at a governing body
 38 member election. The other electoral districts must be
 39 subdivisions of the community school corporation. Each of the
 40 remaining members of the governing body:
 41 (A) serves from one (1) of the latter electoral districts;
 42 (B) must be a resident of that district; and

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1 (C) must be voted upon by registered voters voting at a
 2 governing body member election.
 3 The plan must set out the number to be elected from each district
 4 and may provide for the election of an equal number of members
 5 from the district.
 6 (6) The community school corporation shall be divided into two
 7 (2) or more electoral districts. Each member:
 8 (A) serves from one (1) electoral district;
 9 (B) must be a resident of that district; and
 10 (C) must be voted upon only by the registered voters residing
 11 within that district who vote at a governing body election.
 12 The plan must set out the number of members to be elected from
 13 each electoral district in the school corporation and may provide
 14 for election of an equal number of members from each district.
 15 SECTION 7. IC 20-23-4-30, AS ADDED BY P.L.230-2005,
 16 SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2007]: Sec. 30. (a) This section applies to each school
 18 corporation.
 19 ~~(b) If the governing body is to be elected at the primary election,~~
 20 ~~each registered voter may vote in the governing body election without~~
 21 ~~otherwise voting in the primary election.~~
 22 ~~(c) If a tie vote occurs among any of the candidates, the tie vote~~
 23 ~~shall be resolved under IC 3-12-9-4.~~
 24 ~~(d) (b) If after the first governing body takes office, there is a~~
 25 ~~vacancy on the governing body for any reason, including the failure of~~
 26 ~~the sufficient number of petitions for candidates being filed, whether~~
 27 ~~the vacating member was elected or appointed, the remaining members~~
 28 ~~of the governing body, whether or not a majority of the governing body,~~
 29 ~~shall by a majority vote fill the vacancy by appointing a person from~~
 30 ~~within the boundaries of the community school corporation to serve for~~
 31 ~~the term or balance of the term. An individual appointed under this~~
 32 ~~subsection must possess the qualifications provided for a regularly~~
 33 ~~elected or appointed governing body member. filling the office. If:~~
 34 (1) a tie vote occurs among the members of the governing body
 35 under this subsection or IC 3-12-9-4; or
 36 (2) the governing body fails to act within thirty (30) days after any
 37 vacancy occurs;
 38 the judge of the circuit court in the county where the majority of
 39 registered voters of the school corporation reside shall make the
 40 appointment.
 41 ~~(e) (c) A vacancy in the governing body occurs if a member ceases~~
 42 ~~to be a resident of any community school corporation. A vacancy does~~

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1 not occur when the member moves from a district of the school
2 corporation ~~from which the member was elected or appointed~~
3 **represents** if the member continues to be a resident of the school
4 corporation.

5 ~~(f)~~ **(d)** At the first primary or general election in which members of
6 the governing body are elected:

7 (1) a simple majority of the candidates elected as members of the
8 governing body who receive the highest number of votes shall be
9 elected for four (4) year terms; and

10 (2) the balance of the candidates elected as members of the
11 governing body receiving the next highest number of votes shall
12 be elected for two (2) year terms.

13 Thereafter, all school board members shall be elected for four (4) year
14 terms.

15 ~~(g)~~ **Governing body members elected:**

16 ~~(1) in November take office and assume their duties on January~~
17 ~~1 or July 1 after their election; as determined by the board of~~
18 ~~school trustees before the election; and~~

19 ~~(2) in May take office and assume their duties on July 1 after their~~
20 ~~election.~~

21 SECTION 8. IC 20-23-4-31, AS ADDED BY P.L.1-2005,
22 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 2007]: Sec. 31. (a) This section applies to each school
24 corporation.

25 (b) ~~If the plan provides for the election of members of the governing~~
26 ~~body of the community school corporation:~~

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

28 ~~(2) in the case of a united school corporation, the judge of the~~
29 ~~circuit court of the county having the most students enrolled in the~~
30 ~~united school corporation~~

31 shall appoint interim governing body members in accordance with the
32 plan approved by the county committee and the state board.

33 (c) The members of the governing body appointed serve until their
34 successors are elected and qualified.

35 (d) Instead of appointment, the plan may provide for an alternative
36 method of appointing the members of the interim governing body of a
37 community or united school corporation. The appointment under this
38 subsection must be made by one (1) or more of the ~~class of officials~~
39 ~~listed in section 28(e) of this chapter:~~ **following:**

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

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

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

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- 1 **(4) The board of commissioners of a county.**
- 2 **(5) The county fiscal body.**
- 3 **(6) The town legislative body.**
- 4 **(7) The township executive.**
- 5 **(8) The township legislative body.**
- 6 **(9) A township executive and legislative body jointly.**
- 7 **(10) More than one (1) township executive and legislative**
- 8 **body jointly.**

9 SECTION 9. IC 20-23-5-11, AS ADDED BY P.L.1-2005,
 10 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2007]: Sec. 11. (a) Within sixty (60) days after the annexation
 12 takes place, the governing body of the acquiring school corporation and
 13 losing school corporation shall adopt a plan determining the manner in
 14 which the governing body shall be constituted. The plan shall be
 15 adopted in accordance with the requirements and procedures of
 16 IC 20-23-8, except as set out in subsection (b).

17 (b) The adoption of a plan by the governing body in accordance with
 18 IC 20-23-8-10 and its submission to the state board under
 19 IC 20-23-8-15 are the only procedures required when an existing plan
 20 is changed as follows:

- 21 (1) All governing body members are elected at large, and there
- 22 are no governing body member residency districts.
- 23 (2) Governing body members are elected from governing body
- 24 member residency districts, and the annexed territory is added to
- 25 or deleted from one (1) or more districts.
- 26 ~~(3) A governing body member is appointed from a given area or~~
- 27 ~~district, and the annexed territory is added to or deleted from one~~
- 28 ~~(1) or more districts or areas.~~
- 29 ~~(4)~~ **(3)** A governing body member is elected solely by the voters
- 30 in a school governing body member district, but the addition or
- 31 deletion of the annexed territory to or from an existing district
- 32 does not constitute a denial of equal protection of the laws.

33 If a school corporation elects ~~or appoints~~ members of its governing
 34 body both from a school governing body member district encompassing
 35 the entire school corporation and from smaller districts, the governing
 36 body of the acquiring school corporation shall add the annexed territory
 37 both to the district consisting of the entire school corporation and to
 38 one (1) or more smaller districts. In a comparable situation, the losing
 39 school corporation shall delete the annexed territory both from the
 40 district consisting of the entire school corporation and from any smaller
 41 district or districts. The change in the plan becomes effective upon its
 42 approval by the state board. The application of this subsection does not

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1 limit the initiation of, or further changes in, any plan under IC 20-23-8.

2 SECTION 10. IC 20-23-6-3, AS ADDED BY P.L.1-2005,
3 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2007]: Sec. 3. (a) If the governing bodies of at least two (2)
5 school corporations desire to consolidate school corporations, the
6 governing bodies may meet together and adopt a joint resolution
7 declaring intention to consolidate school corporations. The resolution
8 must set out the following information concerning the proposed
9 consolidation:

10 (1) The name of the proposed new school corporation.

11 (2) The number of members on the governing body and the
12 manner in which they shall be elected. ~~or appointed:~~

13 ~~(A) If members are to be elected;~~ The resolution must provide
14 for:

15 ~~(i) (A)~~ the manner of the nomination of members;

16 ~~(ii) (B)~~ who shall constitute the board of election
17 commissioners;

18 ~~(iii) (C)~~ who shall appoint inspectors, judges, clerks, and
19 sheriffs; and

20 ~~(iv) (D)~~ any other provisions desirable in facilitating the
21 election.

22 ~~(B)~~ Where applicable and not in conflict with the resolution, the
23 election is governed by the general election laws of Indiana,
24 including the registration laws.

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

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

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

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

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

41 (2) are operating a joint high school that has an enrollment of at
42 least six hundred (600) in grades 9 through 12 at the time the joint

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resolution is adopted.

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

SECTION 11. IC 20-23-6-6, AS AMENDED BY P.L.2-2006, SECTION 95, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) On the day and hour named in the notice filed under section 5 of this chapter, polls shall be opened and the votes of the registered voters shall be taken upon the public question of consolidating school corporations. The election shall be governed by IC 3, except as provided in this chapter.

(b) The county election board shall conduct the election. The public question shall be placed on the ballot in the form prescribed by IC 3-10-9-4 and must state "Shall (here insert the names of the school corporations that the resolution proposes to consolidate) be consolidated into a consolidated school corporation?".

(c) A brief statement of the provisions in the resolution for ~~appointment or~~ election of a governing body may be placed on the ballot in the form prescribed by IC 3-10-9-4. A certificate of the votes cast for and against the consolidation of the school corporations shall be filed with:

- (1) the governing body of the school corporations subject to the election;
- (2) the state superintendent; and
- (3) the county recorder of each county in which a consolidated school corporation is located;

together with a copy of the resolution.

(d) If a majority of the votes cast at each of the elections is in favor

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1 of the consolidation of two (2) or more school corporations, the trustees
 2 of the school corporations shall proceed to consolidate the schools and
 3 provide the necessary buildings and equipment. In any school
 4 corporation where a petition was not filed and an election was not held,
 5 the failure on the part of the voters to file a petition for an election shall
 6 be considered to give the consent of the voters of the school
 7 corporation to the consolidation as set out in the resolution.

8 (e) If the special election is not conducted at a primary or general
 9 election, the expense of the election shall be borne by the school
 10 corporation or each of the school corporations subject to the election
 11 and shall be paid out of the school general fund.

12 SECTION 12. IC 20-23-6-8, AS AMENDED BY P.L.2-2006,
 13 SECTION 96, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2007]: Sec. 8. (a) Consolidated schools are under the control
 15 and management of the consolidated governing body created under this
 16 chapter, and a new consolidated school corporation comes into
 17 existence:

18 (1) at the time specified in the resolutions provided in section 3
 19 or 4 of this chapter; or

20 (2) if a time is not specified, at the following times:

21 (A) If a protest has not been filed and the creation is
 22 accomplished by the adoption of a joint resolution following
 23 publication of notice as provided in section 3 of this chapter,
 24 thirty (30) days after the adoption of the joint resolution.

25 (B) If the creation is accomplished after an election as
 26 provided in section 6 of this chapter, thirty (30) days after the
 27 election.

28 (b) The members of the governing body shall:

29 (1) take an oath to faithfully discharge the duties of office; and

30 (2) meet at least five (5) days before the time the new
 31 consolidated school corporation comes into existence to organize.

32 (c) The governing body shall meet to reorganize on August 1 of
 33 each year and at any time the personnel of the board is changed. At the
 34 organization or reorganization meeting, the members of the governing
 35 body shall elect the following:

36 (1) A president.

37 (2) A secretary.

38 (3) A treasurer.

39 (d) The treasurer, before starting the duties of the treasurer's office,
 40 shall execute a bond to the acceptance of the county auditor. The fee
 41 for the bond shall be paid from the school general fund of the
 42 consolidated school corporation. Any vacancy occurring in the

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1 membership in any governing body, other than vacancy in the office of
2 an ex officio member, shall be filled in the following manner:

3 (1) If the membership was originally made by appointment, the
4 vacancy shall be filled by appointment by the legislative body of
5 the:

- 6 (A) city;
- 7 (B) town;
- 8 (C) township; or
- 9 (D) other body;

10 or other official making the original appointment.

11 (2) If the membership was elected, the vacancy shall be filled by
12 a majority vote of the remaining members of the governing body
13 of the consolidated school corporation.

14 (e) The members of the governing body, other than the township
15 executive or ex officio member, shall receive compensation for services
16 as fixed by resolution of the governing body. The members, other than
17 the township executive or any ex officio member, may not receive more
18 than two hundred dollars (\$200) annually. Any:

- 19 (1) township executive; or
 - 20 (2) ex officio member of the governing body;
- 21 shall serve without additional compensation.

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

24 SECTION 13. IC 20-23-6-9, AS AMENDED BY P.L.113-2006,
25 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2007]: Sec. 9. (a) When any:

- 27 (1) school town;
- 28 (2) school city;
- 29 (3) school township;
- 30 (4) joint school; or
- 31 (5) consolidated school;

32 has become consolidated by resolution or election and the new
33 governing body has been ~~appointed and~~ legally organized, the former
34 school township, school town, school city, joint school, or consolidated
35 school is considered abandoned.

- 36 (b) All school:
- 37 (1) property;
- 38 (2) rights;
- 39 (3) privileges; and
- 40 (4) any indebtedness;

41 from the abandoned school is considered to accrue to and be assumed
42 by the new consolidated school corporation.

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1 (c) The title of property shall pass to and become vested in the new
2 consolidated school corporation. All debts of the former school
3 corporations shall be assumed and paid by the new consolidated school
4 corporation. All the privileges and rights conferred by law upon the
5 former:

- 6 (1) school town;
- 7 (2) school city;
- 8 (3) school township;
- 9 (4) joint school; or
- 10 (5) consolidated school;

11 are granted to the newly consolidated school corporation.

12 (d) This subsection applies when the consolidated governing body
13 of a consolidated school corporation decides that property acquired
14 under subsection (b) from a township is no longer needed for school
15 purposes. The governing body shall offer the property as a gift for park
16 and recreation purposes to the township that owned the property before
17 the school was consolidated. If the township board accepts the offer,
18 the governing body shall give the township a quitclaim deed to the
19 property. The deed must state that the township is required to use the
20 property for park and recreation purposes. If the township board refuses
21 the offer, the governing body may sell the property in the manner
22 provided in subsection (e).

23 (e) This subsection provides the procedure for the sale of school
24 property that is no longer needed for school purposes by the governing
25 body of a consolidated school corporation. The governing body shall
26 cause the property to be appraised at a fair cash value by:

- 27 (1) one (1) disinterested resident freeholder of the school
28 corporation offering the property for sale; and
- 29 (2) two (2) disinterested appraisers licensed under IC 25-34.1;

30 who are residents of Indiana. One (1) of the appraisers described under
31 subdivision (2) must reside not more than fifty (50) miles from the
32 property. The appraisals shall be made under oath and spread of record
33 upon the records of the governing body. A sale may not be made for
34 less than the appraised value, and the sale must be made for cash. The
35 sale shall take place after the governing body gives notice under
36 IC 5-3-1 of the terms, date, time, and place of sale.

37 (f) Proceeds from a sale under subsection (e) shall be placed in a
38 capital projects fund of the consolidated school corporation or other
39 fund designated as the fund that is available for capital outlay of the
40 school corporation.

41 SECTION 14. IC 20-23-8-4, AS ADDED BY P.L.1-2005,
42 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 JULY 1, 2007]: Sec. 4. As used in this chapter, "plan" means the
 2 manner in which the governing body of a school corporation is
 3 constituted, including the number, qualifications, length of terms,
 4 manner, and time of ~~selection either by appointment or by~~ election of
 5 the members of the governing body.

6 SECTION 15. IC 20-23-8-7, AS ADDED BY P.L.1-2005,
 7 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2007]: Sec. 7. (a) A plan or proposed plan must contain the
 9 following items:

10 (1) The number of members of the governing body, which shall
 11 be:

12 (A) three (3);

13 (B) five (5); or

14 (C) seven (7);

15 members.

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

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

20 ~~(4) If elected;~~ (2) Whether the election of the members shall be
 21 at the primary or at the general election that county officials are
 22 nominated or elected, and a general description of the manner of
 23 election that conforms with the requirements of IC 20-23-4-27
 24 and IC 20-23-11.9.

25 ~~(5) (3) The limitations on:~~

26 (A) residence;

27 (B) term of office; and

28 (C) other qualifications;

29 required by members of the governing body.

30 ~~(6) (4) The time the plan takes effect.~~

31 A plan or proposed plan may have additional details to make the
 32 provisions of the plan workable. The details may include provisions
 33 relating to the commencement or length of terms of office of the
 34 members of the governing body taking office under the plan.

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

39 SECTION 16. IC 20-23-8-8, AS AMENDED BY P.L.2-2006,
 40 SECTION 99, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2007]: Sec. 8. (a) A plan is subject to the following
 42 limitations:

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

6 (2) The plan ~~if the members are:~~

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

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

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

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

24 (5) The plan shall comply with the:

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

26 (B) Constitution of the United States;

27 including the equal protection clauses of both constitutions.

28 (6) The provisions of IC 20-23-4-26 through IC 20-23-4-33 **and**
 29 **IC 20-23-11.9** relating to the board of trustees of a community
 30 school corporation and to the community school corporation,
 31 including provisions relating to powers of the board and
 32 corporation and provisions relating to the mechanics of ~~selection~~
 33 **election** of the board, ~~where elected and where appointed;~~ apply
 34 to a governing body set up by a plan under this chapter and to the
 35 school corporation.

36 (b) The limitations set forth in this section do not have to be
 37 specifically set forth in a plan but are a part of the plan. A plan shall be
 38 construed, if possible, to comply with this chapter. If a provision of the
 39 plan or an application of the plan violates this chapter, the invalidity
 40 does not affect the other provisions or applications of the plan that can
 41 be given effect without the invalid provision or application. The
 42 provisions of a plan are severable.

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1 SECTION 17. IC 20-23-8-13, AS ADDED BY P.L.1-2005,
2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2007]: Sec. 13. (a) This section applies to a school corporation
4 located in a city having a population of more than ninety thousand
5 (90,000) but less than one hundred five thousand (105,000).

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

9 (c) The ordinance must provide the following:

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

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

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

16 ~~(B) (2) After appointment of the initial additional members,~~
17 ~~all the members of the governing body are to be elected.~~

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

19 (4) The effective date of the ordinance.

20 (d) An ordinance adopted under this section:

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

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

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

25 SECTION 18. IC 20-23-11.9 IS ADDED TO THE INDIANA
26 CODE AS A NEW CHAPTER TO READ AS FOLLOWS
27 [EFFECTIVE JULY 1, 2007]:

28 **Chapter 11.9. Election of Governing Body Members**

29 **Sec. 1. (a) Except as provided in subsection (b), this chapter**
30 **applies to each school corporation.**

31 **(b) This chapter does not apply to a school corporation to which**
32 **any of the following applies:**

33 **(1) IC 20-23-12.**

34 **(2) IC 20-23-14.**

35 **(3) IC 20-23-15.**

36 **(4) IC 20-25.**

37 **Sec. 2. (a) This section applies if a school corporation's plan**
38 **provides for the election of members of the governing body at a**
39 **primary election.**

40 **(b) The nomination of a candidate for election as a member of**
41 **the governing body must be made by a petition of nomination**
42 **signed by the candidate and ten (10) registered voters residing**

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1 within the boundaries of the school corporation at the time
2 provided by IC 3-8-2 for the filing of a declaration of candidacy for
3 the primary election.

4 (c) Each registered voter may vote in an election for members
5 of the governing body without otherwise voting in the primary
6 election.

7 Sec. 3. (a) This section applies if a school corporation's plan
8 provides for the election of members of the governing body at a
9 general election.

10 (b) The nomination of a candidate for election as a member of
11 the governing body must be made by a petition of nomination
12 signed by the candidate and ten (10) registered voters residing
13 within the boundaries of the school corporation. The filing must be
14 made not later than noon seventy-four (74) days before the date on
15 which the general election will be held.

16 Sec. 4. (a) A petition of nomination must be filed with the circuit
17 court clerk of the county that contains the greatest percentage of
18 population of the school corporation. If the plan requires residence
19 in a specified district or voting solely in a specified district for a
20 governing body member office, the petition of nomination must
21 clearly state the residence or electoral district for which the
22 individual is a candidate.

23 (b) If a school corporation is located in more than one (1)
24 county, the circuit court clerk shall, after determining that a
25 petition of nomination complies with subsection (a), promptly
26 certify to each circuit court clerk of a county in which the school
27 corporation is located, the names of the candidates to be placed on
28 the ballot.

29 Sec. 5. (a) If the school corporation's plan provides that the
30 members of the governing body are to be elected by all the voters
31 of the school corporation, the names of candidates shall be placed
32 on the ballot in the form prescribed by IC 3-10-1-19 or IC 3-11
33 without party designation.

34 (b) Those candidates having the greatest number of votes are
35 elected.

36 Sec. 6. (a) If the school corporation's plan provides that
37 members of the governing body are to be elected from residence
38 districts by all voters in the school corporation, the names of
39 candidates shall be placed on the ballot in the form prescribed by
40 IC 3-10-1-19 or IC 3-11 by residence districts without party
41 designation.

42 (b) The ballot must state the:

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1 (1) number of members to be voted upon; and

2 (2) maximum number that may be elected from each
3 residence district as provided in the plan.

4 (c) A ballot is not valid if a voter votes for more than the
5 maximum number of members that are determined under
6 subsection (b)(2).

7 (d) Candidates having the greatest number of votes are elected.
8 However, if more than the maximum number that may be elected
9 from a residence district are among those having the greatest
10 number of votes, the lowest of those candidates from the residence
11 districts in excess of the maximum number shall be eliminated in
12 determining the candidates who are elected.

13 Sec. 7. (a) If the school corporation's plan provides that
14 members of the governing body are to be elected from electoral
15 districts solely by the voters of each district, the names of
16 candidates residing in each electoral district shall be placed on the
17 ballot in the form prescribed by IC 3-10-1-19 or IC 3-11 without
18 party designation.

19 (b) The ballot must state the number to be voted on from the
20 electoral district.

21 (c) Candidates residing in the electoral district having the
22 greatest number of votes are elected.

23 Sec. 8. If a school corporation is located in more than one (1)
24 county, each county election board shall print the ballots required
25 for voters in that county to vote for candidates for members of the
26 governing body.

27 Sec. 9. (a) This section applies to a school corporation located in
28 a county containing a consolidated city.

29 (b) The same method used to cast votes for all other offices for
30 which candidates have qualified to be on the election ballot must be
31 used for the school board offices on the election ballot.

32 Sec. 10. Voting and tabulation of votes shall be conducted in the
33 same manner as voting and tabulation in a primary or general
34 election are conducted. The precinct election boards serving at the
35 primary or general election in each county shall conduct the
36 election for governing board members.

37 Sec. 11. If a tie vote occurs among any of the candidates, the tie
38 vote shall be resolved under IC 3-12-9-4.

39 Sec. 12. (a) This section applies only to a school corporation with
40 territory in a county having a population of more than one
41 hundred forty-eight thousand (148,000) but less than one hundred
42 seventy thousand (170,000).

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(b) This section applies if there is a:

- (1) tie vote in an election for a member of the governing body of a school corporation; or**
- (2) vacancy on the governing body of a school corporation.**

(c) Notwithstanding any other law, if a tie vote occurs among any of the candidates for the governing body or a vacancy occurs on the governing body, the remaining members of the governing body, even if the remaining members do not constitute a majority of the governing body, shall by a majority vote of the remaining members:

- (1) select one (1) of the candidates who shall be declared elected; or**
- (2) fill the vacancy by appointing an individual to fill the vacancy.**

(d) An individual appointed to fill a vacancy under subsection (c)(2):

- (1) must satisfy all the qualifications required of a member of the governing body; and**
- (2) shall fill the remainder of the unexpired term of the vacating member.**

(e) If a tie vote occurs among the remaining members of the governing body or the governing body fails to act within thirty (30) days after the election or the vacancy occurs, the fiscal body (as defined in IC 3-5-2-25) of the township in which the greatest percentage of population of the school district resides shall break the tie or make the appointment. A member of the fiscal body who was a candidate and is involved in a tie vote may not cast a vote under this subsection.

(f) If the fiscal body of a township is required to act under this section and a vote in the fiscal body results in a tie, the deciding vote to break the tie vote shall be cast by the executive.

Sec. 13. Governing body members who are elected:

- (1) in November take office and assume their duties on January 1 or July 1 after their election, as stated in the school corporation's plan; and**
- (2) in May take office and assume their duties on July 1 after their election.**

SECTION 19. IC 20-23-13-3, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. The intent of this chapter is to provide that the governing body of the school corporations to which it relates shall be elected as provided in ~~IC 20-23-4-27~~ and ~~IC 20-23-4-29~~ through

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1 ~~IC 20-23-4-31~~, **IC 20-23-4** and **IC 20-23-11.9**, but this chapter
 2 prevails over any conflicting provisions of ~~IC 20-23-4~~ **either of those**
 3 **statutes** relating to any school corporation.

4 SECTION 20. IC 20-26-4-4, AS ADDED BY P.L.1-2005,
 5 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2007]: Sec. 4. (a) This section does not apply to a school city
 7 of the first class or to a school corporation succeeding to all or the
 8 major part in area of a school city of the first class.

9 (b) The commencement and termination of terms of members of a
 10 governing body are as follows:

11 (1) Except as provided in subdivision (2), the governing body of
 12 each school corporation shall determine whether the term of
 13 office for the governing body's members extends from January 1
 14 to December 31 or from July 1 to June 30. A governing body that
 15 makes a change in the commencement date of the governing
 16 body's members' terms shall report the change to the state board
 17 before August 1 preceding the year in which the change takes
 18 place. An ex officio member of a governing body shall take office
 19 at the time the ex officio member takes the oath of the office by
 20 virtue of which the ex officio member is entitled to become an ex
 21 officio member.

22 (2) In a county having a population of more than four hundred
 23 thousand (400,000), the terms of office for the members of a
 24 governing body ~~whether elected or appointed~~, commence on July
 25 1 of the year in which the members are to take office under the
 26 plan, resolution, or law under which the school corporation is
 27 established, and terminate on the June 30 of the final year of the
 28 term for which the members are to serve under the plan,
 29 resolution, or law.

30 (c) If a vacancy in the membership of a governing body occurs for
 31 any reason (including the failure of a sufficient number of petitions for
 32 candidates for governing body membership being filed for an election),
 33 ~~and whether the vacancy was of an elected or appointed member~~); the
 34 remaining members of the governing body shall by majority vote fill
 35 the vacancy by appointing a person from within the boundaries of the
 36 school corporation, with the residence and other qualifications
 37 provided for a regularly elected ~~or appointed~~ board member filling the
 38 membership, to serve for the term or the balance of the term. However,
 39 this subsection does not apply to a vacancy

40 ~~(1) of a member who serves on a governing body in an ex officio~~
 41 ~~capacity. or~~

42 ~~(2) a vacancy in an appointed board membership if a plan;~~

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1 resolution, or law under which the school corporation operates
 2 specifically provides for filling vacancies by the appointing
 3 authority:

4 SECTION 21. IC 20-26-4-7, AS ADDED BY P.L.1-2005,
 5 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2007]: Sec. 7. ~~(a)~~ Except as provided in IC 20-25-3-3, the
 7 governing body of a school corporation by resolution has the power to
 8 pay each member of the governing body a reasonable amount for
 9 service as a member, not to exceed:

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

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

13 ~~(b) If the members of the governing body are totally comprised of~~
 14 ~~appointed members, the appointive authority under IC 20-23-4-28(e)~~
 15 ~~shall approve the per diem rate allowable under subsection (a)(2)~~
 16 ~~before the governing body may make the payments:~~

17 ~~(c) To make a valid approval under subsection (b), the appointive~~
 18 ~~authority must approve the per diem rate with the same endorsement~~
 19 ~~required under IC 20-23-4-28(f) to make the appointment of the~~
 20 ~~member:~~

21 SECTION 22. THE FOLLOWING ARE REPEALED [EFFECTIVE
 22 JULY 1, 2007]: IC 20-23-4-28; IC 20-23-4-29; IC 20-23-4-34;
 23 IC 20-23-4-36; IC 20-23-4-44; IC 20-23-7-9.

24 SECTION 23. [EFFECTIVE JULY 1, 2007] **(a) This SECTION**
 25 **applies to members of the governing body of a school corporation,**
 26 **who before January 1, 2008, are appointed.**

27 **(b) After December 31, 2007, the members of the governing**
 28 **body shall be elected as provided in IC 20-23-11.9, as added by this**
 29 **act.**

30 **(c) Before January 1, 2008, the governing body shall amend the**
 31 **school corporation's plan to provide for the election of the**
 32 **members of the governing body as provided in IC 20-23-4-27, as**
 33 **amended by this act, and IC 20-23-11.9, as added by this act. The**
 34 **amendment must provide that the successor of an appointed**
 35 **member shall be elected at either:**

36 **(1) the primary election at which county officials are**
 37 **nominated; or**

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

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

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- 1 **(1) The successor of each appointed member of the governing**
- 2 **body shall be elected at the general election at which county**
- 3 **officials are elected and that is held in the year:**
- 4 **(A) that the appointed member's term expires, if the**
- 5 **appointed member's term expires July 1; or**
- 6 **(B) immediately before the appointed member's term**
- 7 **expires, if the appointed member's term expires January**
- 8 **1.**
- 9 **(2) The successor elected at the general election takes office on**
- 10 **January 1 following the successor's election.**
- 11 **(3) The school corporation's plan is considered to provide**
- 12 **that:**
- 13 **(A) the members of the governing body shall be elected at**
- 14 **a general election at which county officials are elected; and**
- 15 **(B) a member of the governing body takes office January**
- 16 **1 after the member's election.**
- 17 **(e) This SECTION expires July 1, 2015.**

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