February 23, 2007

SENATE BILL No. 139

DIGEST OF SB 139 (Updated February 21, 2007 3:37 pm - DI 102)

Citations Affected: IC 3-8; IC 3-10; IC 20-23; IC 20-25; IC 33-33; noncode.

Synopsis: School board elections at general election time. Requires that school board members selected by election must be elected at general elections.

Effective: July 1, 2007.

Lubbers, Dillon

January 8, 2007, read first time and referred to Committee on Local Government and Elections.
February 22, 2007, reported favorably — Do Pass.

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February 23, 2007

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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SENATE BILL No. 139

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

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

SECTION 1. IC 3-8-2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. (a) A person who files a declaration of candidacy for an elected office for which a per diem or salary is provided for by law is disqualified from filing a declaration of candidacy for another office for which a per diem or salary is provided for by law until the original declaration is withdrawn.

(b) A person may file both:

(1) a declaration of candidacy under this chapter for nomination to a federal or state office; and

(2) a written request under IC 3-8-3-1 that the person's name be placed on the ballot in a primary election as a candidate for nomination for the office of President of the United States.

~~(c) A person may not file:~~

~~(1) a declaration of candidacy for a nomination; and~~

~~(2) a petition of nomination or declaration of intent to be a write-in candidate for a school board office that is elected at the same time as the primary election.~~

~~If a person files both a declaration of candidacy and a petition of nomination described in this subsection, the matter shall be referred to the county election board under section 18 of this chapter. The board shall determine which document was most recently filed and shall consider the previously filed document to have been withdrawn.~~

SECTION 2. IC 3-8-2-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 19. (a) Upon receipt of the certified list under section 17 of this chapter, a county election board shall immediately compile under the proper political party designation the following:

(1) The title of each office.

(2) The name of each individual who has filed a request to be placed on the presidential primary ballot.

(3) The names and addresses of all persons for whom declarations of candidacy have been filed for nomination to an office on the primary election ballot.

~~(4) The names and addresses of all persons who have filed a petition of nomination for election to a school board office to be chosen at the same time as the primary election.~~

~~(5)~~ **(4)** The text of any public question to be placed on the ballot.

~~(6)~~ **(5)** The date of the primary election.

~~(7)~~ **(6)** The hours during which the polls will be open.

(b) The county election board shall do the following:

(1) Publish the information described in subsection (a) before the primary election in accordance with IC 5-3-1.

(2) File a copy of the information described in subsection (a):

(A) with the election division; and

(B) in the minutes of the county election board.

(c) The county election board shall file the copies required under subsection (b)(2) not later than noon ten (10) days before election day.

(d) An election is not invalidated by the failure of the board to comply with this section.

(e) If the county election board receives an amendment from the election division under section 17 of this chapter after:

(1) compilation of the information described in subsection (a) has occurred; or

(2) the board determines that it is impractical to recompile completely revised information;

the board is only required to file a copy of the amendment with the minutes of the board.

SECTION 3. IC 3-8-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY

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1, 2007]:

Chapter 2.5. Nomination for School Board Office

Sec. 1. This chapter applies to a candidate for a school board office.

Sec. 2. A candidate for a school board office must file a petition of nomination in accordance with IC 3-8-6 and as required under IC 20-23 or IC 20-25. The petition of nomination, once filed, serves as the candidate's declaration of candidacy for a school board office.

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

Sec. 4. (a) A petition of nomination for a school board office must be filed not earlier than one hundred four (104) days and not later than noon seventy-four (74) days before the general election. The petition must be subscribed and sworn to before a person authorized to administer oaths.

(b) A declaration of intent to be a write-in candidate for a school board office must be filed not earlier than ninety (90) days before the general election and not later than noon five (5) days before the final date for the delivery of absentee ballots under IC 3-11-4-15. The declaration must be subscribed and sworn to before a person authorized to administer oaths.

SECTION 4. IC 3-10-1-19, AS AMENDED BY P.L.164-2006, SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 19. (a) The ballot for a primary election shall be printed in substantially the following form for all the offices for which candidates have qualified under IC 3-8:

OFFICIAL PRIMARY BALLOT

_____ Party

For paper ballots, print: To vote for a person, make a voting mark (X or ✓) on or in the box before the person's name in the proper column. For optical scan ballots, print: To vote for a person, darken or shade in the circle, oval, or square (or draw a line to connect the arrow) that precedes the person's name in the proper column. For optical scan ballots that do not contain a candidate's name, print: To vote for a person, darken or shade in the oval that precedes the number assigned to the person's name in the proper column. For electronic voting systems, print: To vote for a person, touch the screen (or press the

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button) in the location indicated.

Vote for one (1) only

Representative in Congress

[] (1) AB_____

[] (2) CD_____

[] (3) EF _____

[] (4) GH_____

(b) The offices with candidates for nomination shall be placed on the primary election ballot in the following order:

(1) Federal and state offices:

(A) President of the United States.

(B) United States Senator.

(C) Governor.

(D) United States Representative.

(2) Legislative offices:

(A) State senator.

(B) State representative.

(3) Circuit offices and county judicial offices:

(A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the circuit court.

(B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the superior court.

(C) Judge of the probate court.

(D) Judge of the county court, with each division separate, as required by IC 33-30-3-3.

(E) Prosecuting attorney.

(F) Circuit court clerk.

(4) County offices:

(A) County auditor.

(B) County recorder.

(C) County treasurer.

(D) County sheriff.

(E) County coroner.

(F) County surveyor.

(G) County assessor.

(H) County commissioner.

(I) County council member.

(5) Township offices:

(A) Township assessor.

(B) Township trustee.

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(C) Township board member.
(D) Judge of the small claims court.
(E) Constable of the small claims court.
(6) City offices:
(A) Mayor.
(B) Clerk or clerk-treasurer.
(C) Judge of the city court.
(D) City-county council member or common council member.
(7) Town offices:
(A) Clerk-treasurer.
(B) Judge of the town court.
(C) Town council member.

(c) The political party offices with candidates for election shall be placed on the primary election ballot in the following order after the offices described in subsection (b):
(1) Precinct committeeman.
(2) State convention delegate.

(d) The following offices and public questions shall be placed on the primary election ballot in the following order after the offices described in subsection (c):
~~(1) School board offices to be elected at the primary election.~~
~~(2)~~ **(1)** ~~Other~~ Local offices to be elected at the primary election.
~~(3)~~ **(2)** Local public questions.

(e) The offices and public questions described in subsection (d) shall be placed:
(1) in a separate column on the ballot if voting is by paper ballot;
(2) after the offices described in subsection (c) in the form specified in IC 3-11-13-11 if voting is by ballot card; or
(3) either:
(A) on a separate screen for each office or public question; or
(B) after the offices described in subsection (c) in the form specified in IC 3-11-14-3.5;
if voting is by an electronic voting system.

(f) A public question shall be placed on the primary election ballot in the following form:

(The explanatory text for the public question,
if required by law.)
"Shall (insert public question)?"
[] YES
[] NO

SECTION 5. IC 3-10-1-19.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 19.2. (a) Whenever

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candidates are to be nominated for an office that includes more than one (1) district, the districts shall be placed on the ballot in alphabetical or numerical order, according to the designation given to the district.

(b) Whenever candidates are to be nominated for an office that includes both an at-large member and a member representing a district, the candidates seeking nomination as an at-large member shall be placed on the ballot before candidates seeking nomination to represent a district.

(c) ~~This subsection applies to a school board office or political office to be elected at the primary election ballot.~~ Candidates for ~~a school board office or~~ a political party office shall be placed on the ballot in accordance with the rules applicable to candidates for nomination to an office under subsections (a) and (b).

SECTION 6. IC 3-10-1-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 32. Primary election returns must contain the whole number of votes cast for **each of the following:**

(1) Each candidate of each political party.

(2) Each public question voted on at the primary election. ~~and~~

(3) Each candidate for election to a ~~school board office or~~ political party office.

SECTION 7. IC 20-23-4-12, AS AMENDED BY P.L.2-2006, SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) In formulating a preliminary reorganization plan and with respect to each of the community school corporations that are a part of the reorganization plan, the county committee shall determine the following:

(1) The name of the community school corporation.

(2) Subject to subsection (e), a general description of the boundaries of the community school corporation.

(3) With respect to the board of school trustees, **the following:**

(A) Whether the number of members is:

(i) three (3);

(ii) five (5); or

(iii) seven (7).

(B) Whether the members are elected or appointed.

(C) If the members are appointed:

(i) when the appointments are made; and

(ii) who makes the appointments.

(D) If the members are elected, ~~whether~~ **that** the election is at ~~(i) the primary election at which county officials are nominated; or~~

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~~(ii)~~ the general election at which county officials are elected. ~~and~~

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

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

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

(A) residence; and

(B) term of office.

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

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

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

(1) assets;

(2) liabilities; and

(3) obligations;

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

(c) The preliminary plan must be supported by a summary statement of **the following:**

(1) The educational improvements the plan's adoption will make possible.

(2) Data showing the:

(A) assessed valuation;

(B) number of resident students in ADA in grades 1 through 12;

(C) assessed valuation per student referred to in clause (B); and

(D) property tax levies;

of each existing school corporation to which the plan applies.

(3) The:

(A) assessed valuation;

(B) resident ADA; and

(C) assessed valuation per student;

data referred to in subdivision 2(A) through 2(C) that would have applied for each proposed community school corporation if the corporation existed in the year the preliminary plan is prepared or notice of a hearing or hearings on the preliminary plan is given by

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the county committee. ~~and~~

(4) Any other data or information the county committee considers appropriate or that may be required by the state board in its rules.

(d) The county committee:

(1) shall base the assessed valuations and tax levies referred to in subsection (c)(2) through (c)(3) on the valuations applying to taxes collected in:

(A) the year the preliminary plan is prepared; or

(B) the year notice of a hearing or hearings on the preliminary plan is given by the county committee;

(2) may base the resident ADA figures on the calculation of the figures under the rules under which they are submitted to the state superintendent by existing school corporations; and

(3) shall set out the resident ADA figures for:

(A) the school year in progress if the figures are available for that year; or

(B) the immediately preceding school year if the figures are not available for the school year in progress.

The county committee may obtain the data and information referred to in this subsection from any source the committee considers reliable. If the county committee attempts in good faith to comply with this subsection, the summary statement referred to in subsection (c) is sufficient regardless of whether the statement is exactly accurate.

(e) The general description referred to in subsection (a)(2) may consist of an identification of an existing school corporation that is to be included in its entirety in the community school corporation. If a boundary does not follow the boundary of an existing civil unit of government or school corporation, the description must set out the boundary:

(1) as near as reasonably possible by:

(A) streets;

(B) rivers; and

(C) other similar boundaries;

that are known by common names; or

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

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

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

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

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

SECTION 8. IC 20-23-4-29.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 29.1. (a) This section applies to each school corporation.**

(b) If a plan provides for election of members of the governing body, the members of the governing body shall be elected at a general election. Each candidate must file a petition of nomination in accordance with IC 3-8-2.5 that is signed by the candidate and by ten (10) registered voters residing within the boundaries of the community school corporation. The filing must be made within the time specified by IC 3-8-2.5-4.

(c) All nominations shall be listed for each office in the form prescribed by IC 3-11-2, but without party designation. Voting and tabulation of votes shall be conducted in the same manner as voting and tabulation in general elections are conducted. The precinct election boards serving in each county shall conduct the election for members of the governing body. If a school corporation is located in more than one (1) county, each county election board shall print the ballots required for voters in that county to vote for candidates for members of the governing body.

(d) If the plan provides that the members of the governing body shall be elected by all the voters of the community school corporation, candidates shall be placed on the ballot in the form prescribed by IC 3-11-2, without party designation. Candidates having the greatest number of votes are elected.

(e) If the plan provides that members of the governing body are to be elected from residence districts by all voters in the community school corporation, nominees for the governing body shall be placed on the ballot in the form prescribed by IC 3-11-2, by residence districts without party designation. The ballot must state the number of members to be voted on and the maximum number of members that may be elected from each residence district as provided in the plan. A ballot is not valid if more than the maximum number of members are voted on from a board member residence district. Candidates having the greatest number of votes are elected. However, if more than the maximum number that may be elected from a residence district are among those

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having the greatest number of votes, the candidates from the residence districts exceeding the maximum number who have the least number of votes shall be eliminated in determining the candidates who are elected.

(f) If the plan provides that members of the governing body are to be elected from electoral districts solely by the voters of each district, nominees residing in each electoral district shall be placed on the ballot in the form prescribed by IC 3-11-2, without party designation. The ballot must state the number of members to be voted on from the electoral district. Candidates residing in the electoral district having the greatest number of votes are elected.

SECTION 9. IC 20-23-4-30, AS ADDED BY P.L.230-2005, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 30. (a) This section applies to each school corporation.

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

~~(c)~~ **(b)** If a tie vote occurs among any of the candidates, the tie vote shall be resolved under IC 3-12-9-4.

~~(d)~~ **(c)** If after the first governing body takes office, there is a vacancy on the governing body for any reason, including the failure of the sufficient number of petitions for candidates being filed, whether the vacating member was elected or appointed, the remaining members of the governing body, whether or not a majority of the governing body, shall by a majority vote fill the vacancy by appointing a person from within the boundaries of the community school corporation to serve for the term or balance of the term. An individual appointed under this subsection must possess the qualifications provided for a regularly elected or appointed governing body member filling the office. If:

(1) a tie vote occurs among the members of the governing body under this subsection or IC 3-12-9-4; or

(2) the governing body fails to act within thirty (30) days after any vacancy occurs;

the judge of the circuit court in the county where the majority of registered voters of the school corporation reside shall make the appointment.

~~(e)~~ **(d)** A vacancy in the governing body occurs if a member ceases to be a resident of any community school corporation. A vacancy does not occur when the member moves from a district of the school corporation from which the member was elected or appointed if the member continues to be a resident of the school corporation.

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

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

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

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

~~(g)~~ **(f) Elected** governing body members ~~elected:~~

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

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

SECTION 10. IC 20-23-7-6, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) The first metropolitan board of education shall be composed of the:

(1) trustees; and

(2) members of school boards;

of the school corporations forming the metropolitan board of education.

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

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

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(d) The first meeting of the first metropolitan board of education shall be held not more than one (1) month after the creation of the metropolitan school district. The first meeting shall be called by the superintendent of schools, or township trustee of a school township, of the school corporation in the district having the largest number of students. At the first meeting, the board shall organize, and **each year** during the first ten (10) days ~~of each July~~ **after the board members that are elected or appointed to a new term take office,** the board shall reorganize, by electing a president, a vice president, a secretary, and a treasurer.

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

(1) motion;

(2) ordinance; or

(3) resolution;

to pass.

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

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

(1) a reasonable per diem for service on the board not to exceed one hundred twenty-five dollars ($125) per year; and

(2) for travel to and from a member's home to the place of the meeting within the district, a sum for mileage equal to the amount per mile paid to state officers and employees. The rate per mile shall change when the state government changes its rate per mile.

SECTION 11. IC 20-23-7-8.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 8.1. (a) The registered voters of the metropolitan school district shall elect the members of the metropolitan board of education at general elections held**

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biennially, beginning with the next general election that is held more than sixty (60) days after the creation of the metropolitan school district as provided in this chapter.

(b) Each nominee for the board must file a petition of nomination signed by the nominee and by ten (10) registered voters residing in the same board member district as the nominee. The petition must be filed in accordance with IC 3-8-2.5 with the circuit court clerk of each county in which the metropolitan school district is located.

(c) Nominees for the board shall be listed on the general election ballot:

(1) in the form prescribed by IC 3-11-2;

(2) by board member districts; and

(3) without party designation.

The ballot must state the number of board members to be voted on and the maximum number of members that may be elected from each board member district as provided under section 5 of this chapter. A ballot that contains more votes than the maximum number allowed from a board member district is invalid.

(d) The precinct election boards in each county serving at the general election shall conduct the election for school board members.

(e) Voting and tabulation of votes shall be conducted in accordance with IC 3, and the candidates having the greatest number of votes are elected to the board.

(f) If there are more candidates from a particular board member district than may be elected from the board member district under section 5 of this chapter:

(1) the number of candidates elected is the highest number that may be elected from the board member district;

(2) the candidates elected are those who, among the candidates from the board member district, receive the highest number of votes; and

(3) the other candidates from the board member district are eliminated.

(g) If there is a tie vote among the candidates for the board, the judge of the circuit court in the county where the majority of the registered voters of the metropolitan school district reside shall select one (1) of the candidates who shall be declared and certified elected.

(h) If, at any time after the first board member election, a vacancy on the board occurs for any reason, including an

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insufficient number of petitions for candidates being filed, and regardless of whether the vacating member was elected or appointed, the remaining members of the board, whether or not a majority of the board, shall by a majority vote fill the vacancy by:

(1) appointing a person from the board member district from which the person who vacated the board was elected; or

(2) if the person was appointed, appointing a person from the board member district from which the last elected predecessor of the person was elected.

If a majority of the remaining members of the board is unable to agree or the board fails to act within thirty (30) days after a vacancy occurs, the judge of the circuit court in the county where the majority of registered voters of the metropolitan school district reside shall make the appointment.

(i) At a general election held on the earlier of:

(1) more than sixty (60) days after an elected board member vacates membership on the board; or

(2) immediately before the end of the term for which the vacating member was elected;

a successor to a board member appointed under subsection (h) shall be elected. Unless the successor takes office at the end of the term of the vacating member, the member shall serve only for the balance of the vacating member's term. In an election for a successor board member to fill a vacancy for a two (2) year balance of a term, candidates for board membership need not file for or with reference to the vacancy. However, as required by IC 3-11-2, candidates for at-large seats must be distinguished on the ballot from candidates for district seats. If there is more than one (1) at-large seat on the ballot due to this vacancy, the elected candidate who receives the lowest number of votes at the election at which the successor is elected shall serve for a two (2) year term.

(j) At the first general election where members of the board are elected under this section, a simple majority of the elected candidates who receive the highest number of votes shall be elected for four (4) year terms, and the balance of the elected candidates who receive the lower number of votes shall be elected for two (2) year terms.

(k) Board members shall be elected for four (4) year terms after the first election and shall take office January 1 following the election.

SECTION 12. IC 20-23-7-12, AS AMENDED BY P.L.1-2006, SECTION 317, AND AS AMENDED BY P.L.2-2006, SECTION 98,

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IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) *As used in this section, "county" means the county in which the school township is located.*

(b) As used in this section, "school township" means a school township ~~*of this state*~~ *in Indiana* that:

(1) for the last full school semester immediately preceding:

(A) the adoption of a preliminary resolution by the township trustee and the township board under subsection (f); or

(B) the ~~*their*~~ adoption of a resolution of disapproval *by the township trustee and the township board* under subsection (g);

had an ~~*average daily membership*~~ *ADM* of at least six hundred (600) students in kindergarten through grade 12 in the public schools of the school township; or

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

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

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

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

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

(e) In a school township, a metropolitan school district may be created by complying with this section. A metropolitan school district created under this section shall have the same boundaries as the school township. After a district has been created under this section, the school township that preceded the metropolitan school district is abolished. ~~*None of*~~ The procedures or provisions governing the creation of a metropolitan school district under another section of this chapter ~~*are applicable*~~ *do not apply* to the creation of a district under this section. After a *metropolitan school* district is created under this section, the ~~*metropolitan school*~~ district shall, except as otherwise provided in this section, be governed by and operate in accordance with this chapter governing the operation of a metropolitan school district as established under section 2 of this chapter.

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

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manner:

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

(A) by ~~*publication by*~~ two (2) ~~*insertions*~~ *publications* one (1) week apart in a newspaper of general circulation published in the school township; or

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

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

(2) On the thirtieth day after the date of the last publication of the notice under subdivision (1) and if a protest has not been filed, the township trustee and a majority of the township board shall confirm their preliminary resolution. If, however, on or before the twenty-ninth day after the date of the last publication of the notice, a number of registered voters of the school township, equal to five percent (5%) or more of the number of votes cast in the school township for secretary of state at the last preceding general election for that office, sign and file with the township trustee a petition requesting an election in the school township to determine whether or not a metropolitan school district must be created in the township in accordance with the preliminary resolution, then an election must be held as provided in subsection (h). The preliminary resolution and confirming resolution provided in this subsection shall both be adopted at a meeting of the township trustee and township board in which the township trustee and each member of the township board received or waived a written notice of the date, time, place, and purpose of the meeting. The resolution and the proof of service or waiver of the notice shall be made a part of the records of the township board.

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

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

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

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

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

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

(h) An election required under subsection (f) or (g) may, at the option of the township trustee, be held either as a special election or in conjunction with a primary or general election to be held not more than one hundred twenty (120) days after the filing of a petition under subsection (f) or the adoption of the disapproving resolution under subsection (g). The township trustee shall certify the question to the county election board under IC 3-10-9-3 and give notice of an election:

(1) by two (2) ~~*insertions*~~ *publications* one (1) week apart in a newspaper of general circulation in the school township; or

(2) if a newspaper described in subdivision (1) does not exist, in a newspaper of general circulation published in the county.

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

(i) On the day and time named in the notice, the polls shall be opened and the votes of the voters shall be taken regarding whether a metropolitan school district shall be created in the school township. IC 3 governs the election except as otherwise provided in this chapter. The county election board shall conduct the election. The public question shall be placed on the ballot in the form prescribed by

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IC 3-10-9-4 and must state "Shall a metropolitan school district under IC 20-23-7 be formed in the _____ School Township of _____ County, Indiana?". The name of the school township shall be inserted in the blanks.

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

(k) A metropolitan school district shall, subject to section 7 of this chapter, be created on the thirtieth day after the date of the adoption of the confirming resolution under subsection (f) or an election held under subsection (h). If a public official fails to do the official's duty within the time prescribed in this section, the failure does not invalidate the proceedings taken under this section. An action to contest the validity of the creation of a metropolitan school district under this section or to enjoin the operation of a metropolitan school district may not be instituted later than the thirtieth day following the date of the adoption of the confirming resolution under subsection (f) or of the election held under subsection (h). Except as provided in this section, an election under this subsection may not be held sooner than twelve (12) months after another election held under subsection (h).

(l) A metropolitan school district is known as "The Metropolitan School District of _____ Township, _____ County, Indiana". The first metropolitan board of education in a metropolitan school district created under this section consists of five (5) members. The township trustee and the township board members are ex officio members of the first board, subject to the laws concerning length of their respective terms of office, manner of election or appointment, and the filling of vacancies applicable to their respective offices. The ex officio members serve without ~~*other*~~ compensation or reimbursement for expenses*, other* than that which they may receive from their respective offices. The township board shall, by a resolution recorded in its records, appoint the fifth member of the metropolitan board of education. The fifth member shall meet the qualifications of a member of a metropolitan board of education under this chapter, with the exception of the board member district requirements provided in sections 4, 5, and ~~8~~ **8.1** of this chapter.

(m) A fifth board member shall be appointed not more than fifteen

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(15) days after the date of the adoption of the confirming resolution under subsection (f)(2) or an election held under subsection (h). The first board shall hold its first meeting not more than fifteen (15) days after the date when the fifth board member is appointed or elected, on a date established by the township board in the resolution in which it appoints the fifth board member. The first board shall serve until ~~July 1~~ **January 1** following the election of a metropolitan school board at the first ~~primary~~ **general** election held more than sixty (60) days following the creation of the metropolitan school district.

(n) After the creation of a metropolitan school district under this section, the president of the metropolitan school board of the district shall serve as a member of the county board of education and perform the duties on the county board of education that were previously performed by the township trustee. The metropolitan school board and superintendent of the district may call upon the assistance of and use the services provided by the county superintendent of schools. This subsection does not limit or take away the powers, rights, privileges, or duties of the metropolitan school district or the board or superintendent of the district provided in this chapter.

SECTION 13. IC 20-23-8-7, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) A plan or proposed plan must contain the following items:

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

(A) three (3);

(B) five (5); or

(C) seven (7);

members.

(2) Whether the governing board shall be elected or appointed.

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

~~(4) If elected, whether the election shall be at the primary or at the general election that county officials are nominated or elected, and a general description of the manner of election that conforms with the requirements of IC 20-23-4-27.~~

(4) A provision that the members of an elected governing board shall be elected at the general election at which county officials are elected.

(5) The limitations on:

(A) residence;

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(B) term of office; and
(C) other qualifications;
required by members of the governing body.
(6) The time the plan takes effect.

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

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

SECTION 14. IC 20-23-8-21, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 21. An election may not be held under this chapter more than once each eighteen (18) months. A plan for a governing body may not be adopted more than once each six (6) years, except if **either of the following applies:**

~~(1) the plan only changes the time of voting for board members from the primary to the general election or from the general to the primary election;~~

~~(2)~~ **(1)** A plan adopted is declared or held to be invalid by a binding judgment or order in a United States or an Indiana court that no appeal or further approval can be taken. ~~or~~

~~(3)~~ **(2)** The plan provides solely for changes in items specified in section 7(a)(5) of this chapter.

SECTION 15. IC 20-23-10-8, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) The board members of a merged school corporation shall be elected at the first ~~primary~~ **general** election following the merged school corporation's creation, and vacancies shall be filled in accordance with IC 20-23-4-30.

(b) Until the first election under subsection (a), the board of trustees of the merged school corporation consists of:

(1) the members of the governing body of a school corporation in the county other than a school township; and
(2) the township trustee of a school township in the county.

(c) The first board of trustees shall select the name of the merged school corporation by a majority vote. The name may be changed by unanimous vote of the governing body of the merged school corporation.

SECTION 16. IC 20-23-12-3, AS ADDED BY P.L.1-2005,

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SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) The governing body of the school corporation consists of seven (7) members elected as follows:

(1) On a nonpartisan basis.

(2) In a ~~primary~~ **general** election ~~held~~ in the county.

(b) Six (6) of the members shall be elected from the school districts drawn under section 4 of this chapter. Each member:

(1) is elected from the school district in which the member resides; and

(2) upon election and in conducting the business of the governing body, represents the interests of the entire school corporation.

(c) One (1) of the members elected:

(1) is the at-large member of the governing body;

(2) may reside in any of the districts drawn under section 4 of this chapter; and

(3) upon election and in conducting the business of the governing body, represents the interests of the entire school corporation.

SECTION 17. IC 20-23-12-8, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. **(a)** The term of each person elected to serve on the governing body

~~(1)~~ is four (4) years. ~~and~~

~~(2) begins~~

(b) The term of each person elected to serve on the governing body begins the ~~July 1~~ **January 1** that next follows the person's election.

SECTION 18. IC 20-23-12-9, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. The members are elected as follows:

(1) Three (3) of the members elected under section 3(b) of this chapter are elected at the ~~primary~~ **general** election to be held in 2008 and every four (4) years thereafter.

(2) Three (3) of the members elected under section 3(b) of this chapter are elected at the ~~primary~~ **general** election to be held in ~~2006~~ **2010** and every four (4) years thereafter.

(3) The at-large member elected under section 3(c) of this chapter is elected at the ~~primary~~ **general** election to be held in 2008 and every four (4) years thereafter.

SECTION 19. IC 20-23-13-1, AS ADDED BY P.L.230-2005, SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) In a community school corporation established under IC 20-23-4 that:

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(1) has a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000); and

(2) is the successor in interest to a school city having the same population;

the governing body consists of a board of trustees of five (5) members elected in the manner provided in this chapter.

~~(b) At the 2008 primary election and at each primary election every four (4) years thereafter, there shall be elected in each school corporation covered by this chapter two (2) governing body members, each of whom shall serve for four (4) years. The two (2) candidates for the office of school trustee receiving the highest number of votes at the election take office on July 1 next following the election.~~

~~(c) At the 2006 primary election and at each primary election every four (4) years thereafter, there shall be elected in each school city covered by this chapter three (3) governing body members, each of whom shall serve for four (4) years. The three (3) candidates for the office of school trustee receiving the highest number of votes at the election take office on July 1 next following the election.~~

~~(d)~~ **(b)** The governing body members shall be elected at the times provided and shall succeed the retiring members in the order and manner as set forth in this ~~section.~~ **chapter.**

SECTION 20. IC 20-23-13-2.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 2.1. (a) As used in this section, "county election board" includes a board of elections and registration under IC 3-6-5.2.**

(b) The voters of the school city shall elect the members of the governing body at a general election for a term of four (4) years. The members shall be elected from the city at large without reference to district.

(c) Each candidate for election to the governing body must file a petition of nomination with the county election board in each county in which a school city subject to this chapter is located. The petition of nomination must comply with IC 3-8-2.5 and the following requirements:

(1) The petition must be signed by at least two hundred (200) legal voters of the school city.

(2) Each petition may nominate only one (1) candidate.

(3) Each legal voter may sign petitions equal in number to the number of school trustees to be elected.

(d) After all the petitions described in subsection (c) are filed with the county election board, the board shall publish the names

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of those nominated in accordance with IC 5-3-1 and shall certify the nominations in the manner required by law. IC 3 governs the election to the extent that it is not inconsistent with this chapter.

(e) The county election board shall prepare the ballot for the general election at which members of the governing body are to be elected so that the names of the candidates nominated appear on the ballot:

(1) in alphabetical order;

(2) without party designation; and

(3) in the form prescribed by IC 3-11-2.

(f) The county election board shall not publish or place on the ballot the name of a candidate who is not eligible under this chapter for membership on the governing body.

(g) Each voter may vote for as many candidates as there are members of the governing body to be elected.

SECTION 21. 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:

(1) IC 20-23-4-27; ~~and IC 20-23-4-29 through~~

(2) IC 20-23-4-29.1;

(3) IC 20-23-4-30; and

(4) IC 20-23-4-31;

but this chapter prevails over any conflicting provisions of IC 20-23-4 relating to any school corporation.

SECTION 22. IC 20-23-14-5, AS ADDED BY P.L.230-2005, SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. To be eligible to be a candidate for the governing body under this chapter, the following apply:

(1) Each prospective candidate must file a **petition of** nomination ~~petition~~ with the board of elections and registration not earlier than one hundred four (104) days and not later than noon seventy-four (74) days before the ~~primary~~ **general** election at which the members are to be elected. ~~that includes~~ **The petition of nomination must include** the following: ~~information:~~

(A) The name of the prospective candidate.

(B) Whether the prospective candidate is a district candidate or an at-large candidate.

(C) A certification that the prospective candidate meets the qualifications for candidacy imposed under this chapter.

(D) The signatures of at least one hundred (100) registered

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voters residing in the school corporation.

(2) Each prospective candidate for a district position must:

(A) reside in the district; and

(B) have resided in the district for at least the three (3) years immediately preceding the election.

(3) Each prospective candidate for an at-large position must:

(A) reside in the school corporation; and

(B) have resided in the school corporation for at least the three (3) years immediately preceding the election.

(4) Each prospective candidate (regardless of whether the candidate is a district candidate or an at-large candidate) must:

(A) be a registered voter;

(B) have been a registered voter for at least the three (3) years immediately preceding the election; and

(C) be a high school graduate or have received a:

(i) high school equivalency certificate; or

(ii) state general educational development (GED) diploma under IC 20-20-6.

(5) A prospective candidate may not:

(A) hold any other elective or appointive office; or

(B) have a pecuniary interest in any contract with the school corporation or its governing body;

as prohibited by law.

SECTION 23. IC 20-23-14-8, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. **(a)** The term of each person elected to serve on the governing body

~~(1)~~ is four (4) years. ~~and~~

~~(2) begins~~

(b) The term of each person elected to serve on the governing body begins on the ~~July 1~~ **January 1** that next follows the person's election.

SECTION 24. IC 20-23-14-9, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. The members are elected as follows:

(1) Three (3) of the members are elected at the ~~primary~~ **general** election to be held in 2008 and every four (4) years thereafter.

(2) Two (2) of the members are elected at the ~~primary~~ **general** election to be held in ~~2006~~ **2010** and every four (4) years thereafter.

SECTION 25. IC 20-25-3-4, AS AMENDED BY P.L.1-2006, SECTION 322, IS AMENDED TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2007]: Sec. 4. (a) The board consists of seven (7) members. A member:

(1) must be elected on a nonpartisan basis in ~~primary~~ **general** elections held in the county as specified in this section; and

(2) serves a four (4) year term.

(b) Five (5) members shall be elected from the school board districts in which the members reside, and two (2) members must be elected at large. Not more than two (2) of the members who serve on the board may reside in the same school board district.

(c) If a candidate runs for one (1) of the district positions on the board, only eligible voters residing in the candidate's district may vote for that candidate. If a person is a candidate for one (1) of the at-large positions, eligible voters from all the districts may vote for that candidate.

(d) If a candidate files to run for a position on the board, the candidate must specify whether the candidate is running for a district or an at-large position.

(e) A candidate who runs for a district or an at-large position wins if the candidate receives the greatest number of votes of all the candidates for the position.

(f) Districts shall be established within the school city by the state board. The districts must be drawn on the basis of precinct lines, and as nearly as practicable, of equal population with the population of the largest district not to exceed the population of the smallest district by more than five percent (5%). District lines must not cross precinct lines. The state board shall establish:

(1) balloting procedures for the election under IC 3; and

(2) other procedures required to implement this section.

(g) A member of the board serves under section 3 of this chapter.

(h) In accordance with subsection (k), a vacancy in the board shall be filled temporarily by the board as soon as practicable after the vacancy occurs. The member chosen by the board to fill a vacancy holds office until the member's successor is elected and qualified. The successor shall be elected at the next regular school board election occurring after the date on which the vacancy occurs. The successor fills the vacancy for the remainder of the term.

(i) An individual elected to serve on the board begins the individual's term on ~~July 1 of the year of~~ **January 1 immediately following** the individual's election.

(j) Notwithstanding any law to the contrary, each voter must cast a vote for a school board candidate or school board candidates by voting system or paper ballot. However, the same method used to cast votes

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for all other offices for which candidates have qualified to be on the election ballot must be used for the board offices.

(k) If a vacancy in the board exists because of the death of a member, the remaining members of the board shall meet and select an individual to fill the vacancy in accordance with subsection (h) after the secretary of the board receives notice of the death under IC 5-8-6.

SECTION 26. IC 33-33-53-5, AS AMENDED BY P.L.2-2006, SECTION 183, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. In accordance with rules adopted by the judges of the court under section 6 of this chapter, the presiding judge shall do the following:

(1) Ensure that the court operates efficiently and judicially under rules adopted by the court.

(2) Annually submit to the fiscal body of Monroe County a budget for the court, including amounts necessary for:

(A) the operation of the circuit's probation department;

(B) the defense of indigents; and

(C) maintaining an adequate law library.

(3) Make the appointments or selections required of a circuit or superior court judge under the following statutes:

IC 8-4-21-2
IC 11-12-2-2
IC 16-22-2-4
IC 16-22-2-11
IC 16-22-7
IC 20-23-4
IC 20-23-7-6
~~IC 20-23-7-8~~ **IC 20-23-7-8.1**
IC 20-26-7-8
IC 20-26-7-14
IC 20-47-2-15
IC 20-47-3-13
IC 36-9
IC 36-10
IC 36-12-10-10.

(4) Make appointments or selections required of a circuit or superior court judge by any other statute, if the appointment or selection is not required of the court because of an action before the court.

SECTION 27. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2007]: IC 3-8-2-2.2; IC 20-23-4-29; IC 20-23-7-8; IC 20-23-13-2.

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SECTION 28. [EFFECTIVE JULY 1, 2007] **(a) As used in this SECTION, "governing body" refers to the governing body of a school corporation subject to any of the following:**

(1) IC 20-23-4-30.

(2) IC 20-23-7-8 (before its repeal) and IC 20-23-7-8.1, as added by this act.

(3) IC 20-23-8-8.

(4) IC 20-23-10-8.

(5) IC 20-23-12.

(6) IC 20-23-13.

(7) IC 20-23-14.

(8) IC 20-25-3-4.

(b) This subsection applies to a member of a governing body elected at the 2004 primary election. The successor of such a member shall:

(1) be elected at the 2008 general election; and

(2) take office January 1, 2009.

(c) This subsection applies to a member of a governing body elected at the 2006 primary election. The successor of such a member shall:

(1) be elected at the 2010 general election; and

(2) take office January 1, 2011.

(d) This SECTION expires July 1, 2011.

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SENATE MOTION

Madam President: I move that Senator Dillon be added as second author of Senate Bill 139.

LUBBERS

COMMITTEE REPORT

Madam President: The Senate Committee on Local Government and Elections, to which was referred Senate Bill No. 139, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 139 as introduced.)

LAWSON C, Chairperson

Committee Vote: Yeas 5, Nays 4.

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