

## **IC 20-23-10**

### **Chapter 10. Merger of School Corporations Within Counties**

#### **IC 20-23-10-1**

##### **"Concurrent resolutions"**

Sec. 1. As used in this chapter, "concurrent resolutions" means substantially identical resolutions adopted by the governing bodies of the school corporations in a county.

*As added by P.L.1-2005, SEC.7.*

#### **IC 20-23-10-2**

##### **"Governing body"**

Sec. 2. As used in this chapter, "governing body" means the board or commission charged by law with the responsibility of administering the affairs of a school corporation, including a board of school commissioners, metropolitan board of education, board of school trustees, or board of trustees.

*As added by P.L.1-2005, SEC.7. Amended by P.L.233-2015, SEC.73.*

#### **IC 20-23-10-3**

##### **"Merger"**

Sec. 3. As used in this chapter, "merger" means the merger of all the school corporations in a county into a single school corporation in which the rights and obligations of each school corporation, including the right to receive tax and other money, are transferred into a new corporation to be known in this chapter as the merged corporation.

*As added by P.L.1-2005, SEC.7.*

#### **IC 20-23-10-4**

##### **"School corporation in the county"**

Sec. 4. As used in this chapter, "school corporation in the county" means all the school corporations that have territory in a county.

*As added by P.L.1-2005, SEC.7.*

#### **IC 20-23-10-5**

##### **Merger resolution; contents**

Sec. 5. School corporations in a county may merge in the following manner:

(1) The governing bodies of the school corporations shall adopt a concurrent resolution providing for the merger.

(2) The resolutions in subdivision (1) shall be adopted not later than sixty (60) days after the date the first concurrent resolution is adopted by a governing body. The resolutions must provide for the following:

(A) The makeup of board member districts, including that:  
(i) board members shall be elected from the entire merged school corporation, but residence requirements may

- provide that members live in different districts;
  - (ii) the board member districts need not be equal in size or population, and one (1) board member district may include the area in the merged school corporation;
  - (iii) the number of members of the governing body of the merged school corporation to be elected from a board member district need not be equal in number; and
  - (iv) concurrent resolutions may also eliminate requirements that there be board member districts.
- (B) The number of members on the governing body of the merged school corporation must be:
- (i) three (3);
  - (ii) five (5); or
  - (iii) seven (7);
- members.
- (C) The time the merged school corporation comes into existence.

If a time is not provided when the merged school corporation comes into existence or if a final judgment in the remonstrance proceeding is delayed beyond the time set in the concurrent resolutions, the merged school corporation comes into existence on July 1 following the adoption of the resolutions or the final judgment, whichever occurs last.

*As added by P.L.1-2005, SEC.7.*

#### **IC 20-23-10-6**

##### **Notice of adoption of concurrent resolutions; effective date of merger**

Sec. 6. (a) After the last concurrent resolution under section 5 of this chapter is adopted, notice of the adoption of the concurrent resolutions shall be given by stating:

- (1) the substance of the concurrent resolutions;
- (2) that the resolutions have been adopted; and
- (3) that a right of remonstrance exists as provided in this chapter.

It is not necessary to set out the remonstrance provisions of the statute, but a general reference to the right of remonstrance with a reference to this chapter is sufficient.

(b) The notice under subsection (a) shall be made two (2) times, one (1) week apart in two (2) daily newspapers, published in the English language and of general circulation in the county. If there is only one (1) daily or weekly newspaper in the county, publication in that newspaper is sufficient.

(c) The merger shall take effect at the time provided in section 5 of this chapter unless, not more than thirty (30) days after the first publication of the notice, a remonstrance is filed in the circuit or superior court of the county by registered voters equal in number to at least ten percent (10%) of the registered voters of a school corporation in the county.

*As added by P.L.1-2005, SEC.7.*

**IC 20-23-10-7**

**Remonstrances; form**

Sec. 7. (a) A remonstrance under section 6 of this chapter:

(1) must be in substantially the following form:

The undersigned hereby remonstrates against the merger of the school corporations in \_\_\_\_\_ county;

(2) may be filed in counterparts that must have attached:

(A) the affidavit of the person circulating it;

(B) a statement that each signature appearing on the remonstrance was affixed in the presence of the person circulating the remonstrance; and

(C) a statement that each signature is the true and lawful signature of the person who made it;

(3) shall be accompanied by a complaint filed by one (1) or more of the remonstrators (who shall be treated as a representative of the entire class of remonstrators); and

(4) shall be signed by the remonstrator or the remonstrator's attorney, stating the reasons for the remonstrance, where these reasons are limited to the following:

(A) There is a procedural defect in the manner that the merger is carried out which is jurisdictional.

(B) The benefits to be derived from the merger are outweighed by its detriments, taking into consideration the respective benefits and detriments of the students and inhabitants residing in the school corporations of the county.

(b) A person who makes an affidavit under subsection (a) does not have to be one (1) of the persons who signs the counterpart attached to the affidavit.

(c) The plaintiff in the suit is the person whose name appears on the complaint. The defendants in a remonstrance under section 6 of this chapter are the school corporations in the county. Service of process shall be made on the defendants as in other civil actions.

(d) To determine whether the petition was timely filed, the time of filing is the time of filing with the clerk of the circuit court without regard to the time of issuance of the summons. If the thirtieth day falls on Sunday, a holiday, or another day when the clerk's office is not open, the time is extended to the next day when the clerk's office is open.

(e) The issues in a remonstrance suit are made up by the complaint, the allegations of the complaint being considered denied by the defendant or defendants. A responsive pleading does not need to be filed. However, a defendant may file a motion to dismiss the suit on the ground:

(1) that the requisite number of qualified remonstrators have not signed the petition;

(2) that the remonstrance was not timely filed; or

(3) that the complaint does not state a cause of action.

(f) A responsive pleading to a motion to dismiss under subsection (e) does not need to be filed.

(g) With respect to a motion under subsection (e)(1) and (e)(2), the allegations are considered denied by the remonstrators.

(h) To determine whether there are the requisite number of qualified remonstrators under subsection (e)(1), a person may not:

(1) withdraw the person's name after a remonstrance has been filed; or

(2) add the person's name to a remonstrance that has been filed.

(i) At a trial for a remonstrance suit, a person may, in support or derogation of the substantive matters in the complaint, introduce into evidence a verified statement that the person wishes that the person's name be added to or withdrawn from the remonstrance.

(j) The court may either hear all or a part of the matters raised by a motion to dismiss separately or may consolidate for trial all or a part of the matters with the matters relating to the substance of the case.

(k) A complaint may not be dismissed for failure to state a cause of action, if a fair reading of the complaint makes out one (1) of the grounds for remonstrance and suit provided in subsection (a).

(l) An amendment of the complaint may be permitted in the discretion of the court if the complaint does not state a new ground of remonstrance.

(m) The trial of a remonstrance suit shall be conducted as other civil cases by a court without the intervention of a jury on the issues raised by the:

(1) complaint; or

(2) motion to dismiss.

(n) In a remonstrance suit:

(1) a change of venue from a judge, but no change of venue from the county, is permitted;

(2) the court will expedite the hearing of the case; and

(3) the court's judgment must be either that:

(A) the merger takes place;

(B) the merger does not take place; or

(C) the remonstrance is dismissed.

*As added by P.L.1-2005, SEC.7.*

### **IC 20-23-10-8**

#### **Election of board members of merged school corporations**

Sec. 8. (a) The board members of a merged school corporation shall be elected at the first 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 the members of the governing body of a school corporation 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.

*As added by P.L.1-2005, SEC.7. Amended by P.L.179-2011, SEC.20; P.L.233-2015, SEC.74.*

**IC 20-23-10-9**

**Powers of merged school corporation**

Sec. 9. A merged school corporation has the powers provided in IC 20-23-4-26 through IC 20-23-4-33.

*As added by P.L.1-2005, SEC.7. Amended by P.L.2-2006, SEC.100.*