

IC 3-13-5

Chapter 5. Vacancies in Legislative Offices

IC 3-13-5-0.1

Application of chapter; legislative office held by person elected or selected by major political party; filling legislative vacancy

Sec. 0.1. (a) This chapter applies only to a vacancy in a legislative office that was last held by a person elected or selected as a candidate of a major political party of the state.

(b) A vacancy in a legislative office that was last held by a person elected or selected as a candidate of a political party described by IC 3-8-4-10 shall be filled by the state committee of the political party. The state chairman of the party shall certify the selection of an individual to fill the vacancy in the manner prescribed under section 6 of this chapter.

(c) A vacancy in a legislative office that was last held by a person not described in subsection (a) or (b) shall be filled by a special election held as provided in IC 3-10-8.

As added by P.L.164-2006, SEC.130.

IC 3-13-5-1

Caucus selection of successor

Sec. 1. (a) A vacancy in a legislative office shall be filled by a caucus comprised of the precinct committeemen from the senate or house district where the vacancy exists who represent the same political party that elected or selected the person who held the vacated seat.

(b) Not later than thirty (30) days after the vacancy occurs (or as provided in subsections (c) and (d)), the caucus shall meet and select a person to fill the vacancy by a majority vote of those casting a vote for a candidate, including vice committeemen eligible to vote as a proxy under section 5 of this chapter.

(c) A state chairman may give notice of a caucus before the time specified under subsection (b) if a vacancy will exist because the official has:

- (1) submitted a written resignation under IC 5-8-3.5 that has not yet taken effect; or
- (2) been elected to another office.

(d) If a vacancy in a legislative office exists because of the death of the legislator, the caucus shall meet and select a person to fill the vacancy not later than thirty (30) days after the state chairman receives notice of the death of the legislator from the secretary of state under IC 5-8-6.

(e) Notwithstanding IC 5-8-4, a person may not withdraw the person's resignation after the resignation has been accepted by the person authorized to accept the resignation less than seventy-two (72) hours before the announced starting time of the caucus under this chapter.

(f) The person selected must reside in the district where the vacancy occurred.

As added by P.L.5-1986, SEC.9. Amended by P.L.8-1986, SEC.2; P.L.3-1987, SEC.431; P.L.10-1988, SEC.191; P.L.3-1997, SEC.393; P.L.26-2000, SEC.26; P.L.119-2005, SEC.2.

IC 3-13-5-2

Meeting; place, date, and time

Sec. 2. (a) The state chairman of the political party that elected or selected the person who held the vacated seat shall set the place, date, and time of a caucus meeting. The chairman shall send a notice, by first class mail, of the purpose, place, date, and time of the meeting to all precinct committeemen in the caucus at least ten (10) days before the meeting.

(b) If a vacancy in a legislative office exists because of the death of the legislator, the state chairman may not send the notice required by subsection (a) until the state chairman receives notice of the death from the secretary of state under IC 5-8-6.

As added by P.L.5-1986, SEC.9. Amended by P.L.10-1988, SEC.192; P.L.119-2005, SEC.3.

IC 3-13-5-3

Presiding officer at caucus meeting; candidate filings; rules of procedure

Sec. 3. (a) The state chairman or a person designated by the state chairman shall preside over a caucus meeting held under this chapter.

(b) A person who desires to be a candidate to fill a vacancy under this chapter must file:

(1) a declaration of candidacy with the chairman of the caucus; and

(2) a statement of economic interests under IC 2-2.2-2 with the secretary of the senate or principal clerk of the house of representatives;

at least seventy-two (72) hours before the time fixed for the caucus.

(c) In addition to the procedures prescribed by this chapter, the chairman and precinct committeemen may adopt rules of procedure that are necessary to conduct business.

As added by P.L.5-1986, SEC.9. Amended by P.L.3-1987, SEC.432; P.L.225-2011, SEC.85; P.L.123-2015, SEC.20.

IC 3-13-5-4

Precinct committeeman to have one vote; eligibility

Sec. 4. (a) To be eligible to participate in a caucus called under this chapter, an elected precinct committeeman must be entitled to vote for the legislative office for which a successor is to be selected. An elected precinct committeeman is eligible to participate in a caucus called under this chapter, regardless of when the vacancy in the legislative office occurred.

(b) An appointed precinct committeeman is eligible to participate in a caucus called under this chapter if the precinct committeeman was a committeeman thirty (30) days before the vacancy occurred.

(c) An individual eligible to participate in a caucus held under this chapter has one (1) vote.

As added by P.L.5-1986, SEC.9. Amended by P.L.38-1999, SEC.64; P.L.176-1999, SEC.115; P.L.26-2000, SEC.27.

IC 3-13-5-5

Voting by proxy

Sec. 5. (a) Except as provided in this section, voting by proxy is not allowed in a caucus held under this chapter.

(b) A precinct vice committeeman is entitled to participate in a caucus held under this chapter and vote as a proxy for the vice committeeman's precinct committeeman if all of the following apply:

(1) The vice committeeman's precinct committeeman is otherwise eligible to participate in the caucus under this chapter. This subdivision is satisfied if the vacancy to be filled under this chapter resulted from the death of an individual holding a legislative office who also served as a precinct committeeman.

(2) The vice committeeman's precinct committeeman is not present at the caucus.

(3) The vice committeeman is eligible under this section.

(c) The vice committeeman of an elected precinct committeeman is eligible to participate in a caucus held under this chapter and vote the precinct committeeman's proxy, regardless of when the ballot vacancy occurred, if the vice committeeman was the vice committeeman five (5) days before the date of the caucus.

(d) If a vice committeeman is not eligible under subsection (c), the vice committeeman is eligible to participate in a caucus held under this chapter and vote the precinct committeeman's proxy only if the vice committeeman was the vice committeeman thirty (30) days before the ballot vacancy occurred.

(e) Voting shall be conducted by secret ballot, and IC 5-14-1.5-3(b) does not apply to this chapter.

As added by P.L.5-1986, SEC.9. Amended by P.L.8-1986, SEC.3; P.L.10-1988, SEC.193; P.L.3-1997, SEC.394; P.L.26-2000, SEC.28.

IC 3-13-5-6

Certification of name of person selected to president pro tempore of senate or speaker of house of representatives; transmittal to secretary of state

Sec. 6. The state chairman shall certify the name of the person selected under section 1 of this chapter to the president pro tempore of the senate or the speaker of the house of representatives, as appropriate, who shall acknowledge receipt of the certification, submit a copy of the certificate to be included in the journal of the

house or senate:

- (1) of the day when the individual is seated; or
- (2) if the certificate is received after the adjournment sine die of the general assembly, of the first day that the chamber is in session following receipt of the certificate;

and immediately forward the certificate to the secretary of state.

As added by P.L.5-1986, SEC.9. Amended by P.L.3-1997, SEC.395.

IC 3-13-5-7

Secretary of state to certify person selected to fill vacated seat

Sec. 7. The secretary of state shall, within fourteen (14) days after receipt of the certification under section 6 of this chapter, certify the person selected to fill the vacated seat.

As added by P.L.5-1986, SEC.9.

IC 3-13-5-8

Rights and duties of person selected to fill vacancy

Sec. 8. A person certified to fill a vacancy under this chapter has all the rights and duties of a member of the general assembly elected at a general election. The person serves for the remainder of the unexpired term.

As added by P.L.5-1986, SEC.9.

IC 3-13-5-9

Determination of house of general assembly that person should not be seated because of ineligibility; filling of seat; constitutional eligibility requirements

Sec. 9. If a house of the general assembly determines that a person should not be seated as a member of that house because that person was ineligible to hold the seat for which a certificate of election has been issued by the secretary of state, the seat shall be filled under this chapter. A person selected to fill a vacant seat under this section must meet all requirements set forth in Article 4, Section 7 of the Constitution of the State of Indiana as of the date of the general election for which the ineligible person who was not seated received a certificate of election.

As added by P.L.5-1986, SEC.9. Amended by P.L.3-1987, SEC.433.

IC 3-13-5-10

Vacancies; eligible candidates

Sec. 10. The person who last held a vacated legislative office may not be a candidate for selection to fill a vacancy in that office under this chapter for the remainder of the term.

As added by P.L.8-1986, SEC.4.