

IC 3-13-8

Chapter 8. Vacancies in City Offices Not Held by a Major Party

IC 3-13-8-1

Vacancy in office last held by person elected or selected as candidate of major political party

Sec. 1. A vacancy in a city office (other than judge of a city court) that was last held by a person elected or selected as a candidate of a major political party of the state shall be filled by a caucus under IC 3-13-11.

As added by P.L.5-1986, SEC.9. Amended by P.L.10-1988, SEC.195.

IC 3-13-8-1.5

Meeting held before vacancy exists; notice of meeting

Sec. 1.5. A city clerk or city clerk-treasurer may give notice of a meeting under this chapter, and the meeting may be conducted under this chapter, before a vacancy in an office exists if the person holding the office has:

- (1) submitted a written resignation under IC 5-8-3.5; or
- (2) been elected to another office.

As added by P.L.219-2013, SEC.69.

IC 3-13-8-2

Office of judge of city court

Sec. 2. (a) As used in this section, "judge" refers to a judge of a city court.

(b) If a judge wishes to resign from office, the judge must resign as provided in IC 5-8-3.5.

(c) A vacancy that occurs because of the death of a judge may be certified to the governor under IC 5-8-6.

(d) A vacancy that occurs, other than by resignation or death of a judge, shall be certified to the governor by the circuit court clerk of the county in which the judge resided.

(e) A vacancy in the office of judge of a city court shall be filled by the governor. However, the governor may not fill a vacancy that occurs because of the death of a judge until the governor receives notice of the death under IC 5-8-6.

As added by P.L.5-1986, SEC.9. Amended by P.L.3-1987, SEC.439; P.L.119-2005, SEC.7.

IC 3-13-8-3

Office of mayor of first class city

Sec. 3. (a) This section applies to a vacancy in the office of mayor of a first class city not covered by section 1 of this chapter.

(b) The vacancy shall be filled by the city-county council at a regular or special meeting. The city clerk shall give notice of the meeting. Except as provided in subsection (d), the meeting shall be

held not later than thirty (30) days after the vacancy occurs. The notice must:

- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each council member at least ten (10) days before the meeting.

(c) The city clerk shall preside at the meeting but may not vote unless there is a tie vote among the members of the council. The council must appoint one (1) of its own members to the office. Until the vacancy is filled, the president of the council shall serve as acting mayor.

(d) If a vacancy exists because of the death of the mayor, the council shall meet and select an individual to fill the vacancy not later than thirty (30) days after the city clerk receives notice of the death under IC 5-8-6. The city clerk may not give the notice required by subsection (b) until the city clerk receives notice of the death under IC 5-8-6.

As added by P.L.5-1986, SEC.9. Amended by P.L.3-1987, SEC.440; P.L.119-2005, SEC.8.

IC 3-13-8-4

City-county council of first class city

Sec. 4. (a) This section applies to a vacancy in the city-county council of a first class city not covered by section 1 of this chapter.

(b) A vacancy shall be filled by a majority of the remaining members of the council at a regular or special meeting. The city clerk shall give notice of the meeting. Except as provided in subsection (c), the meeting shall be held not later than thirty (30) days after the vacancy occurs. The notice must:

- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each council member at least ten (10) days before the meeting.

(c) If a vacancy exists because of the death of a council member, the council shall meet and select an individual to fill the vacancy not later than thirty (30) days after the city clerk receives notice of the death under IC 5-8-6. The city clerk may not give the notice required by subsection (b) until the city clerk receives notice of the death under IC 5-8-6.

(d) The appointed member serves until a successor is elected and qualified at the next municipal or general election, whichever occurs first. The successor serves from noon January 1 following that election to noon January 1 following the next municipal election, as provided in IC 36-3-4-2. The persons appointed and elected must be resident voters in the district where the vacancy occurred, unless the vacancy occurred in an at large seat.

As added by P.L.5-1986, SEC.9. Amended by P.L.3-1987, SEC.441; P.L.5-1988, SEC.17; P.L.119-2005, SEC.9.

IC 3-13-8-5

Office of mayor of second class city

Sec. 5. (a) This section applies to a vacancy in the office of mayor of a second class city not covered by section 1 of this chapter.

(b) A vacancy shall be filled as follows:

(1) If the city has a deputy mayor, the deputy mayor assumes the office for the remainder of the unexpired term.

(2) If the city does not have a deputy mayor, the city controller assumes the office for the remainder of the unexpired term.

(3) If the city does not have a deputy mayor and the office of city controller is vacant, the common council shall fill the vacancy at a regular or special meeting.

(c) The city clerk shall give notice of the meeting required under subsection (b)(3). Except as provided in subsection (d), the meeting shall be held not later than thirty (30) days after the vacancy occurs.

The notice must:

(1) be in writing;

(2) state the purpose of the meeting;

(3) state the date, time, and place of the meeting; and

(4) be sent by first class mail to each council member at least ten (10) days before the meeting.

(d) If a vacancy exists because of the death of the mayor, the council shall meet and select an individual to fill the vacancy not later than thirty (30) days after the city clerk receives notice of the death under IC 5-8-6. The city clerk may not give the notice required by subsection (c) until the city clerk receives notice of the death under IC 5-8-6.

(e) Until the vacancy is filled, the council shall designate one (1) of its members to serve as acting mayor.

As added by P.L.5-1986, SEC.9. Amended by P.L.3-1987, SEC.442; P.L.119-2005, SEC.10.

IC 3-13-8-6

Office of city clerk of second class city

Sec. 6. (a) This section applies to a vacancy in the office of city clerk of a second class city not covered by section 1 of this chapter.

(b) A vacancy shall be filled by the mayor or acting mayor, subject to the approval of the common council. However, if a vacancy exists because of the death of the city clerk, the mayor or acting mayor may not fill the vacancy until the mayor or acting mayor receives notice of the death under IC 5-8-6.

(c) The common council shall vote on the question of approving the mayor or acting mayor's appointment at a regular or special meeting. The president of the common council shall give notice of the meeting, which shall be held not later than thirty (30) days after

the appointment is made. The notice must:

- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each council member at least ten (10) days before the meeting.

As added by P.L.5-1986, SEC.9. Amended by P.L.3-1987, SEC.443; P.L.119-2005, SEC.11.

IC 3-13-8-7

Common council of second class city

Sec. 7. (a) This section applies to a vacancy in the common council of a second class city not covered by section 1 of this chapter.

(b) A vacancy shall be filled by the remaining members of the council at a regular or special meeting. The city clerk shall give notice of the meeting. Except as provided in subsection (c), the meeting shall be held not later than thirty (30) days after the vacancy occurs. The notice must:

- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each council member at least ten (10) days before the meeting.

(c) If a vacancy exists because of the death of a council member, the council shall meet and select an individual to fill the vacancy not later than thirty (30) days after the city clerk receives notice of the death under IC 5-8-6. The city clerk may not give the notice required by subsection (b) until the city clerk receives notice of the death under IC 5-8-6.

As added by P.L.5-1986, SEC.9. Amended by P.L.3-1987, SEC.444; P.L.119-2005, SEC.12.

IC 3-13-8-8

Office of mayor of third class city

Sec. 8. (a) This section applies to a vacancy in the office of mayor of a third class city not covered by section 1 of this chapter.

(b) A vacancy shall be filled as follows:

- (1) If the city has a deputy mayor, the deputy mayor assumes the office for the remainder of the unexpired term.
- (2) If the city does not have a deputy mayor, the common council shall fill the vacancy at a regular or special meeting.

(c) The city clerk-treasurer shall give notice of the meeting required under subsection (b)(2). Except as provided in subsection (d), the meeting shall be held not later than thirty (30) days after the vacancy occurs. The notice must:

- (1) be in writing;
- (2) state the purpose of the meeting;

- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each council member at least ten (10) days before the meeting.

(d) If a vacancy exists because of the death of the mayor, the council shall meet and select an individual to fill the vacancy not later than thirty (30) days after the city clerk-treasurer receives notice of the death by IC 5-8-6. The city clerk-treasurer may not give the notice required by subsection (c) until the city clerk-treasurer receives notice of the death under IC 5-8-6.

(e) Until the vacancy is filled, the council shall designate one (1) of its members to serve as acting mayor.

As added by P.L.5-1986, SEC.9. Amended by P.L.3-1987, SEC.445; P.L.119-2005, SEC.13.

IC 3-13-8-9

Office of city clerk-treasurer of third class city

Sec. 9. (a) This section applies to a vacancy in the office of city clerk-treasurer of a third class city not covered by section 1 of this chapter.

(b) The vacancy shall be filled by the mayor or acting mayor, subject to the approval of the common council. However, if a vacancy exists because of the death of the city clerk-treasurer, the mayor or acting mayor may not fill the vacancy until the mayor or acting mayor receives notice of the death under IC 5-8-6.

(c) The common council shall vote on the question of approving the mayor or acting mayor's appointment at a regular or special meeting. The mayor shall give notice of the meeting, which shall be held not later than thirty (30) days after the appointment is made. The notice must:

- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each council member at least ten (10) days before the meeting.

As added by P.L.5-1986, SEC.9. Amended by P.L.3-1987, SEC.446; P.L.119-2005, SEC.14.

IC 3-13-8-10

Common council of third class city

Sec. 10. (a) This section applies to a vacancy in the common council of a third class city not covered by section 1 of this chapter.

(b) A vacancy shall be filled by the remaining members of the council at a regular or special meeting. The city executive may break any tie vote.

(c) The city clerk-treasurer shall give notice of the meeting. Except as provided in subsection (d), the meeting shall be held not later than thirty (30) days after the vacancy occurs. The notice must:

- (1) be in writing;

- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each council member at least ten (10) days before the meeting.

(d) If a vacancy exists because of the death of a council member, the council shall meet and select an individual to fill the vacancy not later than thirty (30) days after the city clerk-treasurer receives notice of the death under IC 5-8-6. The city clerk-treasurer may not give the notice required by subsection (c) until the city clerk-treasurer receives notice of the death under IC 5-8-6.

As added by P.L.5-1986, SEC.9. Amended by P.L.3-1987, SEC.447; P.L.10-1988, SEC.196; P.L.119-2005, SEC.15.

IC 3-13-8-11

Vacating office by incumbent pending outcome of election contest

Sec. 11. If, pending the outcome of an election contest, the incumbent vacates the office after the expiration of the incumbent's term, the vacancy shall be filled as are other vacancies under this chapter until the election is decided or the office is otherwise filled. This section does not affect the incumbent's right to hold over as provided in Article 15, Section 3 of the Constitution of the State of Indiana.

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

IC 3-13-8-12

Bond, oath, rights, and duties of person filling vacancy

Sec. 12. A person filling a vacancy under this chapter must give the same bond and take the same oath and has the same rights and duties as the official who vacated the office.

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

IC 3-13-8-13

Term of office

Sec. 13. A person selected to fill a vacant office under this chapter holds the office for the remainder of the term, except as provided in section 4 of this chapter.

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