IC 36-5-2-4.2 Change in number of members in legislative body; resolution; implementation

Sec. 4.2. (a) This section applies to the alteration of the number of members of a legislative body.
(b) The legislative body may adopt a resolution to submit a public question on the number of legislative body members to the voters of the town. The resolution must state the following:
(1) The proposed number of legislative body members, which must be at least three (3) and not more than seven (7).
(2) The date of the general, municipal, or special election at which the public question will appear on the ballot.
(3) That the following question will be placed on the ballot in the form provided by IC 3-10-9-4:
   "Shall the number of town council members be increased (or decreased, if applicable) from ____________ (insert the current number of members provided for) to _________ (insert the number of members proposed in the resolution)?".
(c) IC 3 applies to an election conducted under subsection (b). If the county election board will conduct the election at which the public question will be submitted, the question must be certified to the board under IC 3-10-9-3.
(d) If a majority of the votes cast on the question under subsection (b) are in the negative, the legislative body may not adopt a resolution under subsection (b) for at least one (1) year following the date the prior resolution was adopted.
(e) If a majority of votes cast on the question under subsection (b) are in the affirmative, the legislative body shall adopt an ordinance at its next regular meeting following the election altering the number of legislative body members to the number specified in the public question. The legislative body may also alter existing districts and establish new districts in the manner prescribed by IC 36-5-1-10.1. An ordinance adopted under this subsection becomes effective January 1 following its adoption.
(f) If the number of legislative body members is increased, the legislative body shall fill any resulting vacancy under IC 3-13-9-4. The legislative body may fill the vacancy before the ordinance described in subsection (e) takes effect. However, a town legislative body member appointed under this subsection does not assume office until the beginning of the term specified in section 3 of this chapter.


IC 3-13-9-4 Office of town council member

Sec. 4. (a) This section applies to a vacancy in the town council:
(1) not covered by section 1 of this chapter; or
(2) covered by section 1 of this chapter, but not filled by a major political party by the applicable deadline set forth in IC 3-13-11-3.
(b) The vacancy shall be filled by the remaining members of the council at a regular or special meeting.
(c) The town clerk-treasurer shall give notice of the meeting. Except as provided in subsections (e), (f), (g), and (h), the meeting shall be held not later than thirty (30) days after:
(1) the vacancy occurs if the vacancy is not covered by section 1 of this chapter; or
(2) the applicable deadline for a major political party to fill the vacancy as set forth in IC 3-13-11-3.
(d) 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.
(e) If a vacancy:
(1) is not covered by subsection (f) or section 1 of this chapter; and
(2) exists because a circumstance has occurred under IC 36-5-2-6.5(3); the town council shall meet and select an individual to fill the vacancy not later than thirty (30) days after the town council determines that a circumstance has occurred under IC 36-5-2-6.5(3).
(f) If a vacancy:
(1) is not covered by subsection (e) or section 1 of this chapter; and
(2) exists because a circumstance has occurred under IC 36-5-2-6.5(2);
the town council shall meet and select an individual to fill the vacancy not later than thirty (30) days after the town clerk-treasurer receives notice of the death under IC 5-8-6. The town clerk-treasurer may not give the notice required by subsection (c) until the town clerk-treasurer receives notice of the death under IC 5-8-6.

(g) If a vacancy:
(1) is covered by section 1 of this chapter and not covered by subsection (h);
(2) exists because a circumstance has occurred under IC 36-5-2-6.5(3); and
(3) exists for more than thirty (30) days;
the council shall meet and select an individual to fill the vacancy not later than sixty (60) days after the town council determines that a circumstance has occurred under IC 36-5-2-6.5(3).

(h) If a vacancy:
(1) is covered by section 1 of this chapter and not covered by subsection (g);
(2) exists because a circumstance has occurred under IC 36-5-2-6.5(2); and
(3) exists for more than thirty (30) days;
the council shall meet and select an individual to fill the vacancy not later than sixty (60) days after the town clerk-treasurer receives notice of the death under IC 5-8-6. The town clerk-treasurer may not give the notice required by subsection (c) until the town clerk-treasurer receives notice of the death under IC 5-8-6.

[Pre-1986 Recodification Citation: 3-2-10-6 part.]