

PROPOSED AMENDMENT

HB 1380 # 10

DIGEST

Charter school corporations. Includes charter school corporations in the definition of "public agency" for the purposes of the open door law and the access to public records provisions.

- 1 Page 2, between lines 6 and 7, begin a new paragraph and insert:
2 "SECTION 2. IC 5-14-1.5-2, AS AMENDED BY P.L.124-2022,
3 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2024]: Sec. 2. For the purposes of this chapter:
5 (a) "Public agency", except as provided in section 2.1 of this
6 chapter, means the following:
7 (1) Any board, commission, department, agency, authority, or
8 other entity, by whatever name designated, exercising a portion of
9 the executive, administrative, or legislative power of the state.
10 (2) Any county, township, school corporation, city, town, political
11 subdivision, or other entity, by whatever name designated,
12 exercising in a limited geographical area the executive,
13 administrative, or legislative power of the state or a delegated
14 local governmental power.
15 (3) Any entity which is subject to either:
16 (A) budget review by either the department of local
17 government finance or the governing body of a county, city,
18 town, township, or school corporation; or
19 (B) audit by the state board of accounts that is required by
20 statute, rule, or regulation.
21 (4) Any building corporation of a political subdivision of the state
22 of Indiana that issues bonds for the purpose of constructing public
23 facilities.
24 (5) Any advisory commission, committee, or body created by
25 statute, ordinance, or executive order to advise the governing
26 body of a public agency, except medical staffs or the committees
27 of any such staff.

1 (6) The Indiana gaming commission established by IC 4-33,
2 including any department, division, or office of the commission.

3 (7) The Indiana horse racing commission established by IC 4-31,
4 including any department, division, or office of the commission.

5 **(8) A charter school corporation (as defined in**
6 **IC 20-24-1-4.5).**

7 (b) "Governing body" means two (2) or more individuals who are
8 any of the following:

9 (1) A public agency that:

10 (A) is a board, a commission, an authority, a council, a
11 committee, a body, or other entity; and

12 (B) takes official action on public business.

13 (2) The board, commission, council, or other body of a public
14 agency which takes official action upon public business.

15 (3) Any committee appointed directly by the governing body or
16 its presiding officer to which authority to take official action upon
17 public business has been delegated. An agent or agents appointed
18 by the governing body to conduct collective bargaining on behalf
19 of the governing body does not constitute a governing body for
20 purposes of this chapter.

21 (c) "Meeting" means a gathering of a majority of the governing body
22 of a public agency for the purpose of taking official action upon public
23 business. It does not include any of the following:

24 (1) Any social or chance gathering not intended to avoid this
25 chapter.

26 (2) Any on-site inspection of any:

27 (A) project;

28 (B) program; or

29 (C) facilities of applicants for incentives or assistance from the
30 governing body.

31 (3) Traveling to and attending meetings of organizations devoted
32 to betterment of government.

33 (4) A caucus.

34 (5) A gathering to discuss an industrial or a commercial prospect
35 that does not include a conclusion as to recommendations, policy,
36 decisions, or final action on the terms of a request or an offer of
37 public financial resources.

38 (6) An orientation of members of the governing body on their role
39 and responsibilities as public officials, but not for any other
40 official action.

- 1 (7) A gathering for the sole purpose of administering an oath of
2 office to an individual.
- 3 (8) Collective bargaining discussions that the governing body of
4 a school corporation engages in directly with bargaining
5 adversaries. This subdivision applies only to a governing body
6 that has not appointed an agent or agents to conduct collective
7 bargaining on behalf of the governing body as described in
8 subsection (b)(3).
- 9 (d) "Official action" means to:
- 10 (1) receive information;
- 11 (2) deliberate;
- 12 (3) make recommendations;
- 13 (4) establish policy;
- 14 (5) make decisions; or
- 15 (6) take final action.
- 16 (e) "Public business" means any function upon which the public
17 agency is empowered or authorized to take official action.
- 18 (f) "Executive session" means a meeting from which the public is
19 excluded, except the governing body may admit those persons
20 necessary to carry out its purpose. The governing body may also admit
21 an individual who has been elected to the governing body but has not
22 been sworn in as a member of the governing body.
- 23 (g) "Final action" means a vote by the governing body on any
24 motion, proposal, resolution, rule, regulation, ordinance, or order.
- 25 (h) "Caucus" means a gathering of members of a political party or
26 coalition which is held for purposes of planning political strategy and
27 holding discussions designed to prepare the members for taking official
28 action.
- 29 (i) "Deliberate" means a discussion which may reasonably be
30 expected to result in official action (defined under subsection (d)(3),
31 (d)(4), (d)(5), or (d)(6)).
- 32 (j) "News media" means all newspapers qualified to receive legal
33 advertisements under IC 5-3-1, all news services (as defined in
34 IC 34-6-2-87), and all licensed commercial or public radio or television
35 stations.
- 36 (k) "Person" means an individual, a corporation, a limited liability
37 company, a partnership, an unincorporated association, or a
38 governmental entity.
- 39 (l) "State educational institution" has the meaning set forth in
40 IC 21-7-13-32.

1 (m) "Charter school" has the meaning set forth in IC 20-24-1-4).
 2 The term includes a virtual charter school (as defined in
 3 IC 20-24-1-10).

4 SECTION 3. IC 5-14-3-2, AS AMENDED BY P.L.64-2023,
 5 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2024]: Sec. 2. (a) The definitions set forth in this section apply
 7 throughout this chapter.

8 (b) "Copy" includes transcribing by handwriting, photocopying,
 9 xerography, duplicating machine, duplicating electronically stored data
 10 onto a disk, tape, drum, or any other medium of electronic data storage,
 11 and reproducing by any other means.

12 (c) "Criminal intelligence information" means data that has been
 13 evaluated to determine that the data is relevant to:

14 (1) the identification of; and
 15 (2) the criminal activity engaged in by;
 16 an individual who or organization that is reasonably suspected of
 17 involvement in criminal activity.

18 (d) "Direct cost" means one hundred five percent (105%) of the sum
 19 of the cost of:

20 (1) the initial development of a program, if any;
 21 (2) the labor required to retrieve electronically stored data;
 22 (3) the labor required to:
 23 (A) obscure nondisclosable information; and
 24 (B) perform an administrative review to determine if all
 25 nondisclosable information has been obscured;
 26 in a law enforcement recording; and
 27 (4) any medium used for electronic output;

28 for providing a duplicate of electronically stored data onto a disk, tape,
 29 drum, or other medium of electronic data retrieval under section 8(g)
 30 of this chapter, or for reprogramming a computer system under section
 31 6(c) of this chapter. However, if the labor described in subdivision (3)
 32 is performed by an attorney, the cost under subdivision (3) may not
 33 exceed reasonable attorney's fees.

34 (e) "Electronic map" means copyrighted data provided by a public
 35 agency from an electronic geographic information system.

36 (f) "Enhanced access" means the inspection of a public record by a
 37 person other than a governmental entity and that:

38 (1) is by means of an electronic device other than an electronic
 39 device provided by a public agency in the office of the public
 40 agency; or

- 1 (2) requires the compilation or creation of a list or report that does
 2 not result in the permanent electronic storage of the information.
- 3 (g) "Facsimile machine" means a machine that electronically
 4 transmits exact images through connection with a telephone network.
- 5 (h) "Inspect" includes the right to do the following:
- 6 (1) Manually transcribe and make notes, abstracts, or memoranda.
 7 (2) In the case of tape recordings or other aural public records, to
 8 listen and manually transcribe or duplicate, or make notes,
 9 abstracts, or other memoranda from them.
- 10 (3) In the case of public records available:
- 11 (A) by enhanced access under section 3.5 of this chapter; or
 12 (B) to a governmental entity under section 3(c)(2) of this
 13 chapter;
 14 to examine and copy the public records by use of an electronic
 15 device.
- 16 (4) In the case of electronically stored data, to manually transcribe
 17 and make notes, abstracts, or memoranda or to duplicate the data
 18 onto a disk, tape, drum, or any other medium of electronic
 19 storage.
- 20 (i) "Investigatory record" means information compiled in the course
 21 of the investigation of a crime.
- 22 (j) "Law enforcement activity" means:
- 23 (1) a traffic stop;
 24 (2) a pedestrian stop;
 25 (3) an arrest;
 26 (4) a search;
 27 (5) an investigation;
 28 (6) a pursuit;
 29 (7) crowd control;
 30 (8) traffic control; or
 31 (9) any other instance in which a law enforcement officer is
 32 enforcing the law.
- 33 The term does not include an administrative activity, including the
 34 completion of paperwork related to a law enforcement activity, or a
 35 custodial interrogation conducted in a place of detention as described
 36 in Indiana Evidence Rule 617, regardless of the ultimate admissibility
 37 of a statement made during the custodial interrogation.
- 38 (k) "Law enforcement recording" means an audio, visual, or
 39 audiovisual recording of a law enforcement activity captured by a
 40 camera or other device that is:

- 1 (1) provided to or used by a law enforcement officer in the scope
 2 of the officer's duties; and
- 3 (2) designed to be worn by a law enforcement officer or attached
 4 to the vehicle or transportation of a law enforcement officer.
- 5 (l) "Offender" means a person confined in a prison, county jail,
 6 detention facility, penal institution, or in a community corrections
 7 program as the result of the person's arrest or conviction for a crime.
- 8 (m) "Patient" has the meaning set out in IC 16-18-2-272(d).
- 9 (n) "Person" means an individual, a corporation, a limited liability
 10 company, a partnership, an unincorporated association, or a
 11 governmental entity.
- 12 (o) "Private university police department" means the police officers
 13 appointed by the governing board of a private university under
 14 IC 21-17-5.
- 15 (p) "Provider" has the meaning set out in IC 16-18-2-295(b) and
 16 includes employees of the Indiana department of health or local boards
 17 of health who create patient records at the request of another provider
 18 or who are social workers and create records concerning the family
 19 background of children who may need assistance.
- 20 (q) "Public agency", except as provided in section 2.1 of this
 21 chapter, means the following:
- 22 (1) Any board, commission, department, division, bureau,
 23 committee, agency, office, instrumentality, or authority, by
 24 whatever name designated, exercising any part of the executive,
 25 administrative, judicial, or legislative power of the state.
- 26 (2) Any:
- 27 (A) county, township, school corporation, city, or town, or any
 28 board, commission, department, division, bureau, committee,
 29 office, instrumentality, or authority of any county, township,
 30 school corporation, city, or town;
- 31 (B) political subdivision (as defined by IC 36-1-2-13); or
- 32 (C) other entity, or any office thereof, by whatever name
 33 designated, exercising in a limited geographical area the
 34 executive, administrative, judicial, or legislative power of the
 35 state or a delegated local governmental power.
- 36 (3) Any entity or office that is subject to:
- 37 (A) budget review by either the department of local
 38 government finance or the governing body of a county, city,
 39 town, township, or school corporation; or
- 40 (B) an audit by the state board of accounts that is required by

- 1 statute, rule, or regulation.
- 2 (4) Any building corporation of a political subdivision that issues
3 bonds for the purpose of constructing public facilities.
- 4 (5) Any advisory commission, committee, or body created by
5 statute, ordinance, or executive order to advise the governing
6 body of a public agency, except medical staffs or the committees
7 of any such staff.
- 8 (6) Any law enforcement agency, which means an agency or a
9 department of any level of government that engages in the
10 investigation, apprehension, arrest, or prosecution of alleged
11 criminal offenders, such as the state police department, the police
12 or sheriff's department of a political subdivision, prosecuting
13 attorneys, members of the excise police division of the alcohol
14 and tobacco commission, conservation officers of the department
15 of natural resources, gaming agents of the Indiana gaming
16 commission, gaming control officers of the Indiana gaming
17 commission, and the security division of the state lottery
18 commission.
- 19 (7) Any license branch operated under IC 9-14.1.
- 20 (8) The state lottery commission established by IC 4-30-3-1,
21 including any department, division, or office of the commission.
- 22 (9) The Indiana gaming commission established under IC 4-33,
23 including any department, division, or office of the commission.
- 24 (10) The Indiana horse racing commission established by IC 4-31,
25 including any department, division, or office of the commission.
- 26 (11) A private university police department. The term does not
27 include the governing board of a private university or any other
28 department, division, board, entity, or office of a private
29 university.
- 30 **(12) A charter school corporation (as defined in**
31 **IC 20-24-1-4.5).**
- 32 (r) "Public record" means any writing, paper, report, study, map,
33 photograph, book, card, tape recording, or other material that is
34 created, received, retained, maintained, or filed by or with a public
35 agency and which is generated on paper, paper substitutes,
36 photographic media, chemically based media, magnetic or machine
37 readable media, electronically stored data, or any other material,
38 regardless of form or characteristics.
- 39 (s) "Standard-sized documents" includes all documents that can be
40 mechanically reproduced (without mechanical reduction) on paper

1 sized eight and one-half (8 1/2) inches by eleven (11) inches or eight
2 and one-half (8 1/2) inches by fourteen (14) inches.

3 (t) "Trade secret" has the meaning set forth in IC 24-2-3-2.

4 (u) "Work product of an attorney" means information compiled by
5 an attorney in reasonable anticipation of litigation. The term includes
6 the attorney's:

7 (1) notes and statements taken during interviews of prospective
8 witnesses; and

9 (2) legal research or records, correspondence, reports, or
10 memoranda to the extent that each contains the attorney's
11 opinions, theories, or conclusions.

12 This definition does not restrict the application of any exception under
13 section 4 of this chapter."

14 Renumber all SECTIONS consecutively.

(Reference is to HB 1380 as reprinted January 24, 2024.)