

First Regular Session of the 123rd General Assembly (2023)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1040

AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-11-1-9, AS AMENDED BY P.L.157-2020, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: Sec. 9. (a) The state examiner, personally or through the deputy examiners, field examiners, or private examiners, shall examine all accounts and all financial affairs of every audited entity. However, an examination of an entity under this subsection shall be limited to matters relevant to the use of the public money received by the entity.

(b) If an examination of an audited entity is unable to be performed because the audited entity's accounts, records, files, or reports are not properly maintained or reconciled, the audited entity may be declared to be unauditabile. An audited entity that is declared unauditabile shall bring its accounts, records, files, or reports into an auditabile condition within ninety (90) days. The state board of accounts shall publish a list of audited entities declared unauditabile on the state board of accounts' website.

~~(b)~~ (c) An examination of an entity that is organized as a not-for-profit corporation deriving:

- (1) less than fifty percent (50%); or
- (2) subject to subsection ~~(i)~~; **(j)**, at least fifty percent (50%) but less than seven hundred fifty thousand dollars (\$750,000);

of its disbursements during the period subject to an examination from appropriations, public funds, taxes, and other sources of public expense shall be limited to matters relevant to the use of the public money

HEA 1040 — Concur



received by the entity.

~~(e)~~ **(d)** The examination of an entity ~~described in subsection (b)~~ may be waived by the state examiner if the state examiner determines that,

- ~~(1) in consideration of the applicable risk based examination criteria described in and approved under section 25 of this chapter; and~~

~~(2) based on submitted information;~~ **available information,** there are no compelling reasons to conclude that disbursements of public money during the period subject to examination were inconsistent with the purposes for which the money was received. However, the state examiner may revoke a waiver granted under this subsection if the state examiner determines that revocation of the waiver is ~~necessary~~ **appropriate** in accordance with the risk based examination criteria set forth in section 25 of this chapter. The state examiner shall communicate the determination to grant or revoke a waiver under this subsection to the entity in writing.

~~(d)~~ **(e)** Notwithstanding any other law, the:

- (1) Indiana economic development corporation created by IC 5-28-3 and the corporation's funds, accounts, and financial affairs shall be examined by the state board of accounts unless the examination is waived under subsection ~~(j)~~; **(k)**; and
- (2) department of financial institutions established by IC 28-11-1-1 and the department's funds, accounts, and financial affairs shall be examined by the state board of accounts.

~~(e)~~ **(f)** On every examination under this section, inquiry shall be made as to the following:

- (1) The financial condition and resources of each audited entity.
- (2) Whether the laws of the state and the uniform compliance guidelines of the state board of accounts established under section 24 of this chapter have been complied with.
- (3) The methods and accuracy of the accounts and reports of the person examined.

The examinations may be made without notice.

~~(f)~~ **(g)** If during an examination of a state office or a body corporate and politic under this chapter the examiner encounters an inefficiency in the operation of the state office or the body corporate and politic, the examiner may comment on the inefficiency in the examiner's report.

~~(g)~~ **(h)** The state examiner, deputy examiners, any field examiner, or any private examiner, when engaged in making any examination or when engaged in any official duty devolved upon them by the state examiner, is entitled to do the following:

- (1) Enter into any state, county, city, township, or other public office in this state, or any entity, agency, or instrumentality, and examine any books, papers, documents, or electronically stored



information for the purpose of making an examination.

(2) Have access, in the presence of the custodian or the custodian's deputy, to the cash drawers and cash in the custody of the officer.

(3) During business hours, examine the public accounts in any depository that has public funds in its custody pursuant to the laws of this state.

(~~h~~) (i) The state examiner, deputy examiner, or any field examiner, when engaged in making any examination authorized by law, may issue subpoenas for witnesses to appear before the examiner in person or to produce books, papers, or other records (including records stored in electronic data processing systems) for inspection and examination. The state examiner, deputy examiner, or any field examiner may issue a subpoena to enforce the filing of the annual financial report. The state examiner, deputy examiner, and any field examiner may administer oaths and examine witnesses under oath orally or by interrogatories concerning the matters under investigation and examination. Under the authority of the state examiner, the oral examinations may be transcribed with the reasonable expense paid by the examined person in the same manner as the compensation of the field examiner is paid. The subpoenas shall be served by any person authorized to serve civil process from any court in this state. If a witness or officer duly subpoenaed refuses to attend, refuses to produce information required in the subpoena, or attends and refuses to be sworn or affirmed, or to testify when called upon to do so, the examiner may apply to the circuit court having jurisdiction of the witness or officer for the enforcement of attendance and answers to questions as provided by the law governing the taking of depositions or to enforce the filing of any report referred to in this subsection.

(~~h~~) (j) The definitions in IC 20-24-1 apply throughout this subsection. Appropriations, public funds, taxes, and other sources of public money received by a nonprofit corporation as a charter school or organizer of a charter school for the purposes of a charter school may not be counted for the purpose of applying subsection (~~b~~)(2); (c)(2). Unless the nonprofit corporation receives other public money that would qualify the nonprofit corporation for a full examination of all accounts and financial affairs of the entity under subsection (~~b~~)(2); (c)(2), an examination of a charter school or organizer of a charter school must be limited to matters relevant to the use of the public money received for the charter school. This subsection does not prohibit the state examiner, personally or through the deputy examiners, field examiners, or private examiners, from examining the accounts in which appropriations, public funds, taxes, or other sources of public money are applied that are received by a nonprofit



corporation as a charter school or organizer of a charter school relating to the operation of the charter school.

~~(j)~~ **(k)** The state examiner may waive the examination of the Indiana economic development corporation and a nonprofit subsidiary corporation established under IC 5-28-5-13 if:

(1) an independent certified public accounting firm conducts an examination under IC 5-28-3-2(c) of:

(A) the Indiana economic development corporation and the Indiana economic development corporation's funds, accounts, and financial affairs; and

(B) the nonprofit subsidiary corporation;

for the year;

(2) the Indiana economic development corporation submits the examination report to the state board of accounts; and

(3) the state board of accounts reviews the examination report and determines that the examination and examination report comply with the uniform compliance guidelines, directives, and standards established by the state board of accounts.

~~(k)~~ **(l)** Notwithstanding the waiver of an examination of the Indiana economic development corporation and its nonprofit subsidiary corporation by the state examiner, the state board of accounts may examine the Indiana economic development corporation and its nonprofit subsidiary corporation at any time.

SECTION 2. IC 5-11-14-1, AS AMENDED BY P.L.169-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: Sec. 1. (a) As used in this section, "official" includes the following:

(1) An elected official who is entitled to attend a conference under this section.

(2) An individual elected to an office who is entitled to attend a conference under this section.

(3) A deputy or an assistant to an elected official who is entitled to attend a conference under this section.

(b) The state board of accounts shall annually call a conference of each of the following:

(1) County auditors and auditors elect.

(2) County treasurers and treasurers elect.

(3) Circuit court clerks and circuit court clerks elect.

(4) City and town controllers and clerk-treasurers, newly appointed city and town controllers, and city and town clerk-treasurers elect.

(5) Township trustees and township trustees elect.

(c) Each of the conferences called under subsection (b):

(1) must be held at a time and place fixed by the state examiner;



- (2) may be held statewide or by district; and
- (3) may not continue for longer than three (3) days in any one (1) year.
- (d) The following training must be provided at each conference called under subsection (b):
 - (1) The proper use of forms prescribed by the state board of accounts.
 - (2) The keeping of the records of the respective offices.
 - (3) At the conference for county treasurers and treasurers elect, investment training by the following:
 - (A) The treasurer of state.
 - (B) The board for depositories.
 - (C) Any other person the state examiner considers to be competent in providing investment training.
 - (4) Any other training that, in the judgment of the state examiner, will result in the better conduct of the public business.
- (e) The state examiner may hold other conferences for:
 - (1) the officials described in subsection (b); or
 - (2) other county, city, or township officers;
 whenever in the judgment of the state examiner conferences are necessary.
- (f) Whenever a conference is called by the state board of accounts under this section, an elected official, at the direction of the state examiner, may require the attendance of:
 - (1) each of the elected official's appointed and acting chief deputies or chief assistants; and
 - (2) if the number of deputies or assistants employed:
 - (A) does not exceed three (3), one (1) of the elected official's appointed and acting deputies or assistants; or
 - (B) exceeds three (3), two (2) of the elected official's duly appointed and acting deputies or assistants.
- (g) Each official representing a unit and attending any conference under this section shall be allowed the following:
 - (1) A sum for mileage at a rate determined by the fiscal body of the unit the official represents for each mile necessarily traveled in going to and returning from the conference by the most expeditious route. Regardless of the duration of the conference, only one (1) mileage reimbursement shall be allowed to the official furnishing the conveyance even if the official transports more than one (1) person.
 - (2) An allowance for lodging for each night preceding conference attendance in an amount equal to the single room rate. However, lodging expense, in the case of a one (1) day conference, shall only be allowed for persons who reside fifty (50) miles or farther



from the conference location.

(3) Reimbursement of an official, in an amount determined by the fiscal body of the unit the official represents, for meals purchased while attending a conference called under this section.

(h) The state board of accounts shall certify the number of days of attendance and the mileage for each conference to each official attending any conference under this section.

(i) All payments of mileage and lodging shall be made by the proper disbursing officer in the manner provided by law on a duly verified claim or voucher to which shall be attached the certificate of the state board of accounts showing the number of days attended and the number of miles traveled. All payments shall be made from the general fund from any money not otherwise appropriated and without any previous appropriation being made therefor.

(j) A claim for reimbursement under this section may not be denied by the body responsible for the approval of claims if the claim complies with IC 5-11-10-1.6 and this section.

(k) The state board of accounts shall keep attendance of elected officials at each conference called by the state board of accounts and publish the attendance on the state board of accounts' website.

(l) Elected officials must attend the applicable annual conference called by the state board of accounts a minimum of once every two (2) years.

SECTION 3. IC 5-11-14-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: Sec. 2. **(a)** The state board of accounts shall annually conduct a training institute for clerk-treasurers and may conduct a training institute for city clerks, either of the entire state or by districts. The provisions of ~~IC 5-11-14,~~ **this chapter** are applicable to any such training institute.

(b) The state board of accounts shall keep attendance of clerk-treasurers at each conference called by the state board of accounts and publish the attendance on the state board of accounts' website.

(c) Clerk-treasurers and city clerks must attend the annual training institute a minimum of once every two (2) years.

SECTION 4. IC 5-28-3-2, AS AMENDED BY P.L.209-2019, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: Sec. 2. **(a)** The corporation is a body politic and corporate, not a state agency but an independent instrumentality exercising essential public functions.

(b) Except as provided in ~~IC 5-11-1-9(j),~~ **IC 5-11-1-9(k),** the corporation and the corporation's funds, accounts, and financial affairs shall be examined by the state board of accounts.

(c) The board may engage an independent certified public



accounting firm to conduct an examination of:

- (1) the corporation and the corporation's funds, accounts, and financial affairs; and
- (2) a nonprofit subsidiary corporation established under IC 5-28-5-13.

The examination must comply with the uniform compliance guidelines, directives, and standards established by the state board of accounts. If an independent certified public accounting firm conducts an examination, the corporation shall submit a copy of the examination report to the state board of accounts not later than the next date on which the corporation is required to file its financial reports under IC 5-11-1-4.

SECTION 5. IC 5-28-5-13, AS AMENDED BY P.L.209-2019, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: Sec. 13. (a) Notwithstanding section 12 of this chapter, the board may establish a nonprofit subsidiary corporation to solicit and accept private sector funding, gifts, donations, bequests, devises, and contributions.

(b) A subsidiary corporation established under this section:

- (1) must use money received under subsection (a) to carry out in any manner the purposes and programs under this article;
- (2) must report to the budget committee each year concerning:
 - (A) the use of money received under subsection (a); and
 - (B) the balances in any accounts or funds established by the subsidiary corporation; and
- (3) may deposit money received under subsection (a) in an account or fund that is:
 - (A) administered by the subsidiary corporation; and
 - (B) not part of the state treasury.

(c) Except as provided in ~~IC 5-11-1-9(j)~~, **IC 5-11-1-9(k)**, the state board of accounts shall audit a subsidiary corporation established under this section.

SECTION 6. IC 20-26-4-1, AS AMENDED BY P.L.233-2015, SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: Sec. 1. (a) As used in this section, "electronic funds transfer" means a transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephone, or computer or magnetic tape to order, instruct, or authorize a financial institution to debit or credit an account.

(b) The governing body of each school corporation shall organize by electing:

- (1) a president;
- (2) a vice president; and



(3) a secretary;
each of whom is a different member, not more than fifteen (15) days after the commencement date of the members' terms of office.

(c) A governing body shall, at the time that officers are elected under subsection (b), appoint a treasurer of the governing body and of the school corporation who is a person, other than the superintendent of schools, who is not a member of the governing body. The treasurer may, with the approval of the governing body, appoint a deputy who must be a person, other than the superintendent of schools, who is not a member of the governing body and who has the same powers and duties as the treasurer, or lesser duties as provided by the governing body by rule.

(d) The treasurer is the official custodian of all funds of the school corporation and is responsible for the proper safeguarding and accounting for the funds. The treasurer shall:

- (1) issue a receipt for money received by the treasurer;
- (2) deposit money described in subdivision (1) in accordance with the laws governing the deposit of public funds; and
- (3) issue all warrants in payment of expenses lawfully incurred on behalf of the school corporation. However, except as otherwise provided by law, warrants described in this subdivision must be issued only after proper allowance or approval by the governing body. The governing body may not require an allowance or approval for amounts lawfully due in payment of indebtedness or payments due the state, the United States government, or agencies and instrumentalities of the state or the United States government.

A verification, other than a properly itemized invoice, may not be required for any claim. A claim is sufficient as to form if the bill or statement for the claim has printed or stamped on the face of the bill or statement a verification of the bill or statement in language approved by the state board of accounts.

(e) Notwithstanding subsection (d), a treasurer may transact school corporation financial business with a financial institution or a public retirement fund through the use of electronic funds transfer. The treasurer must provide adequate documentation to the governing body of transfers made under this subsection. This subsection applies only to agreements for joint investment of money under IC 5-13-9 and to payments to the Indiana public retirement system for:

- (1) the Indiana state teachers' retirement fund; or
- (2) the public employees' retirement fund;

from participating employers.

(f) **Except as provided in IC 5-11**, a treasurer is not personally liable for an act or omission occurring in connection with the performance of the duties set forth in this section, unless the act or



omission constitutes gross negligence or an intentional disregard of the treasurer's duties.

(g) A governing body may establish the position of executive secretary to the governing body. The executive secretary:

- (1) must be an employee of the school corporation;
- (2) may not be a member of the governing body; and
- (3) must be appointed by the governing body upon the recommendation of the superintendent of the school corporation.

The governing body shall determine the duties of the executive secretary, which may include all or part of the duties of the secretary of the board.

SECTION 7. IC 20-41-1-2, AS AMENDED BY P.L.238-2019, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: Sec. 2. Any self-supporting programs maintained by a school corporation, ~~including:~~ **excluding:**

- (1) school lunch; and
- (2) rental or sale of curricular materials;

may be established as separate funds, separate and apart from any other school corporation fund, if no local tax rate is established for the programs.

SECTION 8. IC 20-41-1-5, AS ADDED BY P.L.2-2006, SECTION 164, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: Sec. 5. (a) A public school must have a treasurer for purposes of this chapter. The treasurer must be:

- (1) the superintendent or principal of the particular school;
- (2) a clerk of the school corporation; or
- (3) a member of the faculty appointed by the superintendent or principal.

This designation must be made immediately upon the opening of the school term or the vacating of the office of treasurer. Claims shall be filed and paid under sections 7 and 8 of this chapter. The employing or appointing officials of a school may appoint and engage a school treasurer or clerk.

(b) A school corporation may appoint one (1) or more assistant or deputy treasurers.

(c) **Except as provided in IC 5-11**, a treasurer is not personally liable for an act or omission occurring in connection with the performance of the duties set forth in this chapter, unless the act or omission constitutes gross negligence or an intentional disregard of the treasurer's duties.

SECTION 9. IC 20-41-2-1 IS REPEALED [EFFECTIVE JULY 1, 2023]. Sec. ~~1~~. Each township trustee in operating a school lunch program may use either of the following accounting methods:

- ~~(1) The township trustee may supervise and control the program~~



through its school corporation account by establishing a school lunch fund.

(2) The township trustee may have the program operated by the individual schools of the school corporation through the school corporation's extracurricular account or accounts under IC 20-41-1.

SECTION 10. IC 20-41-2-2 IS REPEALED [EFFECTIVE JULY 1, 2023]. Sec. 2: Each township trustee in operating a curricular materials rental program may use either of the following accounting methods:

(1) The township trustee may supervise and control the program through its school corporation account by establishing a curricular materials rental fund.

(2) If curricular materials have not been purchased and financial commitments or guarantees for the purchases have not been made by the school corporation, the township trustee may have the program operated by the individual schools of the school corporation through the school corporation's extracurricular account or accounts under IC 20-41-1.

SECTION 11. IC 20-41-2-3 IS REPEALED [EFFECTIVE JULY 1, 2023]. Sec. 3: (a) If a school lunch fund is established under section 1 of this chapter or a curricular materials rental fund is established under section 2 of this chapter, the receipts and expenditures for each program shall be made to and from the proper fund without appropriation or the application of other laws relating to the budgets of local governmental units.

(b) If either program or both programs under sections 1 and 2 of this chapter are operated through the extracurricular account, the township trustee shall approve the amount of the bond of the treasurer of the extracurricular account in an amount the township trustee considers necessary to protect the account for all funds coming into the hands of the treasurer.

SECTION 12. IC 20-41-2-4, AS AMENDED BY P.L.118-2016, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: Sec. 4. A governing body in operating a school lunch program under IC 20-26-5-4(a)(11) may use either of the following accounting methods:

(1) It may **must** supervise and control the program through the school corporation account, establishing a school lunch fund.

(2) It may cause the program to be operated by the individual schools of the school corporation through the school corporation's extracurricular account or accounts in accordance with IC 20-41-1.

SECTION 13. IC 20-41-2-5, AS AMENDED BY P.L.140-2018, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



JANUARY 1, 2024]: Sec. 5. (a) A governing body in operating a curricular materials rental program under IC 20-26-5-4(a)(12) ~~may use either of the following accounting methods:~~

(1) ~~The governing body may **must** supervise and control the program through the school corporation's curricular materials rental fund or education fund.~~

(2) ~~If curricular materials have not been purchased and financial commitments or guarantees for the purchases have not been made by the school corporation, the governing body may cause the program to be operated by the individual schools of the school corporation through the school corporation's extracurricular account or accounts in accordance with IC 20-41-1.~~

(b) If the governing body determines that a hardship exists due to the inability of a student's family to purchase or rent curricular materials, taking into consideration the income of the family and the demands on the family, the governing body may furnish curricular materials to the student without charge, without reference to the application of any other statute or rule except IC 20-26-1 through IC 20-26-5, IC 20-26-7, IC 20-40-12, and IC 20-48-1.

SECTION 14. IC 20-41-2-6, AS AMENDED BY P.L.244-2017, SECTION 89, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: Sec. 6. (a) If a school lunch fund is established under section 4 of this chapter and the school corporation's education fund is used under section 5 of this chapter, the receipts and expenditures from a fund for the program to which the fund relates shall be made to and from the appropriate fund without appropriation or the application of other statutes and rules relating to the budgets of municipal corporations.

(b) ~~If either the lunch program or the curricular materials rental program is handled through the extracurricular account, the governing body of the school corporation shall approve the amount of the bond of the treasurer of the extracurricular account in an amount the governing body considers sufficient to protect the account for all funds coming into the hands of the treasurer of the account.~~

SECTION 15. IC 33-32-2-9, AS AMENDED BY P.L.257-2019, SECTION 94, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: Sec. 9. (a) As used in this section, "training courses" refers to training courses related to the office of circuit court clerk that are compiled or developed by the Association of Indiana Counties and approved by the state board of accounts.

(b) An individual elected to the office of circuit court clerk shall complete at least:

- (1) fifteen (15) hours of training courses within one (1) year; and
- (2) forty (40) hours of training courses within three (3) years;



after the individual is elected to the office of circuit court clerk.

(c) An individual first elected to the office of circuit court clerk shall complete five (5) hours of newly elected official training courses before the individual first takes the office of circuit court clerk. A training course that an individual completes under this subsection shall be counted toward the individual's requirements under subsection (b).

(d) An individual shall fulfill the training requirements established by subsection (b) for each term to which the individual is elected as circuit court clerk.

(e) The failure of an individual to complete the training required by this section does not prevent the individual from taking an office to which the individual was elected.

(f) This subsection applies only to an individual appointed to fill a vacancy in the office of circuit court clerk. An individual described in this subsection may, but is not required to, take training courses required by subsection (b). If an individual described in this subsection takes a training course required by subsection (b) for an elected circuit court clerk, the county shall pay for the training course as if the individual had been an elected circuit court clerk.

(g) An individual elected to the office of circuit court clerk shall certify completion of the requirements described in subsection (b) every year and file the certification with the state board of accounts in the same manner as the report required in IC 5-11-1-4(a).

SECTION 16. IC 36-2-9-22 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: **Sec. 22. If the county auditor is unable to perform the fiscal requirements of the county auditor's position, the county shall hire or contract with a qualified certified public accountant to:**

- (1) provide guidance to the county auditor regarding the performance of the county auditor's responsibilities; or**
- (2) perform the county auditor's fiscal responsibilities.**

The county auditor is considered to be unable to perform the fiscal requirements of the county auditor's position if the county is declared unauditible under IC 5-11-1-9(b).

SECTION 17. IC 36-2-9.5-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: **Sec. 18. If the county auditor is unable to perform the fiscal requirements of the county auditor's position, the county shall hire or contract with a qualified certified public accountant to:**

- (1) provide guidance to the county auditor regarding the performance of the county auditor's responsibilities; or**



(2) perform the county auditor's fiscal responsibilities.

The county auditor is considered to be unable to perform the fiscal requirements of the county auditor's position if the county is declared unauditible under IC 5-11-1-9(b).

SECTION 18. IC 36-2-10-2.5, AS AMENDED BY P.L.257-2019, SECTION 107, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: Sec. 2.5. (a) As used in this section, "training courses" refers to training courses related to the office of county treasurer that are compiled or developed by the Association of Indiana Counties and approved by the state board of accounts.

(b) An individual elected to the office of county treasurer shall complete at least:

- (1) fifteen (15) hours of training courses within one (1) year; and
- (2) forty (40) hours of training courses within three (3) years;

after the individual is elected to the office of county treasurer.

(c) An individual first elected to the office of county treasurer shall complete five (5) hours of newly elected official training courses before the individual first takes the office of county treasurer. A training course that the individual completes under this subsection shall be counted toward the requirements under subsection (b).

(d) An individual shall fulfill the training requirements established by subsection (b) for each term to which the individual is elected as county treasurer.

(e) The failure of an individual to complete the training required by this section does not prevent the individual from taking an office to which the individual was elected.

(f) This subsection applies only to an individual appointed to fill a vacancy in the office of county treasurer. An individual described in this subsection may, but is not required to, take any training courses required by subsection (b). If an individual described in this subsection takes a training course required by subsection (b) for an elected county treasurer, the county shall pay for the training course as if the individual had been an elected county treasurer.

(g) An individual elected to the office of county treasurer shall certify completion of the requirements described in subsection (b) every year and file the certification with the state board of accounts in the same manner as the report required in IC 5-11-1-4(a).

SECTION 19. IC 36-2-10-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: Sec. 24. **Except as provided in IC 5-11**, a county treasurer is not personally liable for any act or omission occurring in connection with the performance of the county treasurer's official duties, unless the act or omission constitutes gross negligence or an intentional disregard of the responsibilities of



the office of county treasurer.

SECTION 20. IC 36-2-10-25 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: **Sec. 25. If the county treasurer is unable to perform the fiscal requirements of the county treasurer's position, the county shall hire or contract with a qualified investment adviser to:**

- (1) provide guidance to the county treasurer regarding the performance of the county treasurer's responsibilities; or**
- (2) perform the county treasurer's fiscal responsibilities.**

The county treasurer is considered to be unable to perform the fiscal requirements of the county treasurer's position if the county is declared unauditible under IC 5-11-1-9(b).

SECTION 21. IC 36-2-11-2.5, AS AMENDED BY P.L.257-2019, SECTION 108, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: **Sec. 2.5. (a)** As used in this section, "training courses" refers to training courses related to the office of county recorder that are compiled or developed by the Association of Indiana Counties and approved by the state board of accounts.

(b) An individual elected to the office of county recorder shall complete at least:

- (1)** fifteen (15) hours of training courses within one (1) year; and
- (2)** forty (40) hours of training courses within three (3) years; after the individual is elected to the office of county recorder.

(c) An individual first elected to the office of county recorder shall complete five (5) hours of newly elected official training courses before the individual first takes the office of county recorder. A training course that the individual completes under this subsection shall be counted toward the requirements under subsection (b).

(d) An individual shall fulfill the training requirements established by subsection (b) for each term to which the individual is elected as county recorder.

(e) The failure of an individual to complete the training required by this section does not prevent the individual from taking an office to which the individual was elected.

(f) This subsection applies only to an individual appointed to fill a vacancy in the office of county recorder. An individual described in this subsection may, but is not required to, take any training courses required by subsection (b). If an individual described in this subsection takes a training course required by subsection (b) for an elected county recorder, the county shall pay for the training course as if the individual had been an elected county recorder.

(g) An individual elected to the office of county recorder shall certify completion of the requirements described in subsection (b)



every year and file the certification with the state board of accounts in the same manner as the report required in IC 5-11-1-4(a).

SECTION 22. IC 36-3-5-2.6, AS AMENDED BY P.L.227-2005, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: Sec. 2.6. **Except as provided in IC 5-11**, the:

(1) controller is not liable, in an individual capacity, for any act or omission occurring in connection with the performance of the controller's duty as a fiscal officer of:

(A) the consolidated city; and

(B) the county; and

(2) deputy controller is not liable, in an individual capacity, for any act or omission occurring in connection with the performance of the deputy controller's duty;

unless the act or omission constitutes gross negligence or an intentional disregard of the controller's or the deputy controller's duty.

SECTION 23. IC 36-3-5-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: **Sec. 14. If the controller is unable to perform the fiscal requirements of the controller's position, the consolidated city shall hire or contract with a qualified certified public accountant to:**

(1) provide guidance to the controller regarding the performance of the controller's responsibilities; or

(2) perform the controller's fiscal responsibilities.

The controller is considered to be unable to perform the fiscal requirements of the controller's position if the consolidated city or the county is declared unauditible under IC 5-11-1-9(b).

SECTION 24. IC 36-4-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: Sec. 2. (a) A city clerk shall be elected under IC 3-10-6 by the voters of each second class city, and a city clerk-treasurer shall be elected under IC 3-10-6 by the voters of each third class city.

(b) The city clerk or clerk-treasurer is the clerk of each city.

(c) The city controller appointed under IC 36-4-9-6 is the fiscal officer of each second class city, and the city clerk-treasurer is the fiscal officer of each third class city.

(d) **Except as provided in IC 5-11**, the city controller of a second class city is not liable, in an individual capacity, for any act or omission occurring in connection with the performance of the city controller's duty as fiscal officer of the second class city, unless the act or omission constitutes gross negligence or an intentional disregard of the controller's duty.

(e) The term of office of a city clerk or clerk-treasurer is four (4)



years, beginning at noon on January 1 after election and continuing until a successor is elected and qualified.

SECTION 25. IC 36-4-10-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: Sec. 4.5. (a) This section applies to third class cities.

(b) The fiscal officer is the head of the city department of finance. The fiscal officer shall do the following:

- (1) Receive and care for all city money and pay the money out only on order of the approving body.
- (2) Keep accounts showing when and from what sources the fiscal officer has received city money and when and to whom the fiscal officer has paid out city money.
- (3) Prescribe payroll and account forms for all city offices.
- (4) Prescribe the manner in which creditors, officers, and employees shall be paid.
- (5) Manage the finances and accounts of the city and make investments of city money.
- (6) Prepare for the legislative body the budget estimates of miscellaneous revenue, financial statements, and the proposed tax rate.
- (7) Issue all licenses authorized by statute and collect the fees fixed by ordinance.
- (8) Serve as clerk of the board of public works by attending meetings, preparing agendas, and recording proceedings.
- (9) Perform all other duties prescribed by statute.

(c) **Except as provided in IC 5-11**, a fiscal officer is not liable in an individual capacity for an act or omission occurring in connection with the performance of the duties prescribed by subsection (b), unless the act or omission constitutes gross negligence or an intentional disregard of the fiscal officer's duties.

SECTION 26. IC 36-4-10-8, AS ADDED BY P.L.257-2019, SECTION 113, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: Sec. 8. (a) As used in this section, "training courses" refers to training courses, workshops, training institutes authorized by IC 5-11-14, formal academies, special seminars, and other in-service training related to an office described in section 2 of this chapter that are developed or offered under the rubric of a generally accepted professional association, association of governments or a state agency or department, or public university or affiliated center.

(b) An individual elected or appointed to an office described in section 2 of this chapter on or after November 5, 2019, shall complete at least:

- (1) fourteen (14) hours of training courses within one (1) year;



and

(2) thirty-six (36) hours of training courses within three (3) years; after the individual is elected or appointed to an office described in section 2 of this chapter.

(e) A training course that an individual completes:

(1) after being elected or appointed to an office described in section 2 of this chapter; and

(2) before the individual begins serving in an office described in section 2 of this chapter;

shall be counted toward the requirements under subsection (b):

(c) An individual first elected or appointed to an office described in section 2 of this chapter shall complete five (5) hours of approved training courses before the individual first takes office. A training course that the individual completes under this subsection shall be counted toward the requirements under subsection (b).

(d) An individual shall fulfill the training requirements established by subsection (b) for each term to which the individual is elected or appointed to an office described in section 2 of this chapter.

(e) This subsection applies only to an individual appointed to fill a vacancy in an office described in section 2 of this chapter. An individual described in this subsection may, but is not required to, take training courses required by subsection (b). If an individual described in this subsection takes a training course required by subsection (b) for an office described in section 2 of this chapter, the city shall pay for the training course as if the individual had been elected or appointed to an office described in section 2 of this chapter.

(f) The:

(1) city executive;

(2) city legislative body; and

(3) individual who holds the office described in section 2 of this chapter;

shall use all reasonable means to ensure that the individual who holds the office described in section 2 of this chapter complies with the training requirements established by this section.

(g) The individual who holds the office described in section 2 of this chapter shall maintain written documentation of the training courses that the individual completes toward the requirements of this section.

(h) If a city reorganizes under IC 36-1.5, the individual who performs the functions of an office described in section 2 of this chapter for the city shall comply with the training requirements established by this section for the reorganized political subdivision.

(i) An individual elected or appointed to an office described in section 2 of this chapter shall certify completion of the



requirements described in subsection (b) every year and file the certification with the state board of accounts in the same manner as the report required in IC 5-11-1-4(a).

SECTION 27. IC 36-4-10-9 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JANUARY 1, 2024]: **Sec. 9. If the clerk or clerk-treasurer is unable to perform the fiscal requirements of the clerk's or clerk-treasurer's position, the city shall hire or contract with a qualified certified public accountant to:**

- (1) provide guidance to the clerk or clerk-treasurer regarding the performance of the clerk or clerk-treasurer's responsibilities; or**
- (2) perform the clerk or clerk-treasurer's fiscal responsibilities.**

The clerk or clerk-treasurer is considered to be unable to perform the fiscal requirements of the clerk's or clerk-treasurer's position if the city is declared unauditible under IC 5-11-1-9(b).

SECTION 28. IC 36-5-6-6, AS AMENDED BY P.L.56-2022, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: **Sec. 6. (a) This section does not apply to a town that has adopted an ordinance under IC 36-5-6.5.**

(b) The clerk-treasurer shall do the following:

- (1) Receive and care for all town money and pay the money out only on order of the town legislative body.**
- (2) Keep accounts showing when and from what sources the clerk-treasurer has received town money and when and to whom the clerk-treasurer has paid out town money.**
- (3) Prescribe payroll and account forms for all town offices.**
- (4) Prescribe the manner in which creditors, officers, and employees shall be paid.**
- (5) Manage the finances and accounts of the town and make investments of town money.**
- (6) Prepare for the legislative body the budget estimates of miscellaneous revenue, financial statements, and the proposed tax rate.**
- (7) Maintain custody of the town seal and the records of the legislative body.**
- (8) Issue all licenses authorized by statute and collect the fees fixed by ordinance.**
- (9) Serve as clerk of the legislative body by attending its meetings and recording its proceedings.**
- (10) Administer oaths, take depositions, and take acknowledgment of instruments that are required by statute to be acknowledged, without charging a fee.**



(11) Serve as clerk of the town court under IC 33-35-3-2, if the judge of the court does not serve as clerk of the court or appoint a clerk of the court under IC 33-35-3-1.

(12) Perform all other duties prescribed by statute.

(c) **Except as provided in IC 5-11**, a clerk-treasurer is not liable, in an individual capacity, for any act or omission occurring in connection with the performance of the requirements set forth in subsection (b), unless the act or omission constitutes gross negligence or an intentional disregard of the requirements.

SECTION 29. IC 36-5-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: Sec. 7. (a) The clerk-treasurer shall appoint the number of deputies and employees needed for the effective operation of the office, with the approval of the town legislative body. The clerk-treasurer's deputies and employees serve at the clerk-treasurer's pleasure.

(b) If a town owns a utility and the clerk-treasurer is directly responsible for the billing and collection of that utility's rates and charges, the clerk-treasurer shall appoint those employees who are also responsible for that billing and collection. These employees serve at the clerk-treasurer's pleasure.

(c) **If the clerk-treasurer is unable to perform the fiscal requirements of the clerk-treasurer's position, the town shall hire or contract with a qualified certified public accountant to:**

(1) provide guidance to the clerk-treasurer regarding the performance of the clerk-treasurer's responsibilities; or

(2) perform the clerk-treasurer's fiscal responsibilities.

The clerk-treasurer is considered to be unable to perform the fiscal requirements of the clerk-treasurer's position if the town is declared unauditible under IC 5-11-1-9(b).

SECTION 30. IC 36-5-6-9, AS ADDED BY P.L.120-2015, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: Sec. 9. (a) This section applies if an office of town clerk-treasurer is vacant and the town legislative body is unable to fill the office under IC 3-13-9-3.

(b) The town legislative body may select a town legislative body member, who shall assume the duties of the office of town clerk-treasurer. For purposes of Article 2, Section 9 of the Constitution of the State of Indiana and Indiana law, if a town legislative body member serves as the ex officio town clerk-treasurer, the duties assumed by the town legislative body member:

(1) are considered part of the duties prescribed by law for the office of town legislative body member; and

(2) are not considered a second office.

A town legislative body member may not receive any additional



compensation for assuming the duties of the town clerk treasurer.

(c) The town legislative body may **either:**

(1) enter into an interlocal agreement under IC 36-1-7 with the town clerk-treasurer and town legislative body of another town in the state to assist the town legislative body member selected under subsection (b) in performing the duties of the clerk-treasurer's office, **provided that** the agreement may not last longer than the remainder of the vacant clerk-treasurer's term and must meet the requirements of IC 36-1-7; **or**

(d) ~~If an agreement cannot be reached under subsection (c); the town legislative body may~~

(2) enter into a contract with a certified public accountant to assist the town legislative body member selected under subsection (b) in performing the duties of the clerk-treasurer's office, **provided that** the contract may not last longer than the remainder of the vacant clerk-treasurer's term.

(d) If, after reasonable diligence, the town is unable to meet the requirements under subsection (c), the town may hire any qualified person to perform the duties of the clerk-treasurer's office until the vacancy can be filled under IC 3-13-9-3, or until the end of the current clerk-treasurer's term, whichever is first.

SECTION 31. IC 36-5-6-10, AS ADDED BY P.L.257-2019, SECTION 114, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: Sec. 10. (a) As used in this section, "training courses" refers to training courses, workshops, training institutes authorized by IC 5-11-14, formal academies, special seminars, and other in-service training related to an office described in section 2 of this chapter that are developed or offered under the rubric of a generally accepted professional association, association of governments or a state agency or department, or public university or affiliated center.

(b) An individual elected to the office described in section 2 of this chapter on or after November 5, 2019, shall complete at least:

(1) fourteen (14) hours of training courses within one (1) year; and

(2) thirty-six (36) hours of training courses within three (3) years; after the individual is elected to the office described in section 2 of this chapter.

~~(c) A training course that an individual completes:~~

~~(1) after being elected to the office described in section 2 of this chapter; and~~

~~(2) before the individual begins serving in the office described in section 2 of this chapter;~~

~~shall be counted toward the requirements under subsection (b):~~



(c) An individual first elected or appointed to an office described in section 2 of this chapter shall complete five (5) hours of approved training courses before the individual first takes office. A training course that the individual completes under this subsection shall be counted toward the requirements under subsection (b).

(d) An individual shall fulfill the training requirements established by subsection (b) for each term to which the individual is elected to the office described in section 2 of this chapter.

(e) This subsection applies only to an individual appointed to fill a vacancy in the office described in section 2 of this chapter. An individual described in this subsection may, but is not required to, take training courses required by subsection (b). If an individual described in this subsection takes a training course required by subsection (b) for an individual elected to the office described in section 2 of this chapter, the town shall pay for the training course as if the individual had been elected to the office described in section 2 of this chapter.

(f) The:

- (1) town executive;
- (2) town legislative body; and
- (3) individual who holds the office described in section 2 of this chapter;

shall use all reasonable means to ensure that the individual who holds the office described in section 2 of this chapter complies with the training requirements established by this section.

(g) The individual who holds the office described in section 2 of this chapter shall maintain written documentation of the training courses that the individual completes toward the requirements of this section.

(h) If a town reorganizes under IC 36-1.5, the individual who performs the functions of the office described in section 2 of this chapter for the town shall comply with the training requirements established by this section for the reorganized political subdivision.

(i) An individual elected or appointed to an office described in section 2 of this chapter shall certify completion of the requirements described in subsection (b) every year and file the certification with the state board of accounts in the same manner as the report required in IC 5-11-1-4(a).

SECTION 32. IC 36-6-4-17, AS AMENDED BY P.L.24-2022, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: Sec. 17. (a) **Except as provided in IC 5-11**, an executive who fails to perform a duty imposed by section 3(1), 3(2), 3(3), 3(4), 3(5), 3(7), 3(8), 5, or 14(1) of this chapter is liable to the township in a sum of not more than one hundred dollars (\$100), to be recovered in a civil action brought in the name of the township.



- (b) An executive is entitled to receive the following:
- (1) The executive's salary.
 - (2) Reimbursement for expenses that are reasonably incurred by the executive for the following:
 - (A) The operation of the executive's office.
 - (B) Travel and meals while attending seminars or conferences on township matters.
 - (C) A sum for mileage as permitted under IC 36-6-8-3(b).

The executive may not make any other personal use of township funds without prior approval by the legislative body of the township.

(c) An executive who fails to perform a duty imposed by section 3(12), 3(13), or 3(14) of this chapter or subsection (b) may be removed from office by an action under IC 5-8-1-35 that is initiated under IC 36-6-4.5.

SECTION 33. IC 36-6-4-18, AS AMENDED BY P.L.127-2017, SECTION 160, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: Sec. 18. (a) Within thirty (30) days after taking office, the executive shall designate a person who shall perform the executive's duties whenever the executive is incapable of performing the executive's functions because the executive:

- (1) is absent from the township; or
- (2) becomes incapacitated.

The executive shall give notice of the designation to the chair of the township legislative body, the county sheriff, and any other persons that the executive chooses. The designee shall have all the powers of the executive. The executive is responsible for all acts of the designee. The executive may change the designee under this section at any time.

- (b) The designee shall perform the executive's duties until:
- (1) the executive is no longer absent from the township; or
 - (2) an acting executive is appointed by the county executive under section 16 of this chapter.

(c) If the executive is unable to perform the fiscal requirements of the executive's position, the township shall hire or contract with a qualified certified public accountant to:

- (1) provide guidance to the executive regarding the performance of the executive's responsibilities; or**
- (2) perform the executive's fiscal responsibilities.**

The executive is considered to be unable to perform the fiscal requirements of the executive's position if the township is declared unauditible under IC 5-11-1-9(b).

SECTION 34. IC 36-6-4-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: Sec. 20. (a) As used in this section, "training courses" refers to training courses, workshops, training institutes



authorized by IC 5-11-14, formal academies, special seminars, and other in-service training related to an office described in section 2 of this chapter that are developed or offered under the rubric of a generally accepted professional association, association of governments or a state agency or department, or public university or affiliated center.

(b) An individual elected to the office described in section 2 of this chapter on or after November 5, 2023, shall complete at least:

- (1) fourteen (14) hours of training courses within one (1) year; and
- (2) thirty-six (36) hours of training courses within three (3) years;

after the individual is elected to the office described in section 2 of this chapter.

(c) An individual first elected or appointed to an office described in section 2 of this chapter shall complete five (5) hours of newly elected official training courses before the individual first takes office. A training course that the individual completes under this subsection shall be counted toward the requirements under subsection (b).

(d) An individual shall fulfill the training requirements established by subsection (b) for each term to which the individual is elected to the office described in section 2 of this chapter.

(e) This subsection applies only to an individual appointed to fill a vacancy in the office described in section 2 of this chapter. An individual described in this subsection may, but is not required to, take training courses required by subsection (b). If an individual described in this subsection takes a training course required by subsection (b) for an individual elected to the office described in section 2 of this chapter, the township shall pay for the training course as if the individual had been elected to the office described in section 2 of this chapter.

(f) The:

- (1) township legislative body; and
- (2) individual who holds the office described in section 2 of this chapter;

shall use all reasonable means to ensure that the individual who holds the office described in section 2 of this chapter complies with the training requirements established by this section.

(g) The individual who holds the office described in section 2 of this chapter shall maintain written documentation of the training courses that the individual completes toward the requirements of this section.

(h) An individual elected or appointed to an office described in section 2 of this chapter shall certify completion of the



requirements described in subsection (b) every year and file the certification with the state board of accounts in the same manner as the report required in IC 5-11-1-4(a).



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

HEA 1040 — Concur

