

First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1169

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AN ACT to amend the Indiana Code concerning state offices and administration.

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

SECTION 1. IC 4-13.1-1-1.3 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 1.3. "Attack vector" means a method or way for attacking, infiltrating, or otherwise compromising a computer network or system.**

SECTION 2. IC 4-13.1-1-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 1.5. (a) "Cybersecurity incident" means a malicious or suspicious occurrence that consists of one (1) or more of the categories of attack vectors described in subsection (b) and defined on the office's Internet web site that:**

- (1) jeopardizes or may potentially jeopardize the confidentiality, integrity, or availability of an information system, an operational system, or the information that such systems process, store, or transmit;
- (2) jeopardizes or may potentially jeopardize the health and safety of the public; or
- (3) violates security policies, security procedures, or acceptable use policies.

**(b) A cybersecurity incident may consist of one (1) or more of the following categories of attack vectors:**

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- (1) Ransomware.**
- (2) Business email compromise.**
- (3) Vulnerability exploitation.**
- (4) Zero-day exploitation.**
- (5) Distributed denial of service.**
- (6) Web site defacement.**
- (7) Other sophisticated attacks as defined by the chief information officer and that are posted on the office's Internet web site.**

SECTION 3. IC 4-13.1-2-2, AS AMENDED BY P.L.2-2007, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 2. (a) The office shall do the following:

- (1) Develop and maintain overall strategy and architecture for the use of information technology in state government.
- (2) Review state agency budget requests and proposed contracts relating to information technology at the request of the budget agency.
- (3) Coordinate state information technology master planning.
- (4) Maintain an inventory of significant information technology resources and expenditures.
- (5) Maintain a repository of cybersecurity incidents.**
- ~~(5)~~ **(6)** Manage a computer gateway to carry out or facilitate public, educational, and governmental functions.
- ~~(6)~~ **(7)** Provide technical staff support services for state agencies.
- ~~(7)~~ **(8)** Provide services that may be requested by the following:
  - (A) The judicial department of state government.
  - (B) The legislative department of state government.
  - (C) A state educational institution.
  - (D) A political subdivision (as defined in IC 36-1-2-13).
  - (E) A body corporate and politic created by statute.
  - (F) An entity created by the state.
- ~~(8)~~ **(9)** Monitor trends and advances in information technology.
- ~~(9)~~ **(10)** Review projects, architecture, security, staffing, and expenditures.
- ~~(10)~~ **(11)** Develop and maintain policies, procedures, and guidelines for the effective and secure use of information technology in state government.
- ~~(11)~~ **(12)** Advise the state personnel department on guidelines for information technology staff for state agencies.
- ~~(12)~~ **(13)** Conduct periodic management reviews of information technology activities within state agencies upon request.
- ~~(13)~~ **(14)** Seek funding for technology services from the

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following:

- (A) Grants.
- (B) Federal sources.
- (C) Gifts, donations, and bequests.
- (D) Partnerships with other governmental entities or the private sector.
- (E) Appropriations.
- (F) Any other source of funds.

~~(14)~~ **(15)** Perform other information technology related functions and duties as directed by the governor.

(b) The office may adopt rules under IC 4-22-2 that are necessary or appropriate in carrying out its powers and duties.

SECTION 4. IC 4-13.1-2-8, AS ADDED BY P.L.177-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 8. (a) If requested by a political subdivision, the office may do the following:

- (1) Subject to the approval of the budget agency, develop a schedule of fees for agencies using services of the office.
- (2) Assist a political subdivision in coordinating information technology systems.
- (3) Provide consulting and technical advisory services.
- (4) Review information technology project plans and expenditures.
- (5) Develop and maintain policies, procedures, and guidelines for the effective use of information technology in interactions between political subdivisions and state agencies.
- (6) Develop a list of third party technology providers that work with the office.**

(b) The office may request a director of information technology services or other knowledgeable individuals employed by a political subdivision to advise and assist the office in exercising the powers granted in this section.

(c) The office may conduct studies and reviews that the office considers necessary to promote the use of high quality, cost effective information technology within local government.

SECTION 5. IC 4-13.1-2-9 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 9. A state agency (as defined in IC 4-1-10-2) other than state educational institutions and a political subdivision (as defined in IC 36-1-2-13) shall:**

- (1) report any cybersecurity incident using their best professional judgment to the office without unreasonable**



delay and not later than two (2) business days after discovery of the cybersecurity incident in a format prescribed by the chief information officer; and

(2) provide the office with the name and contact information of any individual who will act as the primary reporter of a cybersecurity incident described in subdivision (1) before September 1, 2021, and before September 1 of every year thereafter.

**Nothing in this section shall be construed to require reporting that conflicts with federal privacy laws or is prohibited due to an ongoing law enforcement investigation.**

SECTION 6. IC 4-13.1-2-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 10. A state educational institution (as defined in IC 21-7-13-32) shall:**

(1) submit a summary analysis report of cyber security incidents to the office on a quarterly basis in a format prescribed by the chief information officer; and

(2) provide the office with the name and contact information of any individual who will act as the primary reporter of a summary report of cybersecurity incidents described in subdivision (1) before September 1, 2021, and before September 1 of every year thereafter.

**Nothing in this section shall be construed to require reporting by the state educational institution that conflicts with federal privacy laws or is prohibited due to an ongoing law enforcement investigation.**

SECTION 7. IC 4-22-2.1-6, AS AMENDED BY P.L.109-2015, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 6. (a) Not later than seven (7) days before the date of the public hearing set forth in the agency's notice under IC 4-22-2-24, the small business ombudsman shall do the following:**

(1) Review the proposed rule and economic impact statement submitted to the small business ombudsman by the agency under section 5(c) of this chapter.

(2) Submit written comments to the agency on the proposed rule and the economic impact statement prepared by the agency under section 5 of this chapter. The small business ombudsman's comments may:

(A) recommend that the agency implement one (1) or more of the regulatory alternatives considered by the agency under section 5(a)(5) of this chapter;



- (B) suggest regulatory alternatives not considered by the agency under section 5(a)(5) of this chapter;
  - (C) recommend any other changes to the proposed rule that would minimize the economic impact of the proposed rule on small businesses; or
  - (D) recommend that the agency abandon or delay the rulemaking action until:
    - (i) more data on the impact of the proposed rule on small businesses can be gathered and evaluated; or
    - (ii) less intrusive or less costly alternative methods of achieving the purpose of the proposed rule can be effectively implemented with respect to small businesses.
- (b) Upon receipt of the small business ombudsman's written comments under subsection (a), the agency shall make the comments available:
- (1) for public inspection and copying at the offices of the agency under IC 5-14-3;
  - (2) electronically through the electronic gateway administered under ~~IC 4-13.1-2-2(a)(5)~~ **IC 4-13.1-2-2(a)(6)** by the office of technology; and
  - (3) for distribution at the public hearing required by IC 4-22-2-26.
- (c) Before finally adopting a rule under IC 4-22-2-29, and in the same manner that the agency considers public comments under IC 4-22-2-27, the agency must fully consider the comments submitted by the small business ombudsman under subsection (a). After considering the comments under this subsection, the agency may:
- (1) adopt any version of the rule permitted under IC 4-22-2-29; or
  - (2) abandon or delay the rulemaking action as recommended by the small business ombudsman under subsection (a)(2)(D), if applicable.

SECTION 8. IC 4-23-7.3-16, AS ADDED BY P.L.198-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 16. With money from the fund, the state GIS officer, through the data center, the IGIC, and the other organizations, shall do the following:

- (1) Ensure that there are adequate depositories of all GIS data and framework data obtained by a state agency.
- (2) Acquire, publish, store, and distribute GIS data and framework data through the computer gateway administered under ~~IC 4-13.1-2-2(a)(5)~~ **IC 4-13.1-2-2(a)(6)** by the office of technology and through the state data center. The state GIS officer may also provide access through the IGIC and other entities as



directed by the state GIS officer.

(3) Integrate GIS data and framework data developed and maintained by state agencies and political subdivisions into the statewide base map.

(4) Maintain a state historical archive of GIS data, framework data, and electronic maps.

(5) Except as otherwise provided in this chapter, provide public access to GIS data and framework data in locations throughout Indiana.

(6) Provide assistance to state agencies and political subdivisions regarding public access to GIS data and framework data so that information is available to the public while confidentiality is protected for certain data from electronic maps.

(7) Develop and maintain statewide framework data layers associated with a statewide base map or electronic map.

(8) Publish and distribute the state GIS data standards and the statewide data integration plan adopted under section 14(2) of this chapter.

(9) Subject to section 20 of this chapter, make GIS data, framework data, and electronic maps available for use by the Indiana Business Research Center.

SECTION 9. IC 5-22-22-4.5, AS AMENDED BY P.L.198-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 4.5. (a) The purchasing agency may sell surplus property using an Internet auction site that satisfies both of the following:

(1) The site is approved by the office of technology established by IC 4-13.1-2-1.

(2) The site is linked to the electronic gateway administered under ~~IC 4-13.1-2-2(a)(5)~~ **IC 4-13.1-2-2(a)(6)** by the office of technology.

(b) The purchasing agency's posting of the sale on the Internet auction site must include a detailed description of the surplus property to be sold.

(c) The purchasing agency may pay the costs of conducting the auction on the Internet site as required by the person maintaining the auction site.

SECTION 10. IC 9-14-12-4, AS ADDED BY P.L.198-2016, SECTION 192, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 4. All requests for records maintained under this chapter must be:

(1) submitted in writing; or

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(2) made electronically through the computer gateway administered under ~~IC 4-13.1-2-2(a)(5)~~ **IC 4-13.1-2-2(a)(6)** by the office of technology;

to the bureau and, unless exempted by law, must be accompanied by the payment of the applicable fee prescribed in section 7 of this chapter.

SECTION 11. IC 36-1-12-4, AS AMENDED BY P.L.164-2019, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 4. (a) This section applies whenever the cost of a public work project will be at least one hundred fifty thousand dollars (\$150,000).

(b) The board must comply with the following procedure:

(1) The board shall prepare general plans and specifications describing the kind of public work required, but shall avoid specifications which might unduly limit competition. If the project involves the resurfacing (as defined by IC 8-14-2-1) of a road, street, or bridge, the specifications must show how the weight or volume of the materials will be accurately measured and verified.

(2) The board shall file the plans and specifications in a place reasonably accessible to the public, which shall be specified in the notice required by subdivision (3).

(3) Upon the filing of the plans and specifications, the board shall publish notice in accordance with IC 5-3-1 calling for sealed proposals for the public work needed. If the board receives electronic bids as set forth in subsection (d), the board shall also provide electronic access to the notice of the bid solicitation through the computer gateway administered under ~~IC 4-13.1-2-2(a)(5)~~ **IC 4-13.1-2-2(a)(6)** by the office of technology.

(4) The notice must specify the place where the plans and specifications are on file and the date fixed for receiving bids.

(5) The period of time between the date of the first publication and the date of receiving bids shall be governed by the size of the contemplated project in the discretion of the board. The period of time between the date of the first publication and receiving bids may not be more than:

(A) six (6) weeks if the estimated cost of the public works project is less than twenty-five million dollars (\$25,000,000); and

(B) ten (10) weeks if the estimated cost of the public works project is at least twenty-five million dollars (\$25,000,000).

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- (6) The board shall require the bidder to submit a financial statement, a statement of experience, a proposed plan or plans for performing the public work, and the equipment that the bidder has available for the performance of the public work. The statement shall be submitted on forms prescribed by the state board of accounts.
- (7) The board may not require a bidder to submit a bid before the meeting at which bids are to be received. The meeting for receiving bids must be open to the public. All bids received shall be opened publicly and read aloud at the time and place designated and not before. Notwithstanding any other law, bids may be opened after the time designated if both of the following apply:
- (A) The board makes a written determination that it is in the best interest of the board to delay the opening.
  - (B) The day, time, and place of the rescheduled opening are announced at the day, time, and place of the originally scheduled opening.
- (8) Except as provided in subsection (c), the board shall:
- (A) award the contract for public work or improvements to the lowest responsible and responsive bidder; or
  - (B) reject all bids submitted.
- (9) If the board awards the contract to a bidder other than the lowest bidder, the board must state in the minutes or memoranda, at the time the award is made, the factors used to determine which bidder is the lowest responsible and responsive bidder and to justify the award. The board shall keep a copy of the minutes or memoranda available for public inspection.
- (10) In determining whether a bidder is responsive, the board may consider the following factors:
- (A) Whether the bidder has submitted a bid or quote that conforms in all material respects to the specifications.
  - (B) Whether the bidder has submitted a bid that complies specifically with the invitation to bid and the instructions to bidders.
  - (C) Whether the bidder has complied with all applicable statutes, ordinances, resolutions, or rules pertaining to the award of a public contract.
- (11) In determining whether a bidder is a responsible bidder, the board may consider the following factors:
- (A) The ability and capacity of the bidder to perform the work.
  - (B) The integrity, character, and reputation of the bidder.





- (C) The competence and experience of the bidder.
- (12) The board shall require the bidder to submit an affidavit:
  - (A) that the bidder has not entered into a combination or agreement:
    - (i) relative to the price to be bid by a person;
    - (ii) to prevent a person from bidding; or
    - (iii) to induce a person to refrain from bidding; and
  - (B) that the bidder's bid is made without reference to any other bid.

(c) Notwithstanding subsection (b)(8), a county may award sand, gravel, asphalt paving materials, or crushed stone contracts to more than one (1) responsible and responsive bidder if the specifications allow for bids to be based upon service to specific geographic areas and the contracts are awarded by geographic area. The geographic areas do not need to be described in the specifications.

(d) Notwithstanding subsection (b), a board may receive electronic bids for the public work if:

- (1) the solicitation for bids indicates the procedure for transmitting the electronic bid to the board; and
- (2) the board receives the bid on a facsimile machine or system with a security feature that protects the content of an electronic bid with the same degree of protection as the content of a bid that is not transmitted by a facsimile machine.

(e) A board may select a vendor to provide an electronic platform to accommodate the electronic bidding process.



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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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