

HOUSE BILL No. 1304

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-11-1-9; IC 20-26-5-36; IC 20-47.

Synopsis: Audits of schools. Authorizes the state board of accounts to audit a public or private holding company leasing a school building to a school corporation. Allows a school corporation to contract with a certified public accountant for an annual audit. Provides that a lease agreement between a school corporation and a public holding company entered into after June 30, 2014, must include an option to allow the school corporation to audit the use of public funds or the property contained in the lease agreement. Provides that a lease agreement between a school corporation and a private holding company entered into after June 30, 2014, must include an option to allow the school corporation to audit the use of public funds or the property contained in the lease agreement.

Effective: July 1, 2014.

VanNatter

January 15, 2014, read first time and referred to Committee on Education.



Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE BILL No. 1304



A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

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

1 SECTION 1. IC 5-11-1-9, AS AMENDED BY P.L.280-2013,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2014]: Sec. 9. (a) The state examiner, personally or through
4 the deputy examiners, field examiners, or private examiners, shall
5 examine all accounts and all financial affairs of every public office and
6 officer, state office, state institution, ~~and~~ entity, **and any lessor**
7 **corporation leasing a school building to a school corporation under**
8 **IC 20-47-2 or IC 20-47-3.**
9 (b) An examination of an entity deriving:
10 (1) less than fifty percent (50%); or
11 (2) subject to subsection (h), at least fifty percent (50%) but less
12 than two hundred thousand dollars (\$200,000) if the entity is
13 organized as a not-for-profit corporation;
14 of its disbursements during the period subject to an examination from
15 appropriations, public funds, taxes, and other sources of public expense
16 shall be limited to matters relevant to the use of the public money



1 received by the entity.

2 (c) The examination of an entity described in subsection (b) may be
3 waived or deferred by the state examiner if the state examiner
4 determines in writing that all disbursements of public money during the
5 period subject to examination were made for the purposes for which the
6 money was received. However, the:

7 (1) Indiana economic development corporation created by
8 IC 5-28-3 and the corporation's funds, accounts, and financial
9 affairs; and

10 (2) department of financial institutions established by
11 IC 28-11-1-1 and the department's funds, accounts, and financial
12 affairs;

13 shall be examined biennially by the state board of accounts.

14 (d) On every examination under this section, inquiry shall be made
15 as to the following:

16 (1) The financial condition and resources of each municipality,
17 office, institution, or entity.

18 (2) Whether the laws of the state and the uniform compliance
19 guidelines of the state board of accounts established under section
20 24 of this chapter have been complied with.

21 (3) The methods and accuracy of the accounts and reports of the
22 person examined.

23 The examinations shall be made without notice.

24 (e) If during an examination of a state office under this chapter the
25 examiner encounters an inefficiency in the operation of the state office,
26 the examiner may comment on the inefficiency in the examiner's report.

27 (f) The state examiner, deputy examiners, any field examiner, or any
28 private examiner, when engaged in making any examination or when
29 engaged in any official duty devolved upon them by the state examiner,
30 is entitled to do the following:

31 (1) Enter into any state, county, city, township, or other public
32 office in this state, or any entity, agency, or instrumentality, and
33 examine any books, papers, documents, or electronically stored
34 information for the purpose of making an examination.

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

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

41 (g) The state examiner, deputy examiner, or any field examiner,
42 when engaged in making any examination authorized by law, may issue



1 subpoenas for witnesses to appear before the examiner in person or to
 2 produce books, papers, or other records (including records stored in
 3 electronic data processing systems) for inspection and examination.
 4 The state examiner, deputy examiner, and any field examiner may
 5 administer oaths and examine witnesses under oath orally or by
 6 interrogatories concerning the matters under investigation and
 7 examination. Under the authority of the state examiner, the oral
 8 examinations may be transcribed with the reasonable expense paid by
 9 the examined person in the same manner as the compensation of the
 10 field examiner is paid. The subpoenas shall be served by any person
 11 authorized to serve civil process from any court in this state. If a
 12 witness duly subpoenaed refuses to attend, refuses to produce
 13 information required in the subpoena, or attends and refuses to be
 14 sworn or affirmed, or to testify when called upon to do so, the examiner
 15 may apply to the circuit court having jurisdiction of the witness for the
 16 enforcement of attendance and answers to questions as provided by the
 17 law governing the taking of depositions.

18 (h) This subsection applies to audited years beginning after June 30,
 19 2009. The definitions in IC 20-24-1 apply throughout this subsection.
 20 Appropriations, public funds, taxes, and other sources of public money
 21 received by a nonprofit corporation as a charter school or organizer of
 22 a charter school for the purposes of a charter school may not be
 23 counted for the purpose of applying subsection (b)(2). Unless the
 24 nonprofit corporation receives other public money that would qualify
 25 the nonprofit corporation for a full examination of all accounts and
 26 financial affairs of the entity under subsection (b)(2), an examination
 27 of a charter school or organizer of a charter school must be limited to
 28 matters relevant to the use of the public money received for the charter
 29 school. This subsection does not prohibit the state examiner, personally
 30 or through the deputy examiners, field examiners, or private examiners,
 31 from examining the accounts in which appropriations, public funds,
 32 taxes, or other sources of public money are applied that are received by
 33 a nonprofit corporation as a charter school or organizer of a charter
 34 school relating to the operation of the charter school.

35 SECTION 2. IC 20-26-5-36 IS ADDED TO THE INDIANA CODE
 36 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 37 1, 2014]: **Sec. 36. (a) Notwithstanding any other law, the governing
 38 body may contract with a certified public accountant for an annual
 39 financial audit of the school corporation subject to any rules
 40 adopted by the governing body in IC 5-22-6-2. The certified public
 41 accountant may not have a significant financial interest, as
 42 determined by the governing body, in a vendor or retailer with**



1 whom the school corporation is under contract. The certified
 2 public accountant shall present an audit report and may make
 3 recommendations to improve the efficiency of the school
 4 corporation's operations. The certified public accountant shall
 5 perform a study and evaluation of internal accounting controls and
 6 shall express an opinion on the controls that were in effect during
 7 the audit period. The school corporation shall pay the cost of the
 8 annual financial audit.

9 (b) The state board of accounts shall receive a copy of any
 10 independent financial audit under this section.

11 SECTION 3. IC 20-47-2-7, AS ADDED BY P.L.2-2006, SECTION
 12 170, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY
 13 1, 2014]: Sec. 7. (a) A lease entered into under this chapter must
 14 include the following provisions:

15 (1) An option for the school corporation or corporations to renew
 16 the lease for a further term on similar conditions.

17 (2) An option for the school corporation or corporations to
 18 purchase the property covered by the lease after six (6) years from
 19 the execution of the lease and before the expiration of the term of
 20 the lease, on the date or dates in each year as may be fixed in the
 21 lease. The purchase price:

22 (A) must be equal to the amount required to enable the lessor
 23 corporation owning the property to liquidate by paying all
 24 indebtedness, with accrued and unpaid interest, redeeming and
 25 retiring any stock at par, and paying the expenses and charges
 26 of liquidation; and

27 (B) may not exceed the capital actually invested in the
 28 property by the lessor corporation represented by outstanding
 29 securities or existing indebtedness, plus the cost of transferring
 30 the property and liquidating the lessor corporation.

31 **(3) This subdivision applies to a lease agreement entered into**
 32 **or renewed after June 30, 2014. An option to allow the**
 33 **governing body to annually audit the lessor corporation by a**
 34 **certified public accountant. The audit shall be limited to the**
 35 **property leased and public money relating to the lease.**

36 (b) A lease entered into under this chapter may not provide or be
 37 construed to provide that a school corporation is under any obligation
 38 to purchase a leased school building or buildings, or under any
 39 obligation in respect to any creditors, shareholders, or other security
 40 holders of the lessor corporation.

41 SECTION 4. IC 20-47-3-3, AS ADDED BY P.L.2-2006, SECTION
 42 170, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY



1 1, 2014]: Sec. 3. (a) Subject to subsection (b), a school corporation may
 2 lease a school building or buildings for the use of:

- 3 (1) the school corporation; or
 4 (2) a joint or consolidated school district of which the school
 5 corporation is a part or to which it contributes;

6 for a term not to exceed fifty (50) years.

7 (b) A school corporation may not enter into a lease under this
 8 section unless:

- 9 (1) a petition for the lease signed by at least fifty (50) patrons of
 10 the school corporation has been filed with the governing body of
 11 the school corporation; and
 12 (2) the governing body, after investigation, determines that a need
 13 exists for the school building.

14 (c) If two (2) or more school corporations propose to jointly enter
 15 into a lease under this section, joint meetings of the governing bodies
 16 of the school corporations may be held, but action taken at a joint
 17 meeting is not binding on any of those school corporations unless
 18 approved by a majority of the governing body of each of those school
 19 corporations. A lease executed by two (2) or more school corporations
 20 as joint lessees must:

- 21 (1) set out the amount of the total lease rental to be paid by each
 22 lessee, which may be as agreed upon; and
 23 (2) provide that:
 24 (A) there is no right of occupancy by any lessee unless the
 25 total rental is paid as stipulated in the lease; and
 26 (B) all rights of joint lessees under the lease are in proportion
 27 to the amount of lease rental paid by each lessee.

28 **(d) This subsection applies to a lease agreement entered into or**
 29 **renewed after June 30, 2014. A lease agreement shall include an**
 30 **option to allow the governing body to annually audit the lessor**
 31 **corporation by a certified public accountant. The audit shall be**
 32 **limited to the property leased and public money relating to the**
 33 **lease.**

