



February 27, 2024

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# ENGROSSED HOUSE BILL No. 1329

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DIGEST OF HB 1329 (Updated February 22, 2024 12:34 pm - DI 87)

**Citations Affected:** IC 13-21; IC 32-21; IC 36-1; IC 36-7.

**Synopsis:** Local government matters. Authorizes the solid waste management district of Vanderburgh County to make grants and loans for certain purposes. Prohibits a governmental entity from requiring that a Class 2 structure or a residential onsite sewage system be inspected in connection with or as a condition of the sale of or transfer of title to the property containing the Class 2 structure or residential onsite sewage system. Provides, for purposes of posting a license bond, that a political subdivision may not impose any requirement for the political subdivision to be identified as an obligee on the license bond other than the requirement in statute. Provides that certain obligors may initiate a civil action against a political subdivision that does not  
(Continued next page)

**Effective:** July 1, 2024.

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## Pressel, Miller D

(SENATE SPONSORS — BALDWIN, BOHACEK)

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January 10, 2024, read first time and referred to Committee on Local Government.  
January 23, 2024, amended, reported — Do Pass.  
January 25, 2024, read second time, ordered engrossed. Engrossed.  
January 29, 2024, read third time, passed. Yeas 82, nays 14.

SENATE ACTION

February 5, 2024, read first time and referred to Committee on Local Government.  
February 26, 2024, amended, reported favorably — Do Pass.

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recognize or does not allow an obligor to post a license bond that satisfies certain requirements and that, if the obligor prevails in the action, the obligor shall be awarded an amount equal to: (1) 300% of the cost of obtaining the license bond; (2) compensatory damages; and (3) reasonable attorney's fees. Provides that if a contractor: (1) has posted a license bond to obtain one license from a political subdivision; and (2) is required to obtain another license from the political subdivision to perform work that the contractor intends to perform; the contractor may not be required to post a second license bond as a condition of obtaining the second license if the type of work that the first license authorizes the contractor to perform is so closely related to the type of work that the second license will authorize the contractor to perform that both types of work are typically involved in a single residential construction project. Provides that a city, town, or county that requires a building permit for the construction of a Class 2 structure may provide for the inspection to be conducted by: (1) an individual employed by the city, town, or county, or by another city, town, or county, as a building inspector; (2) a registered architect; (3) a registered professional engineer; (4) a certified building official; or (5) a licensed home inspector. Local government matters. Authorizes the solid waste management district of Vanderburgh County to make grants and loans for certain purposes. Prohibits a governmental entity from requiring that a Class 2 structure or a residential onsite sewage system be inspected in connection with or as a condition of the sale of or transfer of title to the property containing the Class 2 structure or residential onsite sewage system. Provides, for purposes of posting a license bond, that a political subdivision may not impose any requirement for the political subdivision to be identified as an obligee on the license bond other than the requirement in statute. Provides that certain obligors may initiate a civil action against a political subdivision that does not recognize or does not allow an obligor to post a license bond that satisfies certain requirements and that, if the obligor prevails in the action, the obligor shall be awarded an amount equal to: (1) 300% of the cost of obtaining the license bond; (2) compensatory damages; and (3) reasonable attorney's fees. Provides that if a contractor: (1) has posted a license bond to obtain one license from a political subdivision; and (2) is required to obtain another license from the political subdivision to perform work that the contractor intends to perform; the contractor may not be required to post a second license bond as a condition of obtaining the second license if the type of work that the first license authorizes the contractor to perform is so closely related to the type of work that the second license will authorize the contractor to perform that both types of work are typically involved in a single residential construction project. Provides that a city, town, or county that requires a building permit for the construction of a Class 2 structure may provide for the inspection to be conducted by: (1) an individual employed by the city, town, or county, or by another city, town, or county, as a building inspector; (2) a registered architect; (3) a registered professional engineer; (4) a certified building official; or (5) a licensed home inspector. Provides that in certain counties, allows a governmental entity to require inspections of properties with residential onsite sewage systems in connection with a sale or transfer of property only if it has been more than 15 years since the property was last sold or transferred, or the Class 2 structure or system was constructed or installed.



February 27, 2024

Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1329

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A BILL FOR AN ACT to amend the Indiana Code concerning local government.

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

1 SECTION 1. IC 13-21-3-12.2, AS AMENDED BY P.L.104-2022,  
2 SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2024]: Sec. 12.2. (a) This section applies to a county having  
4 a population of more than one hundred eighty thousand (180,000) and  
5 less than one hundred eighty-five thousand (185,000).  
6 (b) In addition to the powers granted to a district under section 12  
7 of this chapter, a district may make grants or loans of money, property,  
8 or services to **the following:**  
9 (1) A public or private program to plant or maintain trees in an  
10 area of the district that is a right-of-way, public property, or  
11 vacant property.  
12 (2) A political subdivision located in the district for the  
13 purpose of repairing or maintaining municipal and county  
14 public roadways located within one (1) mile of any landfill  
15 located in the district.

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1           **(3) A political subdivision located in the district for**  
2           **emergency clean-up of trees and other debris resulting from**  
3           **a natural disaster or other casualty.**  
4           SECTION 2. IC 32-21-5.2 IS ADDED TO THE INDIANA CODE  
5 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
6 JULY 1, 2024]:  
7           **Chapter 5.2. Prohibition Against Mandated Inspection of a**  
8           **Class 2 Structure or Residential Onsite Sewage System**  
9           **Sec. 1. As used in this chapter, "Class 2 structure" has the**  
10          **meaning set forth in IC 22-12-1-5.**  
11          **Sec. 2. As used in this chapter, "governmental entity" means**  
12          **any of the following:**  
13               **(1) The state.**  
14               **(2) A state agency.**  
15               **(3) A political subdivision.**  
16               **(4) A local building department.**  
17          **Sec. 3. As used in this chapter, "local building department"**  
18          **means, in any county, city, or town, the department, division,**  
19          **agency, section, or office that enforces the Indiana building code**  
20          **adopted by the fire prevention and building safety commission, as**  
21          **required by IC 36-7-2-9(1).**  
22          **Sec. 4. As used in this chapter, "political subdivision" means**  
23          **any of the following:**  
24               **(1) A county.**  
25               **(2) A city, town, township, or special taxing district.**  
26               **(3) A regional water, sewage, or solid waste district organized**  
27               **under:**  
28                       **(A) IC 13-26; or**  
29                       **(B) IC 13-3-2 (before its repeal).**  
30               **(4) A drainage board established by IC 36-9-27-4.**  
31               **(5) A local public improvement bond bank established under**  
32               **IC 5-1.4.**  
33               **(6) A not-for-profit public water utility described in**  
34               **IC 8-1-2-125(a).**  
35               **(7) A conservancy district established under IC 14-33.**  
36               **(8) A county onsite waste management district established**  
37               **under IC 36-11.**  
38               **(9) A drainage district established under IC 14-27-8.**  
39          **Sec. 5. (a) As used in this chapter, "residential onsite sewage**  
40          **system" means all equipment and devices necessary for proper**  
41          **conduction, collection, storage, treatment, and onsite disposal of**  
42          **sewage from:**



- 1           (1) a one (1) or two (2) family dwelling;  
 2           (2) a residential outbuilding; or  
 3           (3) two (2) single family dwellings located on the same  
 4           property with a combined design daily flow of less than or  
 5           equal to seven hundred fifty (750) gallons per day.

6           (b) The term includes residential sewers, septic tanks, soil  
 7           absorption systems, temporary sewage holding tanks, and sanitary  
 8           vault privies.

9           (c) The term does not include a nonresidential onsite sewage  
 10          system, as defined in IC 16-18-2-253.2.

11          Sec. 6. As used in this chapter, "state agency" means an  
 12          authority, board, branch, commission, committee, department,  
 13          division, or other instrumentality of the executive, including the  
 14          administrative, department of state government.

15          Sec. 7. Except as provided in section 9 of this chapter, a  
 16          governmental entity shall not require that a Class 2 structure be  
 17          inspected:

- 18           (1) in connection with, or as a condition of:  
 19           (A) the sale of; or  
 20           (B) the transfer of title to;  
 21           a Class 2 structure; or  
 22           (2) as a prerequisite to the recording of a deed to the property  
 23           containing a Class 2 structure.

24          Sec. 8. Except as provided in section 9 of this chapter, a  
 25          governmental entity shall not require that a residential onsite  
 26          sewage system be inspected or tested:

- 27           (1) in connection with, or as a condition of:  
 28           (A) the sale of; or  
 29           (B) the transfer of title to;  
 30           a property containing the residential onsite sewage system; or  
 31           (2) as a prerequisite to the recording of a deed to the property  
 32           containing the residential onsite sewage system.

33          Sec. 9. (a) This section applies only to a county that has:

- 34           (1) a sole source aquifer; and  
 35           (2) an advisory board that:  
 36           (A) is established by an ordinance adopted not later than  
 37           December 31, 2023; and  
 38           (B) provides oversight to the local health department.

39          (b) This chapter only prohibits a governmental entity from  
 40          requiring inspection of a Class 2 structure or residential onsite  
 41          sewage system in connection with or as a condition of the sale,  
 42          transfer of title, or recording of a deed occurring not more than



1 **fifteen (15) years after:**

2 **(1) the last sale or transfer of title to the property; or**

3 **(2) the Class 2 structure or residential onsite sewage system**  
 4 **was built or installed on the property.**

5 **(c) The local health department may not charge a fee when a**  
 6 **property is transferred.**

7 SECTION 3. IC 36-1-4-22, AS ADDED BY P.L.123-2019,  
 8 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 9 JULY 1, 2024]: Sec. 22. (a) As used in this section, "license bond"  
 10 refers to a surety bond required by a political subdivision as a condition  
 11 that the political subdivision issue a license or a permit to a person.  
 12 **The term does not refer to a performance bond.**

13 (b) If a political subdivision requires a person to post a license bond,  
 14 a surety bond posted by the person is considered sufficient if the  
 15 following conditions are satisfied:

16 (1) The bond is written by a surety company authorized to transact  
 17 business in Indiana.

18 (2) The obligation on the bond is for an amount that is at least the  
 19 amount required by the political subdivision for the issuance of  
 20 the particular license or permit. A political subdivision may not  
 21 require the obligation on a license bond to be more than fifteen  
 22 thousand dollars (\$15,000).

23 (3) The obligee or obligees named on the bond are any of the  
 24 following:

25 (A) The political subdivision that requires the license bond.

26 (B) Specifically named political subdivisions in the county that  
 27 include the name of the political subdivision that requires the  
 28 license bond.

29 (C) All political subdivisions in the county in which the  
 30 political subdivision that requires the license bond is located.

31 (D) All political subdivisions of the same kind as the political  
 32 subdivision that requires the license bond located in the  
 33 county.

34 (4) The conditions of the bond otherwise comply with the  
 35 requirements of the ordinance that imposes the license bond  
 36 condition.

37 (c) A person required to post a license bond satisfies the posting  
 38 requirement if the person files a copy of the license bond with the  
 39 political subdivision or appropriate agency of the political subdivision  
 40 that requires the license bond. A political subdivision may not require  
 41 that the person record the license bond. **In addition, a political**  
 42 **subdivision may not impose any other requirement to identify the**



1 particular political subdivision as an obligee on the license bond  
2 other than what is required in subsection (b)(3).

3 (d) Nothing in this section may be construed to prohibit a  
4 political subdivision from requiring a person to meet registration  
5 requirements in order to ensure that the person meets professional  
6 standards or qualifications necessary for the person to perform the  
7 services for which the license bond is required.

8 (e) This subsection does not apply to a person that has had a  
9 license bond revoked by a political subdivision located in the same  
10 county as the political subdivision that is named an obligee on the  
11 licensee bond within one (1) year prior to the date the political  
12 subdivision refused to recognize the license bond that is subject to  
13 this subsection. If a license bond meets the requirements described  
14 in subsection (b) and a political subdivision that is named as an  
15 obligee on the license bond in the manner provided in subsection  
16 (b)(3) does not recognize or otherwise allow the obligor to post the  
17 license bond to obtain a license or permit, the obligor may initiate  
18 a civil action against the political subdivision. In a successful civil  
19 action against the political subdivision, the court shall award the  
20 obligor an amount equal to:

21 (1) three hundred percent (300%) of the cost of obtaining the  
22 license bond;

23 (2) damages compensating the obligor for the political  
24 subdivision's failure to recognize or otherwise allow the  
25 obligor to post the license bond; and

26 (3) reasonable attorney's fees.

27 SECTION 4. IC 36-1-4-22.1 IS ADDED TO THE INDIANA CODE  
28 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
29 1, 2024]: Sec. 22.1. (a) The following definitions apply throughout  
30 this section:

31 (1) "Contractor" means a person that enters into a contract  
32 requiring the person to perform one (1) or more tasks in a  
33 residential construction project or a similar project.

34 (2) "License bond" refers to a surety bond required by a  
35 political subdivision as a condition that the political  
36 subdivision issue a license or a permit to a person. The term  
37 does not refer to a performance bond.

38 (3) "Political subdivision" includes an agency, office, or  
39 department of the political subdivision.

40 (4) "Residential onsite sewage system" has the meaning set  
41 forth in IC 16-41-25-0.4(a).

42 (b) If a contractor:



1 (1) has posted a license bond to obtain one (1) license or  
2 registration from a political subdivision; and

3 (2) is required to obtain another license or registration from  
4 the political subdivision to perform work that the contractor  
5 intends to perform;

6 the contractor may not be required to post a second license bond  
7 as a condition of obtaining the second license or registration if the  
8 type of work that the first license or registration authorizes the  
9 contractor to perform is so closely related to the type of work that  
10 the second license or registration will authorize the contractor to  
11 perform that both types of work are typically involved in a single  
12 residential construction project.

13 (c) Under subsection (b), a contractor that has posted a license  
14 bond to obtain an excavator's license or registration from a  
15 political subdivision may not be required to post a second license  
16 bond to obtain a license or registration from the political  
17 subdivision as a residential onsite sewage system installer.

18 SECTION 5. IC 36-7-2-9.1 IS ADDED TO THE INDIANA CODE  
19 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
20 1, 2024]: Sec. 9.1. (a) This section applies only to a Class 2 structure  
21 for which a building permit is issued by a city, town, or county  
22 after June 30, 2024.

23 (b) This section does not apply to:

24 (1) a manufactured housing community; or

25 (2) a mobile home community;

26 that is licensed, permitted, and inspected by the Indiana  
27 department of health or a local board of health.

28 (c) As used in this section, "Class 2 structure" has the meaning  
29 set forth in IC 22-12-1-5.

30 (d) A city, town, or county that requires a building permit for  
31 the construction of a Class 2 structure may provide for the  
32 inspection to be conducted by:

33 (1) an individual who is employed by the city, town, or county  
34 as a building inspector;

35 (2) an individual who is employed by another city, town, or  
36 county as a building inspector; or

37 (3) a qualified individual who is:

38 (A) an architect registered under IC 25-4-1;

39 (B) a professional engineer registered under IC 25-31-1;

40 (C) a certified building official; or

41 (D) a home inspector licensed under IC 25-20.2.





## COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1329, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, between lines 25 and 26, begin a new paragraph and insert:

**"(d) Nothing in this section may be construed to prohibit a political subdivision from requiring a person to meet registration requirements in order to ensure that the person meets professional standards or qualifications necessary for the person to perform the services for which the license bond is required."**

Page 4, line 26, delete "(d)" and insert **"(e) This subdivision does not apply to a person that has had a license bond revoked by a political subdivision located in the same county as the political subdivision that is named an obligee on the licensee bond within one (1) year prior to date the political subdivision refused to recognize the license bond that is subject to this subsection."**

Page 6, line 1, delete "preceding the issuance or denial of the building permit".

and when so amended that said bill do pass.

(Reference is to HB 1329 as introduced.)

MAY

Committee Vote: yeas 8, nays 2.

## COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred House Bill No. 1329, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, line 15, after "7." delete "A" and insert **"Except as provided in section 9 of this chapter, a"**.

Page 3, line 23, after "8." delete "A" and insert **"Except as provided in section 9 of this chapter, a"**.

Page 3, between lines 30 and 31, begin a new paragraph and insert:

**"Sec. 9. (a) This section applies only to a county that has:**

**(1) a sole source aquifer; and**

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**(2) an advisory board that:**

**(A) is established by an ordinance adopted not later than December 31, 2023; and**

**(B) provides oversight to the local health department.**

**(b) This chapter only prohibits a governmental entity from requiring inspection of a Class 2 structure or residential onsite sewage system in connection with or as a condition of the sale, transfer of title, or recording of a deed occurring not more than fifteen (15) years after:**

**(1) the last sale or transfer of title to the property; or**

**(2) the Class 2 structure or residential onsite sewage system was built or installed on the property.**

**(c) The local health department may not charge a fee when a property is transferred."**

Page 3, line 35, after "person." insert "**The term does not refer to a performance bond.**".

Page 4, line 31, delete "subdivision" and insert "**subsection**".

Page 4, line 34, after "to" insert "**the**".

Page 5, line 10, delete "As used in this section:" and insert "**The following definitions apply throughout this section:**

**(1) "Contractor" means a person that enters into a contract requiring the person to perform one (1) or more tasks in a residential construction project or a similar project.**

**(2) "License bond" refers to a surety bond required by a political subdivision as a condition that the political subdivision issue a license or a permit to a person. The term does not refer to a performance bond.**

**(3) "Political subdivision" includes an agency, office, or department of the political subdivision.**

**(4) "Residential onsite sewage system" has the meaning set forth in IC 16-41-25-0.4(a)."**

Page 5, delete lines 11 through 20.

and when so amended that said bill do pass.

(Reference is to HB 1329 as printed January 23, 2024.)

BUCK, Chairperson

Committee Vote: Yeas 10, Nays 0.

