

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.

## HOUSE ENROLLED ACT No. 1329

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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 5-1-17-7, AS AMENDED BY HEA 1026-2024, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The board is composed of the following ~~seven (7)~~ **three (3)** members, who must be residents of Indiana:

(1) ~~Four (4)~~ members appointed by the governor. The president pro tempore of the senate and the speaker of the house of representatives may each make one (1) recommendation to the governor concerning the appointment of a member under this subdivision:

(2) ~~Two (2)~~ members appointed by the Marion County executive:

(3) One (1) member appointed by the governor, who has been nominated by the county fiscal body of a county that is contiguous to Marion County; determined as follows:

(A) The member nominated for the initial term shall be nominated by the contiguous county that has the largest population of all the contiguous counties that have adopted an ordinance to impose a food and beverage tax under IC 6-9-35.

(B) The member nominated for each successive term shall be nominated by the contiguous county that:

(i) contributed the most revenues from the tax imposed by IC 6-9-35 to the capital improvement board of managers



created by IC 36-10-9-3 in the immediately previous calendar year; and

(ii) has not previously made a nomination to the governor or, if all the contributing counties have previously made such a nomination, is the one whose then most recent nomination occurred before those of all the other contributing counties.

**(1) The director of the budget agency, or the director's designee, who shall serve as chair of the board.**

**(2) One (1) member appointed by the governor.**

**(3) One (1) member appointed by the executive of a county having a consolidated city.**

**(b) A member appointed under subsection (a)(2) serves a four (4) year term that expires December 31, 2025, and each fourth year thereafter. The member may be reappointed by the governor to subsequent terms. The governor shall fill a vacancy to the membership under subsection (a)(2) by appointing a new member for the vacated term.**

**(c) A member appointed under subsection (a)(3) serves a four (4) year term that expires December 31, 2027, and each fourth year thereafter. ~~(b) A~~ The member may be reappointed to by the executive of the county having a consolidated city to subsequent terms. A member of the general assembly appointed to the board serves a two (2) year term that expires June 30 of an odd-numbered year. A member of the board who is not a member of the general assembly serves a four (4) year term that expires as follows:**

**(1) If the member is appointed under subsection (a)(1), December 31, 2025, and each fourth year thereafter.**

**(2) If the member is appointed under subsection (a)(2) or (a)(3), December 31, 2027, and each fourth year thereafter.**

**(c) If a vacancy occurs on the board, the governor shall fill the vacancy by appointing a new member for the remainder of the vacated term. If the vacated member was appointed under subsection (a)(2) or (a)(3), the governor shall appoint a new member who has been nominated by the person or body who made the nomination of the vacated member. The executive of the county having a consolidated city shall fill a vacancy in the membership under subsection (a)(3) by appointing a new member for the remainder of the vacated term.**

**(d) A member appointed under subsection (a)(2) or (a)(3):**

**(1) continues to serve after the expiration of the appointment until a successor is appointed and qualified; and**

**(2) may be removed for with or without cause by the appointing authority.**



(e) Each member **appointed under subsection (a)(2) or (a)(3)**, before entering upon the duties of office, must take and subscribe an oath of office under IC 5-4-1, which shall be endorsed upon the certificate of appointment and filed with the records of the board.

~~(f) The governor shall nominate an executive director for the authority, subject to the veto authority of the Marion County executive.~~

SECTION 2. IC 5-1-17-8, AS ADDED BY P.L.214-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The board shall hold an ~~initial organizational meeting on or before June 30, 2005. Immediately after January 15 of each year, the board shall hold its~~ annual organizational meeting.

~~(b) The governor shall appoint a member of the board to serve as chair of the board.~~

~~(c) (b)~~ The board shall elect one (1) of the members vice chair and another secretary-treasurer to perform the duties of those offices. These officers serve from the date of their election and until their successors are elected and qualified. ~~The board may elect an assistant secretary-treasurer.~~

~~(d) (c)~~ Special meetings may be called by the chair of the board or ~~any three (3) the other two (2)~~ members of the board.

~~(e) (d)~~ A majority of the ~~Three (3)~~ members ~~constitutes constitute~~ a quorum, and the concurrence of a majority of the members is necessary to authorize any action.

SECTION 3. IC 5-1-17-18, AS AMENDED BY P.L.104-2022, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) Subject to subsection (h), the authority may issue bonds for the purpose of obtaining money to pay the cost of:

- (1) acquiring real or personal property, including existing capital improvements;
- (2) constructing, improving, reconstructing, or renovating one (1) or more capital improvements; or
- (3) funding or refunding bonds issued under IC 36-10-8 or IC 36-10-9 or prior law.

(b) The bonds are payable from the lease rentals from the lease of the capital improvements for which the bonds were issued, insurance proceeds, and any other funds pledged or available.

(c) The bonds shall be authorized by a resolution of the board.

(d) The terms and form of the bonds shall either be set out in the resolution or in a form of trust indenture approved by the resolution.

(e) The bonds shall mature within forty (40) years.

(f) The board shall sell the bonds at public or private sale upon the



terms determined by the board.

(g) All money received from any bonds issued under this chapter shall be applied to the payment of the cost of the acquisition or construction, or both, of capital improvements, or the cost of refunding or refinancing outstanding bonds, for which the bonds are issued. The cost may include:

- (1) planning and development of the facility and all buildings, facilities, structures, and improvements related to it;
- (2) acquisition of a site and clearing and preparing the site for construction;
- (3) equipment, facilities, structures, and improvements that are necessary or desirable to make the capital improvement suitable for use and operations;
- (4) architectural, engineering, consultant, and attorney's fees;
- (5) incidental expenses in connection with the issuance and sale of bonds;
- (6) reserves for principal and interest;
- (7) interest during construction;
- (8) financial advisory fees;
- (9) insurance during construction;
- (10) municipal bond insurance, debt service reserve insurance, letters of credit, or other credit enhancement; and
- (11) in the case of refunding or refinancing, payment of the principal of, redemption premiums (if any) for, and interest on, the bonds being refunded or refinanced.

(h) The authority may not issue bonds under this chapter unless the authority first finds that the following conditions are met:

- (1) The capital improvement board and the authority have entered into a written agreement concerning the terms of the financing of the facility. This agreement must include the following provisions:

(A) Notwithstanding any other law, if the capital improvement board selected a construction manager and an architect for a facility before May 15, 2005, the authority will contract with that construction manager and architect and use plans as developed by that construction manager and architect. In addition, any other agreements entered into by the capital improvement board or a political subdivision served by the capital improvement board with respect to the design and construction of the facility will be reviewed by a selection committee consisting of:

- (i) two (2) of the members appointed to the board of



directors of the authority under section 7(a)(1) of this chapter, as designated by the governor;

(ii) the two (2) members appointed to the board of directors of the authority under section 7(a)(2) of this chapter; and

(iii) the executive director of the authority.

**formed under this section (as in effect on May 15, 2005).**

The selection committee is not bound by any prior commitments of the capital improvement board or the political subdivision, other than the general project design, and will approve all contracts necessary for the design and construction of the facility.

(B) If before May 15, 2005, the capital improvement board acquired any land, plans, or other information necessary for the facility and the board had budgeted for these items, the capital improvement board will transfer the land, plans, or other information useful to the authority for a price not to exceed the lesser of:

(i) the actual cost to the capital improvement board; or

(ii) three million five hundred thousand dollars (\$3,500,000).

(C) The capital improvement board agrees to take any legal action that the authority considers necessary to facilitate the financing of the facility, including entering into agreements during the design and construction of the facility or a sublease of a capital improvement to any state agency that is then leased by the authority to any state agency under section 26 of this chapter.

(D) The capital improvement board is prohibited from taking any other action with respect to the financing of the facility without the prior approval of the authority. The authority is not bound by the terms of any agreement entered into by the capital improvement board with respect to the financing of the facility without the prior approval of the authority.

(E) As the project financier, the Indiana finance authority (or its successor agency) and the public finance director will be responsible for selecting all investment bankers, bond counsel, trustees, and financial advisors.

(F) The capital improvement board agrees to deliver to the authority the one hundred million dollars (\$100,000,000) that is owed to the capital improvement board, the consolidated city, or Marion County, pursuant to an agreement between the National Football League franchised professional football



team and the capital improvement board, the consolidated city, or Marion County. This amount shall be applied to the cost of construction for the stadium part of the facility. This amount does not have to be delivered until a lease is entered into for the stadium between the authority and the capital improvement board.

(G) The authority agrees to consult with the staff of the capital improvement board on an as needed basis during the design and construction of the facility, and the capital improvement board agrees to make its staff available for this purpose.

(H) The authority, Marion County, the consolidated city, the capital improvement board and the National Football League franchised professional football team must commit to using their best efforts to assist and cooperate with one another to design and construct the facility on time and on budget.

(2) The capital improvement board and the National Football League franchised professional football team have entered into a lease for the stadium part of the facility that has been approved by the authority and has a term of at least thirty (30) years.

SECTION 4. IC 13-21-3-12.2, AS AMENDED BY P.L.104-2022, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 12.2. (a) This section applies to a county having a population of more than one hundred eighty thousand (180,000) and less than one hundred eighty-five thousand (185,000).

(b) In addition to the powers granted to a district under section 12 of this chapter, a district may make grants or loans of money, property, or services to **the following:**

(1) A public or private program to plant or maintain trees in an area of the district that is a right-of-way, public property, or vacant property.

(2) **A political subdivision located in the district for the purpose of repairing or maintaining municipal and county public roadways located within one (1) mile of any landfill located in the district.**

(3) **A political subdivision located in the district for emergency clean-up of trees and other debris resulting from a natural disaster or other casualty.**

SECTION 5. IC 32-21-5.2 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]:

**Chapter 5.2. Prohibition Against Mandated Inspection of a Class 2 Structure or Residential Onsite Sewage System**



**Sec. 1.** As used in this chapter, "Class 2 structure" has the meaning set forth in IC 22-12-1-5.

**Sec. 2.** As used in this chapter, "governmental entity" means any of the following:

- (1) The state.
- (2) A state agency.
- (3) A political subdivision.
- (4) A local building department.

**Sec. 3.** As used in this chapter, "local building department" means, in any county, city, or town, the department, division, agency, section, or office that enforces the Indiana building code adopted by the fire prevention and building safety commission, as required by IC 36-7-2-9(1).

**Sec. 4.** As used in this chapter, "political subdivision" means any of the following:

- (1) A county.
- (2) A city, town, township, or special taxing district.
- (3) A regional water, sewage, or solid waste district organized under:
  - (A) IC 13-26; or
  - (B) IC 13-3-2 (before its repeal).
- (4) A drainage board established by IC 36-9-27-4.
- (5) A local public improvement bond bank established under IC 5-1.4.
- (6) A not-for-profit public water utility described in IC 8-1-2-125(a).
- (7) A conservancy district established under IC 14-33.
- (8) A county onsite waste management district established under IC 36-11.
- (9) A drainage district established under IC 14-27-8.

**Sec. 5. (a)** As used in this chapter, "residential onsite sewage system" means all equipment and devices necessary for proper conduction, collection, storage, treatment, and onsite disposal of sewage from:

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

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



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

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

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

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

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

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

**Sec. 9. (a)** This section applies only to property located in that part of St. Joseph County containing a designated sole source aquifer.

(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.

SECTION 6. IC 36-1-4-22, AS ADDED BY P.L.123-2019, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 22. (a) As used in this section, "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.**

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

- (1) The bond is written by a surety company authorized to transact business in Indiana.
- (2) The obligation on the bond is for an amount that is at least the amount required by the political subdivision for the issuance of the particular license or permit. A political subdivision may not require the obligation on a license bond to be more than fifteen thousand dollars (\$15,000).
- (3) The obligee or obligees named on the bond are any of the following:
  - (A) The political subdivision that requires the license bond.
  - (B) Specifically named political subdivisions in the county that include the name of the political subdivision that requires the license bond.
  - (C) All political subdivisions in the county in which the political subdivision that requires the license bond is located.
  - (D) All political subdivisions of the same kind as the political subdivision that requires the license bond located in the county.
- (4) The conditions of the bond otherwise comply with the requirements of the ordinance that imposes the license bond condition.

(c) A person required to post a license bond satisfies the posting requirement if the person files a copy of the license bond with the political subdivision or appropriate agency of the political subdivision that requires the license bond. A political subdivision may not require that the person record the license bond. **In addition, a political subdivision may not impose any other requirement to identify the particular political subdivision as an obligee on the license bond other than what is required in subsection (b)(3).**

(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.**

(e) **This subsection 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 the date the political**



subdivision refused to recognize the license bond that is subject to this subsection. If a license bond meets the requirements described in subsection (b) and a political subdivision that is named as an obligee on the license bond in the manner provided in subsection (b)(3) does not recognize or otherwise allow the obligor to post the license bond to obtain a license or permit, the obligor may initiate a civil action against the political subdivision. In a successful civil action against the political subdivision, the court shall award the obligor an amount equal to:

- (1) three hundred percent (300%) of the cost of obtaining the license bond;
- (2) damages compensating the obligor for the political subdivision's failure to recognize or otherwise allow the obligor to post the license bond; and
- (3) reasonable attorney's fees.

SECTION 7. IC 36-1-4-22.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 22.1. (a) 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).

(b) If a contractor:

- (1) has posted a license bond to obtain one (1) license or registration from a political subdivision; and
- (2) is required to obtain another license or registration 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 or registration if the type of work that the first license or registration authorizes the contractor to perform is so closely related to the type of work that the second license or registration will authorize the contractor to perform that both types of work are typically involved in a single



residential construction project.

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

SECTION 8. IC 36-7-2-9.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: **Sec. 9.1. (a) This section applies only to a Class 2 structure for which a building permit is issued by a city, town, or county after June 30, 2024.**

**(b) This section does not apply to:**

- (1) a manufactured housing community; or**
- (2) a mobile home community;**

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

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

**(d) 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 who is employed by the city, town, or county as a building inspector;**
- (2) an individual who is employed by another city, town, or county as a building inspector; or**
- (3) a qualified individual who is:**
  - (A) an architect registered under IC 25-4-1;**
  - (B) a professional engineer registered under IC 25-31-1;**
  - (C) a certified building official; or**
  - (D) a home inspector licensed under IC 25-20.2.**

**SECTION 9. An emergency is declared for this act.**



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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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