



February 23, 2016

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# ENGROSSED HOUSE BILL No. 1372

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DIGEST OF HB 1372 (Updated February 18, 2016 12:40 pm - DI 73)

**Citations Affected:** IC 5-4; IC 5-11; IC 5-13; IC 6-3.6; IC 20-26.

**Synopsis:** Public personnel bonds and state board of accounts. Amends the law requiring surety bonds for certain individuals having public fiscal responsibilities to: (1) define "contractor"; (2) allow for filing of the bond in the county of office or employment rather than residence; (3) set threshold amounts of public funds for which a bond is required; (4) permit the use of a schedule bond; (5) permit the use of a continuous bond; and (6) require a crime insurance policy that meets the requirement to include a faithful performance endorsement.  
(Continued next page)

**Effective:** July 1, 2016.

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## Lehman, Truitt, Riecken

(SENATE SPONSOR — CHARBONNEAU)

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January 12, 2016, read first time and referred to Committee on Government and Regulatory Reform.

January 19, 2016, reported — Do Pass.

January 25, 2016, read second time, ordered engrossed.

January 26, 2016, engrossed. Read third time, passed. Yeas 91, nays 0.

### SENATE ACTION

February 8, 2016, read first time and referred to Committee on Appropriations.

February 22, 2016, amended, reported favorably — Do Pass.

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EH 1372—LS 6743/DI 97



## Digest Continued

Provides that any claim under a continuous bond must be brought not later than four years after the occurrence giving rise to the claim. Specifies the following: (1) That the maximum aggregate liability of the surety or insurer for a policy year is the penal sum of the bond. (2) That in the case of a continuous bond, the maximum aggregate liability of the surety or insurer for the entire term that the bond is in effect is the penal sum of the bond for the current term of the bond and the penal sums of the bond for the three immediately preceding years. Allows, in certain circumstances, the state examiner to issue an examination final report less than 45 days after an initial exit conference. Allows certain individuals who receive state board of accounts records to divulge the records in an action with respect to the misappropriation or diversion of public funds. Removes requirements for annual audits by the state examiner of certain funds and allows the audits to be performed according to the state examiner's schedule. Makes conforming amendments.

**EH 1372—LS 6743/DI 97**



February 23, 2016

Second Regular Session of the 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1372

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 5-4-1-0.5 IS ADDED TO THE INDIANA CODE  
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2016]: **Sec. 0.5. As used in this chapter, "contractor" means an  
4 individual or entity that:**

- 5 (1) enters into a contractual relationship with a city, town,  
6 county, or township;  
7 (2) has a fiduciary relationship with or performs a fiscal  
8 responsibility for the city, town, county, or township; and  
9 (3) is not insured, for purposes of the individual's or entity's  
10 accounts, by the Federal Deposit Insurance Corporation.

11 SECTION 2. IC 5-4-1-5.1, AS AMENDED BY P.L.230-2015,  
12 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
13 JULY 1, 2016]: Sec. 5.1. (a) "Political subdivision" as used in this  
14 section has the meaning set forth in IC 36-1-2-13 and excludes any  
15 department or agency of the state.

16 (b) Every elected or appointed officer, official, deputy, employee,  
17 or contractor of a political subdivision who is required by section 18 of

**EH 1372—LS 6743/DI 97**



1 this chapter to file an official bond for the faithful performance of duty,  
 2 except the county recorder and deputies and employees of the recorder,  
 3 shall file the bond with the fiscal officer of the political subdivision and  
 4 in the office of the county recorder in the county of ~~residence office or~~  
 5 **employment** of the officer, official, deputy, ~~or~~ employee, ~~or~~  
 6 **contractor**. The county recorder and deputies and employees of the  
 7 recorder shall file their bonds with the county auditor and in the office  
 8 of the clerk of the circuit court.

9 (c) The bonds described in subsection (b) shall be filed within ten  
 10 (10) days of their issuance or, if approval is required, within ten (10)  
 11 days after their approval by the person required to approve the bonds.  
 12 The recorder shall record all of the bonds filed under this section,  
 13 indexing them alphabetically under the name of the principal and  
 14 referring to the title, office, and page number where recorded. The  
 15 bonds shall be kept in a safe and convenient place in the recorder's  
 16 office with a reference to the date filed and record and page where  
 17 recorded.

18 (d) Every county officer who is required to give bond shall have a  
 19 copy of the oath of office recorded with the bond.

20 (e) The fiscal officer of a political subdivision with whom an official  
 21 bond is filed under subsection (b) shall file a copy of the bond with the  
 22 state board of accounts:

23 (1) contemporaneously with the filing of the political  
 24 subdivision's annual financial report required under  
 25 IC 5-11-1-4(a); and

26 (2) electronically in the manner prescribed under IC 5-14-3.8-7.

27 (f) The state board of accounts shall maintain a data base of bonds  
 28 received under this section and make the data base available to the  
 29 public on the state board of accounts Internet web site. To the extent  
 30 practicable, the data base must include a list that specifies:

31 (1) every individual who is required by section 18 of this chapter  
 32 to file; and

33 (2) whether each individual specified under subdivision (1) has  
 34 obtained and filed;

35 an official bond for the faithful performance of duty.

36 SECTION 3. IC 5-4-1-18, AS AMENDED BY P.L.230-2015,  
 37 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 38 JULY 1, 2016]: Sec. 18. (a) Except as provided in ~~subsection~~  
 39 **subsections (b), (c), and (d)**, the following individuals shall file and  
 40 maintain in place an individual surety bond during each year that the  
 41 individual serves as an officer, employee, or contractor:

42 (1) City judges, controllers, clerks, and clerk-treasurers.



- 1 (2) Town judges and clerk-treasurers.  
 2 (3) Auditors, treasurers, recorders, surveyors, sheriffs, coroners,  
 3 assessors, and clerks.  
 4 (4) Township trustees.  
 5 (5) Those employees directed to file an individual bond by the  
 6 fiscal body of a city, town, or county.  
 7 (6) Township assessors (if any).  
 8 (7) Individuals:  
 9 (A) who are employees or contractors of a city, town, county,  
 10 or township; and  
 11 (B) whose official duties include receiving, processing,  
 12 depositing, disbursing, or otherwise having access to funds:  
 13 (i) that belong to the federal government, the state, a  
 14 political subdivision, or another governmental entity; **and**  
 15 (ii) **in an amount that exceeds five thousand dollars**  
 16 **(\$5,000) per year.**
- 17 (b) The fiscal body of a city, town, county, or township may by  
 18 ordinance authorize the purchase of a blanket bond that:  
 19 (1) is endorsed to include faithful performance to cover the  
 20 faithful performance of; and  
 21 (2) includes aggregate coverage sufficient to provide coverage  
 22 amounts specified for;  
 23 all employees, commission members, and persons acting on behalf of  
 24 the local government unit, including the officers, employees, and  
 25 contractors described in subsection (a) who are required to file a bond  
 26 under this chapter.
- 27 (c) **The fiscal body of a city, town, county, or township may by**  
 28 **ordinance authorize the purchase of a name or position schedule**  
 29 **bond that:**  
 30 **(1) names each individual or each position covered under the**  
 31 **schedule bond;**  
 32 **(2) is endorsed to include faithful performance to cover the**  
 33 **faithful performance of all officers, employees, and**  
 34 **contractors described in subsection (a) who are required to**  
 35 **file a bond under this chapter; and**  
 36 **(3) includes aggregate coverage sufficient to provide coverage**  
 37 **amounts specified for all officers, employees, and contractors**  
 38 **described in subsection (a) who are required to file a bond**  
 39 **under this chapter.**
- 40 (d) The fiscal body of a city, town, county, or township may by  
 41 ordinance (or for a township, by resolution) authorize the purchase of  
 42 a crime insurance policy that:



- 1 (1) provides coverage for criminal acts or omissions committed  
 2 by;  
 3 (2) is endorsed to include faithful performance to cover the  
 4 faithful performance of; and  
 5 (3) includes aggregate coverage sufficient to provide coverage  
 6 amounts specified for;  
 7 all officers, employees, contractors, commission members, and persons  
 8 acting on behalf of the local government unit **and required to file a**  
 9 **bond under this chapter.** For the sole purpose of recovering public  
 10 funds on behalf of a local government unit, the state is considered to be  
 11 an additional named insured on all crime insurance policies **and**  
 12 **endorsements** obtained under this subsection.
- 13 ~~(d)~~ (e) Except as provided in subsections ~~(j)~~ and (k) **and (l)**, the  
 14 fiscal bodies of the respective units shall fix the amount of the bond of  
 15 city controllers, city clerk-treasurers, town clerk-treasurers, Barrett Law  
 16 fund custodians, county treasurers, county sheriffs, circuit court clerks,  
 17 township trustees, and conservancy district financial clerks as follows:  
 18 (1) The amount must equal thirty thousand dollars (\$30,000) for  
 19 each one million dollars (\$1,000,000) of receipts of the officer's  
 20 office during the last complete fiscal year before the purchase of  
 21 the bond, subject to subdivision (2).  
 22 (2) The amount may not be less than thirty thousand dollars  
 23 (\$30,000) nor more than three hundred thousand dollars  
 24 (\$300,000) unless the fiscal body approves a greater amount for  
 25 the officer or employee.
- 26 County auditors shall file bonds in amounts of not less than thirty  
 27 thousand dollars (\$30,000), as fixed by the fiscal body of the county.
- 28 ~~(e)~~ (f) The amount of the bond of a person who is not specified in  
 29 subsection ~~(d)~~ (e) and is required to file an individual bond shall be  
 30 fixed by the fiscal body of the unit as follows:  
 31 (1) If the person is not described in subsection (a)(7), at not less  
 32 than fifteen thousand dollars (\$15,000).  
 33 (2) If the person is described in subsection (a)(7), at not less than  
 34 five thousand dollars (\$5,000).
- 35 ~~(f)~~ (g) Except as provided in subsection ~~(j)~~; **(m)**, a controller of a  
 36 solid waste management district established under IC 13-21 or  
 37 IC 13-9.5 (before its repeal) shall file an individual surety bond in an  
 38 amount:  
 39 (1) fixed by the board of directors of the solid waste management  
 40 district; and  
 41 (2) that is at least thirty thousand dollars (\$30,000).  
 42 ~~(g)~~ (h) Except as provided under subsection ~~(f)~~; **(g)**, a person who



1 is required to file an individual surety bond by the board of directors of  
 2 a solid waste management district established under IC 13-21 or  
 3 IC 13-9.5 (before its repeal) shall file a bond in an amount fixed by the  
 4 board of directors.

5 ~~(h)~~ **(i)** In 1982 and every four (4) years after that, the state examiner  
 6 shall review the bond amounts fixed under this section and report in an  
 7 electronic format under IC 5-14-6 to the general assembly whether  
 8 changes are necessary to ensure adequate and economical coverage.

9 ~~(i)~~ **(j)** The commissioner of insurance shall prescribe the form of the  
 10 bonds or crime insurance policies required by this section, in  
 11 consultation with the state board of accounts and the Indiana archives  
 12 and records administration under IC 5-15-5.1-6. A bond or crime  
 13 insurance policy that does not conform to the form prescribed under  
 14 this subsection may not be used to meet the requirements of this  
 15 chapter.

16 ~~(j)~~ **(k)** Notwithstanding subsection ~~(d)~~, **(e)**, the state board of  
 17 accounts may fix the amount of the bond for a city controller, city  
 18 clerk-treasurer, town clerk-treasurer, Barrett Law fund custodian,  
 19 county treasurer, county sheriff, circuit court clerk, township trustee,  
 20 or conservancy district financial clerk at an amount that exceeds thirty  
 21 thousand dollars (\$30,000) for each one million dollars (\$1,000,000)  
 22 of receipts of the officer's office during the last complete fiscal year  
 23 before the purchase of the bond. However, the bond amount may not  
 24 exceed three hundred thousand dollars (\$300,000). An increased bond  
 25 amount may be established under this subsection only if the state  
 26 examiner issues a report under IC 5-11-5-1 that includes a finding that  
 27 the officer engaged in malfeasance, misfeasance, or nonfeasance that  
 28 resulted in the misappropriation of, diversion of, or inability to account  
 29 for public funds.

30 ~~(k)~~ **(l)** Notwithstanding subsection ~~(e)~~, **(f)**, the state board of  
 31 accounts may fix the amount of the bond for any person who is  
 32 described in:

33 (1) subsection ~~(e)~~**(1)** and is required to file an individual  
 34 bond at an amount that exceeds fifteen thousand dollars  
 35 (\$15,000); or

36 (2) subsection ~~(e)~~**(2)** and is required to file an individual  
 37 bond at an amount that exceeds five thousand dollars (\$5,000).

38 An increased bond amount may be established under this subsection  
 39 only if the state examiner issues a report under IC 5-11-5-1 that  
 40 includes a finding that the person engaged in malfeasance,  
 41 misfeasance, or nonfeasance that resulted in the misappropriation of,  
 42 diversion of, or inability to account for public funds.



1           ~~(f)~~ **(m)** Notwithstanding subsection ~~(f)~~; **(g)**, the state board of  
 2 accounts may fix the amount of the bond for a controller of a solid  
 3 waste management district established under IC 13-21 or IC 13-9.5  
 4 (before its repeal) at an amount that exceeds thirty thousand dollars  
 5 (\$30,000). An increased bond amount may be established under this  
 6 subsection only if the state examiner issues a report under IC 5-11-5-1  
 7 that includes a finding that the controller engaged in malfeasance,  
 8 misfeasance, or nonfeasance that resulted in the misappropriation of,  
 9 diversion of, or inability to account for public funds.

10           ~~(m)~~ **(n)** ~~Both of~~ The following apply to a bond that is filed to comply  
 11 with this section:

12           (1) Each bond must ~~have a term of~~ **provide coverage in the**  
 13 **amount required for the individual covered under the bond**  
 14 **for one (1) year (the policy year) commencing on the first day of**  
 15 **the:**

16                   (A) calendar year;

17                   (B) fiscal year of the political subdivision or governmental  
 18 unit; or

19                   (C) individual's service in the office or ~~employment~~ position  
 20 for which a bond is required.

21           (2) ~~Consecutive yearly bonds filed by an individual must provide~~  
 22 ~~separate coverage for each year. A continuous bond may be~~  
 23 ~~used to satisfy the requirement of subdivision (1) if the bond:~~

24                   (A) **is renewed on an annual basis for the period during**  
 25 **which the individual serves in the office or position for**  
 26 **which a bond is required; and**

27                   (B) **provides coverage in the amount required for the**  
 28 **individual covered under the bond for each policy year.**

29           **However, any claim under a continuous bond used under this**  
 30 **subdivision must be brought not later than four (4) years after**  
 31 **the occurrence giving rise to the claim.**

32           (3) The **maximum** aggregate liability of the surety or insurer for  
 33 a **single** policy year is the **penal sum of the bond. In the case of**  
 34 **a continuous bond, the maximum aggregate liability of the**  
 35 **surety or insurer for the entire term that the bond is in effect**  
 36 **is the penal sum of the amounts specified in the bonds issued by**  
 37 **the surety or insurer for that policy year. bond for the current**  
 38 **term of the bond and the penal sums of the bond for the three**  
 39 **(3) immediately preceding years.**

40           SECTION 4. IC 5-4-1-19, AS AMENDED BY P.L.126-2012,  
 41 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 42 JULY 1, 2016]: Sec. 19. The bonds prescribed by IC 5-4-1-18 cover the





1 faithful performance of the duties of the officer, ~~or~~ employee, **or**  
 2 **contractor**, including the duty to comply with IC 35-44.1-1-1 and the  
 3 duty to account properly for all monies and property received by virtue  
 4 of the officer's, ~~position or employment.~~ **employee's, or contractor's**  
 5 **service in the office or position.**

6 SECTION 5. IC 5-11-5-1, AS AMENDED BY P.L.181-2015,  
 7 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 8 JULY 1, 2016]: Sec. 1. (a) Whenever an examination is made under  
 9 this article, a report of the examination shall be made. The report must  
 10 include a list of findings and shall be signed and verified by the  
 11 examiner making the examination. A finding that is critical of an  
 12 examined entity must be based upon one (1) of the following:

13 (1) Failure of the entity to observe a uniform compliance  
 14 guideline established under IC 5-11-1-24(a).

15 (2) Failure of the entity to comply with a specific law.

16 A report that includes a finding that is critical of an examined entity  
 17 must designate the uniform compliance guideline or the specific law  
 18 upon which the finding is based. The reports shall immediately be filed  
 19 with the state examiner, and, after inspection of the report, the state  
 20 examiner shall immediately file one (1) copy with the officer or person  
 21 examined, one (1) copy with the auditing department of the  
 22 municipality examined and reported upon (if the subject of the report  
 23 is a municipality), and one (1) copy in an electronic format under  
 24 IC 5-14-6 with the legislative services agency, as staff to the audit  
 25 committee and the general assembly. Upon filing, the report becomes  
 26 a part of the public records of the office of the state examiner, of the  
 27 office or the person examined, of the auditing department of the  
 28 municipality examined and reported upon, and of the legislative  
 29 services agency, as staff to the audit committee and the general  
 30 assembly. A report is open to public inspection at all reasonable times  
 31 after it is filed. If an examination discloses malfeasance, misfeasance,  
 32 or nonfeasance in office or of any officer or employee, a copy of the  
 33 report, signed and verified, shall be placed by the state examiner with  
 34 the attorney general and the inspector general. The attorney general  
 35 shall diligently institute and prosecute civil proceedings against the  
 36 delinquent officer, or upon the officer's official bond, or both, and  
 37 against any other proper person that will secure to the state or to the  
 38 proper municipality the recovery of any funds misappropriated,  
 39 diverted, or unaccounted for.

40 (b) Before an examination report is signed, verified, and filed as  
 41 required by subsection (a), the officer or the chief executive officer of  
 42 the state office, municipality, or entity examined must have an



1 opportunity to review the report and to file with the state examiner a  
2 written response to that report. If a written response is filed, it becomes  
3 a part of the examination report that is signed, verified, and filed as  
4 required by subsection (a). As part of the review of the examination  
5 report, the state examiner shall hold a gathering of the officer or chief  
6 executive officer of the state office, municipality, or entity examined,  
7 any employees or agents of the state office, municipality, or entity  
8 examined who are requested to attend by the officer or chief executive  
9 officer of the state office, municipality, or entity examined, and the  
10 members of the legislative and fiscal bodies of the municipality or  
11 entity examined. Such a gathering is referred to as an "exit conference"  
12 for purposes of this subsection. The following apply to an exit  
13 conference:

14 (1) All information discussed and materials presented or delivered  
15 by any person during an exit conference are confidential and may  
16 not be discussed or shared publicly until the earliest of the  
17 occurrences set forth in subsection (g). However, the information  
18 discussed and materials presented or delivered during an exit  
19 conference may be shared with an officer, employee, consultant,  
20 adviser, or attorney of the officer or chief executive officer of the  
21 state office, municipality, or entity examined who was not present  
22 at the exit conference. An individual with whom information and  
23 materials are shared must maintain the confidentiality of the  
24 information and materials as provided in this subdivision until the  
25 earliest of the occurrences set forth in subsection (g).

26 (2) An individual attending an exit conference may not  
27 electronically record the exit conference.

28 (3) If a majority of a governing body (as defined in  
29 IC 5-14-1.5-2(b)) is present during an exit conference, the  
30 governing body shall be considered in an executive session under  
31 IC 5-14-1.5. However, the governing body has no obligation to  
32 give notice as prescribed by IC 5-14-1.5-5 when it participates in  
33 the exit conference.

34 (4) If the state examiner determines after the exit conference that  
35 additional actions must be undertaken by a deputy examiner, field  
36 examiner, or private examiner with respect to information  
37 discussed or materials presented at the exit conference, the state  
38 examiner may call for an additional exit conference to be held.

39 (5) Not more than thirty (30) days after the initial exit conference  
40 is held under this subsection, the legislative body of the  
41 municipality or entity examined and reported upon may adopt a  
42 resolution, approved by at least a two-thirds (2/3) vote of the



1 legislative body, requesting that an additional exit conference be  
 2 held. The legislative body shall notify the state board of accounts  
 3 if the legislative body adopts a resolution under this subdivision.  
 4 If a legislative body adopts a resolution under this subdivision, the  
 5 state board of accounts shall conduct an additional exit  
 6 conference not more than sixty (60) days after the state board of  
 7 accounts receives notice of the adoption of the resolution. The  
 8 municipality or entity examined must pay the travel and staff  
 9 costs incurred by the state board of accounts in conducting an  
 10 additional exit conference under this subdivision.

11 **(6) Except as provided in subdivision (7), a final report under**  
 12 **subsection (a) may not be issued earlier than forty-five (45) days**  
 13 **after the initial exit conference is held under this subsection.**

14 **(7) If:**

15 **(A) the state examiner does not call for an additional exit**  
 16 **conference to be held as described in subdivision (4); and**

17 **(B) the:**

18 **(i) legislative body of the municipality or entity examined**  
 19 **and reported upon provides written notice to the state**  
 20 **examiner that the legislative body waives an additional**  
 21 **exit conference described in subdivision (5); or**

22 **(ii) state examiner determines that a final report under**  
 23 **subsection (a) must be issued as soon as possible;**

24 **the final report may be issued earlier than forty-five (45) days**  
 25 **after the initial exit conference is held under this subsection.**

26 (c) Except as provided by subsections (b), (d), and (e), it is unlawful  
 27 for any person, before an examination report is made public as  
 28 provided by this section, to make any disclosure of the result of any  
 29 examination of any public account, except:

30 (1) to the state examiner;

31 (2) if directed to give publicity to the examination report by the  
 32 state examiner or by any court;

33 (3) to another deputy examiner, field examiner, or private  
 34 examiner engaged in conducting the examination; or

35 (4) if directed by the state examiner, to the chair of the audit  
 36 committee or the members of the audit committee acting in  
 37 executive session, or both.

38 If an examination report shows or discloses the commission of a crime  
 39 by any person, it is the duty of the state examiner to transmit and  
 40 present the examination report to the prosecuting attorney of the county  
 41 in which the crime was committed. The state examiner shall furnish to  
 42 the prosecuting attorney all evidence at the state examiner's command



1 necessary in the investigation and prosecution of the crime.

2 (d) If, during an examination under this article, a deputy examiner,  
3 field examiner, or private examiner acting as an agent of the state  
4 examiner determines that the following conditions are satisfied, the  
5 examiner shall report the determination to the state examiner:

6 (1) A substantial amount of public funds has been  
7 misappropriated or diverted.

8 (2) The deputy examiner, field examiner, or private examiner  
9 acting as an agent of the state examiner has a reasonable belief  
10 that the malfeasance or misfeasance that resulted in the  
11 misappropriation or diversion of the public funds was committed  
12 by the officer or an employee of the office.

13 (e) After receiving a preliminary report under subsection (d), the  
14 state examiner may provide a copy of the report to the attorney general.  
15 The attorney general may institute and prosecute civil proceedings  
16 against the delinquent officer or employee, or upon the officer's or  
17 employee's official bond, or both, and against any other proper person  
18 that will secure to the state or to the proper municipality the recovery  
19 of any funds misappropriated, diverted, or unaccounted for.

20 (f) In an action under subsection (e), the attorney general may attach  
21 the defendant's property under IC 34-25-2.

22 (g) Except as permitted in this section, the information and materials  
23 that are part of an exit conference under subsection (b) and the results  
24 of an examination, including a preliminary report under subsection (d),  
25 are confidential until the occurrence of the earliest of the following:

26 (1) The final report is made public under subsection (a).

27 (2) The results of the examination are publicized under subsection  
28 (c)(2).

29 (3) The attorney general institutes an action under subsection (e)  
30 on the basis of the preliminary report.

31 (h) Except as permitted in this section, an individual, a public  
32 agency (as defined in IC 5-14-3-2), a public employee, a public official,  
33 or an employee or officer of a contractor or subcontractor of a public  
34 agency that knowingly or intentionally discloses information in  
35 violation of subsection (b) or (g), regardless of whether the information  
36 is received orally or by any other means, is subject to the following:

37 (1) A public agency (as defined in IC 5-14-3-2), a public  
38 employee, a public official, or an employee or officer of a  
39 contractor or subcontractor of a public agency commits a Class A  
40 infraction under IC 5-14-3-10.

41 (2) If the disclosure is by a person who is not described in  
42 subdivision (1), the person commits a Class A infraction.



1 (i) Unless in accordance with a judicial order or as otherwise  
 2 provided in this section, the state board of accounts or its employees,  
 3 former employees, counsel, or agents, or any other person may not  
 4 divulge the examination workpapers and investigation records of a  
 5 deputy examiner, a field examiner, or a private examiner acting as an  
 6 agent of the state examiner, except to:

- 7 (1) employees and members of the state board of accounts;  
 8 (2) the audit committee;  
 9 (3) law enforcement officers, the attorney general, a prosecuting  
 10 attorney, or any other legal representative of the state in any  
 11 action with respect to the misappropriation or diversion of public  
 12 funds; or  
 13 (4) an authorized representative of the United States.

14 **(j) An individual described in subsection (i)(3) or (i)(4) who**  
 15 **receives examination workpapers and investigation records**  
 16 **described in subsection (i) may divulge the workpapers and**  
 17 **records in any action with respect to the misappropriation or**  
 18 **diversion of public funds.**

19 SECTION 6. IC 5-13-10.5-18, AS AMENDED BY P.L.213-2015,  
 20 SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 21 JULY 1, 2016]: Sec. 18. (a) As used in this section, "capital  
 22 improvement board" refers to a capital improvement board established  
 23 under IC 36-10-9.

24 (b) To qualify for an investment under this section, the capital  
 25 improvement board must apply to the treasurer of state in the form and  
 26 manner required by the treasurer. As part of the application, the capital  
 27 improvement board shall submit a plan for its use of the investment  
 28 proceeds and for the repayment of the capital improvement board's  
 29 obligation to the treasurer. Within sixty (60) days after receipt of each  
 30 application, the treasurer shall consider the application and review its  
 31 accuracy and completeness.

32 (c) If the capital improvement board makes an application under  
 33 subsection (b) and the treasurer approves the accuracy and  
 34 completeness of the application and determines that there is an  
 35 adequate method of payment for the capital improvement board's  
 36 obligations, the treasurer of state shall invest or reinvest funds that are  
 37 held by the treasurer and that are available for investment in  
 38 obligations issued by the capital improvement board for the purposes  
 39 of the capital improvement board in calendar years 2009, 2010, and  
 40 2011. The investment may not exceed nine million dollars (\$9,000,000)  
 41 per calendar year for 2009, 2010, and 2011.

42 (d) The treasurer of state shall determine the terms of each



1 investment and the capital improvement board's obligation, which must  
2 include the following:

3 (1) Subject to subsections (f) and (g), the duration of the capital  
4 improvement board's obligation, which must be for a term of ten  
5 (10) years with an option for the capital improvement board to  
6 pay its obligation to the treasurer early without penalty.

7 (2) Subject to subsections (f) and (g), the repayment schedule of  
8 the capital improvement board's obligation, which must provide  
9 that no payments are due before January 1, 2013.

10 (3) A rate of interest to be determined by the treasurer.

11 (4) The amount of each investment, which may not exceed the  
12 maximum amounts established for the capital improvement board  
13 by this section.

14 (5) Any other conditions specified by the treasurer.

15 (e) The capital improvement board may issue obligations under this  
16 section by adoption of a resolution and, as set forth in IC 5-1-14, may  
17 use any source of revenue to satisfy the obligation to the treasurer of  
18 state under this section. This section constitutes complete authority for  
19 the capital improvement board to issue obligations to the treasurer. If  
20 the capital improvement board fails to make any payments on the  
21 capital improvement board's obligation to the treasurer, the amount  
22 payable shall be withheld by the auditor of state from any other money  
23 payable to the capital improvement board. The amount withheld shall  
24 be transferred to the treasurer to the credit of the capital improvement  
25 board.

26 (f) Subject to subsection (g), if all principal and interest on the  
27 obligations issued by the capital improvement board under this section  
28 in calendar year 2009, are paid before July 1, 2015, the term of the  
29 obligations issued by the capital improvement board to the treasurer of  
30 state in calendar year 2010 is extended until 2025.

31 (g) This subsection applies if the capital improvement board before  
32 July 1, 2015, adopts a resolution:

33 (1) to establish a bid fund to be used to assist the capital  
34 improvement board, the Indianapolis Convention and Visitors  
35 Association (VisitIndy), or the Indiana Sports Corporation in  
36 securing conventions, sporting events, and other special events;  
37 and

38 (2) to designate that principal and interest payments that would  
39 otherwise be made on the obligation issued by the capital  
40 improvement board under this section in calendar year 2010 shall  
41 instead be deposited in the bid fund.

42 If the requirements of subdivisions (1) and (2) are satisfied and the



1 capital improvement board deposits in the bid fund amounts equal to  
 2 the principal and interests payments that would otherwise be made  
 3 under the repayment schedule on the obligations issued by the capital  
 4 improvement board under this section in calendar year 2010, the capital  
 5 improvement board is not required to make those principal and  
 6 interests payments to the treasurer of state at the time required under  
 7 the repayment schedule. The amounts must be deposited in the bid  
 8 fund not later than the time the principal and interest payments would  
 9 otherwise be due to the treasurer of state under the repayment schedule.  
 10 The state board of accounts shall ~~annually~~ examine the bid fund **under**  
 11 **IC 5-11-1** to determine the amount of deposits made to the bid fund  
 12 under this subsection and to ensure that the money deposited in the bid  
 13 fund is used only for purposes authorized by this subsection. To the  
 14 extent that the capital improvement board does not deposit in the bid  
 15 fund an amount equal to a payment of principal and interest that would  
 16 otherwise be due under the repayment schedule on the obligations  
 17 issued by the capital improvement board under this section in calendar  
 18 year 2010, the capital improvement board must make that payment of  
 19 principal and interest to the treasurer of state as provided in this  
 20 section. If the capital improvement board deposits in the bid fund  
 21 amounts equal to the payments of principal and interest that would  
 22 otherwise be due under the repayment schedule on the obligations  
 23 issued by the capital improvement board under this section in calendar  
 24 year 2010, the capital improvement board is only required to repay to  
 25 the treasurer of state the principal amount of the obligation.

26 SECTION 7. IC 6-3.6-10-7, AS ADDED BY P.L.243-2015,  
 27 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 28 JULY 1, 2016]: Sec. 7. (a) The general assembly finds that counties  
 29 and municipalities in Indiana have a need to foster economic  
 30 development, the development of new technology, and industrial and  
 31 commercial growth. The general assembly finds that it is necessary and  
 32 proper to provide an alternative method for counties and municipalities  
 33 to foster the following:

- 34 (1) Economic development.
- 35 (2) The development of new technology.
- 36 (3) Industrial and commercial growth.
- 37 (4) Employment opportunities.
- 38 (5) The diversification of industry and commerce.

39 The fostering of economic development and the development of new  
 40 technology under this section or section 8 of this chapter for the benefit  
 41 of the general public, including industrial and commercial enterprises,  
 42 is a public purpose.



1 (b) The fiscal bodies of two (2) or more counties or municipalities  
2 may, by resolution, do the following:

3 (1) Determine that part or all the revenue described in section 2  
4 of this chapter should be combined to foster:

5 (A) economic development;

6 (B) the development of new technology; and

7 (C) industrial and commercial growth.

8 (2) Establish a regional venture capital fund.

9 (c) Each unit participating in a regional venture capital fund  
10 established under subsection (b) may deposit the following in the fund:

11 (1) Revenues described in section 2 of this chapter.

12 (2) The proceeds of public or private grants.

13 (d) A regional venture capital fund shall be administered by a  
14 governing board. The expenses of administering the fund shall be paid  
15 from money in the fund. The governing board shall invest the money  
16 in the fund not currently needed to meet the obligations of the fund in  
17 the same manner as other public money may be invested. Interest that  
18 accrues from these investments shall be deposited into the fund. The  
19 fund is subject to ~~an annual~~ audit by the state board of accounts **under**  
20 **IC 5-11-1**. The fund must bear the full costs of the audit.

21 (e) The fiscal body of each participating unit shall approve an  
22 interlocal agreement created under IC 36-1-7 establishing the terms for  
23 the administration of the regional venture capital fund. The terms must  
24 include the following:

25 (1) The membership of the governing board.

26 (2) The amount of each unit's contribution to the fund.

27 (3) The procedures and criteria under which the governing board  
28 may loan or grant money from the fund.

29 (4) The procedures for the dissolution of the fund and for the  
30 distribution of money remaining in the fund at the time of the  
31 dissolution.

32 (f) An interlocal agreement made by the participating units under  
33 subsection (e) must provide that:

34 (1) each of the participating units is represented by at least one (1)  
35 member of the governing board; and

36 (2) the membership of the governing board is established on a  
37 bipartisan basis so that the number of the members of the  
38 governing board who are members of one (1) political party may  
39 not exceed the number of members of the governing board  
40 required to establish a quorum.

41 (g) A majority of the governing board constitutes a quorum, and the  
42 concurrence of a majority of the governing board is necessary to





- 1 authorize any action.
- 2 (h) An interlocal agreement made by the participating units under  
3 subsection (e) must be submitted to the Indiana economic development  
4 corporation for approval before the participating units may contribute  
5 to the fund.
- 6 (i) A majority of members of a governing board of a regional  
7 venture capital fund established under this section must have at least  
8 five (5) years of experience in business, finance, or venture capital.
- 9 (j) The governing board of the fund may loan or grant money from  
10 the fund to a private or public entity if the governing board finds that  
11 the loan or grant will be used by the borrower or grantee for at least one  
12 (1) of the following economic development purposes:
- 13 (1) To promote significant employment opportunities for the  
14 residents of the units participating in the regional venture capital  
15 fund.
- 16 (2) To attract a major new business enterprise to a participating  
17 unit.
- 18 (3) To develop, retain, or expand a significant business enterprise  
19 in a participating unit.
- 20 (k) The expenditures of a borrower or grantee of money from a  
21 regional venture capital fund that are considered to be for an economic  
22 development purpose include expenditures for any of the following:
- 23 (1) Research and development of technology.
- 24 (2) Job training and education.
- 25 (3) Acquisition of property interests.
- 26 (4) Infrastructure improvements.
- 27 (5) New buildings or structures.
- 28 (6) Rehabilitation, renovation, or enlargement of buildings or  
29 structures.
- 30 (7) Machinery, equipment, and furnishings.
- 31 (8) Funding small business development with respect to:
- 32 (A) prototype products or processes;
- 33 (B) marketing studies to determine the feasibility of new  
34 products or processes; or
- 35 (C) business plans for the development and production of new  
36 products or processes.
- 37 SECTION 8. IC 6-3.6-10-8, AS ADDED BY P.L.243-2015,  
38 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
39 JULY 1, 2016]: Sec. 8. (a) The fiscal body of a county or municipality  
40 may, by resolution, establish a local venture capital fund.
- 41 (b) A unit establishing a local venture capital fund under subsection  
42 (a) may deposit the following in the fund:



1 (1) Revenues described in section 2 of this chapter.

2 (2) The proceeds of public or private grants.

3 (c) A local venture capital fund shall be administered by a  
4 governing board. The expenses of administering the fund shall be paid  
5 from money in the fund. The governing board shall invest the money  
6 in the fund not currently needed to meet the obligations of the fund in  
7 the same manner as other public money may be invested. Interest that  
8 accrues from these investments shall be deposited into the fund. The  
9 fund is subject to ~~an annual~~ audit by the state board of accounts **under**  
10 **IC 5-11-1**. The fund must bear the full costs of the audit.

11 (d) The fiscal body of a unit establishing a local venture capital fund  
12 under subsection (a) shall establish the terms for the administration of  
13 the local venture capital fund. The terms must include the following:

14 (1) The membership of the governing board.

15 (2) The amount of the unit's contribution to the fund.

16 (3) The procedures and criteria under which the governing board  
17 may loan or grant money from the fund.

18 (4) The procedures for the dissolution of the fund and for the  
19 distribution of money remaining in the fund at the time of the  
20 dissolution.

21 (e) A unit establishing a local venture capital fund under subsection  
22 (a) must be represented by at least one (1) member of the governing  
23 board.

24 (f) The membership of the governing board must be established on  
25 a bipartisan basis so that the number of the members of the governing  
26 board who are members of one (1) political party may not exceed the  
27 number of members of the governing board required to establish a  
28 quorum.

29 (g) A majority of the governing board constitutes a quorum, and the  
30 concurrence of a majority of the governing board is necessary to  
31 authorize any action.

32 (h) The terms established under subsection (d) for the  
33 administration of the local venture capital fund must be submitted to  
34 the Indiana economic development corporation for approval before a  
35 unit may contribute to the fund.

36 (i) A majority of members of a governing board of a local venture  
37 capital fund established under this section must have at least five (5)  
38 years of experience in business, finance, or venture capital.

39 (j) The governing board of the fund may loan or grant money from  
40 the fund to a private or public entity if the governing board finds that  
41 the loan or grant will be used by the borrower or grantee for at least one  
42 (1) of the following economic development purposes:



- 1 (1) To promote significant employment opportunities for the  
 2 residents of the unit establishing the local venture capital fund.  
 3 (2) To attract a major new business enterprise to the unit.  
 4 (3) To develop, retain, or expand a significant business enterprise  
 5 in the unit.  
 6 (k) The expenditures of a borrower or grantee of money from a local  
 7 venture capital fund that are considered to be for an economic  
 8 development purpose include expenditures for any of the following:  
 9 (1) Research and development of technology.  
 10 (2) Job training and education.  
 11 (3) Acquisition of property interests.  
 12 (4) Infrastructure improvements.  
 13 (5) New buildings or structures.  
 14 (6) Rehabilitation, renovation, or enlargement of buildings or  
 15 structures.  
 16 (7) Machinery, equipment, and furnishings.  
 17 (8) Funding small business development with respect to:  
 18 (A) prototype products or processes;  
 19 (B) marketing studies to determine the feasibility of new  
 20 products or processes; or  
 21 (C) business plans for the development and production of new  
 22 products or processes.  
 23 SECTION 9. IC 20-26-4-5, AS AMENDED BY P.L.230-2015,  
 24 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 25 JULY 1, 2016]: Sec. 5. (a) For each school year commencing July 1:  
 26 (1) the treasurer of each governing body and the governing body's  
 27 school corporation;  
 28 (2) a deputy treasurer, if so appointed; and  
 29 (3) any individual whose official duties include receiving,  
 30 processing, depositing, disbursing, or otherwise having access to  
 31 funds:  
 32 (A) that belong to a school corporation or the governing body  
 33 of a school corporation; **and**  
 34 (B) **in an amount that exceeds five thousand dollars**  
 35 **(\$5,000) per year;**  
 36 shall give a bond for the faithful performance of the treasurer's, deputy  
 37 treasurer's, or individual's duties written by an insurance company  
 38 licensed to do business in Indiana, in an amount determined by the  
 39 governing body. The treasurer shall be responsible under the treasurer's  
 40 bond for the acts of a deputy treasurer appointed as provided in section  
 41 1 of this chapter.  
 42 (b) A governing body may authorize the purchase of a blanket bond



1       that:  
2           (1) is endorsed to include faithful performance to cover the  
3           faithful performance of all employees and individuals acting on  
4           behalf of the governing body or the governing body's school  
5           corporation, including the individuals described in subsection (a);  
6           and  
7           (2) includes aggregate coverage sufficient to provide coverage  
8           amounts specified for each individual who is required to give a  
9           bond under this section.



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred House Bill 1372, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1372 as introduced.)

MAHAN

Committee Vote: Yeas 11, Nays 0

## COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred House Bill No. 1372, 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 6, line 22, delete "multiyear annual renewal" and insert "**continuous**".

Page 6, line 24, delete "multiyear".

Page 6, line 25, delete "as a continuous bond" and insert "**for**".

Page 6, line 26, delete "throughout".

Page 6, between lines 29 and 30, begin a new line block indented and insert:

**"However, any claim under a continuous bond used under this subdivision must be brought not later than four (4) years after the occurrence giving rise to the claim."**

Page 6, line 30, after "The" insert "**maximum**".

Page 6, line 30, after "a" insert "**single**".

Page 6, line 31, after "is the" insert "**penal sum of the bond. In the case of a continuous bond, the maximum aggregate liability of the surety or insurer for the entire term that the bond is in effect is the penal**".

Page 6, line 31, delete "coverage".

Page 6, line 31, strike "amounts specified".

Page 6, line 31, delete "for that policy".

Page 6, line 32, delete "year".

Page 6, line 32, strike "in the bonds issued by the surety or insurer."

Page 6, line 32, after "insurer" delete ".".

Page 6, line 33, after "year." insert "**bond for the current term of**



**the bond and the penal sums of the bond for the three (3) immediately preceding years."**

Page 17, line 28, delete "one hundred dollars (\$100)" and insert **"five thousand dollars (\$5,000) per year;"**.

Page 17, delete line 29.

and when so amended that said bill do pass.

(Reference is to HB 1372 as printed January 19, 2016.)

KENLEY, Chairperson

Committee Vote: Yeas 11, Nays 0.

