



Reprinted  
April 6, 2021

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## ENGROSSED SENATE BILL No. 5

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DIGEST OF SB 5 (Updated April 5, 2021 5:37 pm - DI 92)

**Citations Affected:** IC 16-18; IC 16-20; IC 16-22.

**Synopsis:** Local health departments; public health emergencies. Provides that if a local order addresses an aspect of a declared emergency addressed by an executive order, the local order may be less stringent than the executive order to the extent permitted by the executive order. Provides that if a local order addresses an aspect of a declared emergency that is not addressed by an executive order or if a local order addresses an aspect of a declared emergency more stringently than an executive order, the local order may not take effect,  
(Continued next page)

**Effective:** Upon passage; July 1, 2021.

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**Garten, Alting, Messmer, Doriot, Zay,  
Holdman, Houchin, Baldwin, Sandlin,  
Buchanan, Koch, Perfect, Rogers, Brown L,  
Buck, Leising, Charbonneau, Raatz, Tomes,  
Freeman, Bassler, Niemeyer, Young M,  
Crane, Boots, Ford Jon, Gaskill, Walker G,  
Busch, Walker K, Donato, Glick, Grooms,  
Kruse, Bohacek**

(HOUSE SPONSORS — LEHMAN, MORRISON, CLERE)

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January 7, 2021, read first time and referred to Committee on Public Policy.  
January 28, 2021, amended, reported favorably — Do Pass.  
February 2, 2021, read second time, amended, ordered engrossed.  
February 3, 2021, engrossed.  
February 8, 2021, read third time, passed. Yeas 40, nays 8.

HOUSE ACTION

February 23, 2021, read first time and referred to Committee on Rules and Legislative Procedures.  
April 1, 2021, amended, reported — Do Pass.  
April 5, 2021, read second time, amended, ordered engrossed.

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Digest Continued

or remain in effect, unless the local order is approved by the county legislative body (in the case of a county health department) or by an ordinance adopted by the city legislative body and approved by the mayor (in the case of a city health department). Provides that the appointment of a county health officer is subject to the approval of the county legislative body. Adds other good cause to the reasons for which a local health officer may be removed in counties other than Marion County. Specifies that a local health officer serves until a successor is appointed and qualified. Establishes an appeals process before legislative bodies of enforcement actions taken by local boards of health and local health officers in response to declared state and local public health emergencies.



Reprinted  
April 6, 2021

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

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 5

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

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

1 SECTION 1. IC 16-18-2-114.8 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE UPON PASSAGE]: **Sec. 114.8. "Enforcement action",**  
4 **for purposes of IC 16-20 and IC 16-22-8, includes an order,**  
5 **mandate, citation, administrative notice, business closure, or other**  
6 **action taken by the local board of health or the local health officer.**

7 SECTION 2. IC 16-18-2-200 IS AMENDED TO READ AS  
8 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 200. **(a) Except as**  
9 **provided in subsections (b) and (c), "legislative body" has the**  
10 **meaning set forth in IC 36-1-2-9.**

11 **(b) For purposes of IC 16-20-1-21.5, "legislative body" has the**  
12 **meaning set forth in IC 16-20-1-21.5(c).**

13 **(c) For purposes of IC 16-20-5.5, "legislative body" has the**  
14 **meaning set forth in IC 16-20-5.5-1.**

15 SECTION 3. IC 16-20-1-19 IS AMENDED TO READ AS  
16 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. **(a) Local health**  
17 **officers shall enforce the health laws, ordinances, orders, rules, and**

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1 regulations of the officer's own and superior boards of health.

2 **(b) Any enforcement action taken under subsection (a) in**  
3 **response to:**

4 **(1) a declared local public health emergency determined by a**  
5 **local health department or local health officer; or**

6 **(2) a disaster emergency declared by the governor under**  
7 **IC 10-14-3-12;**

8 **is appealable under IC 16-20-5.5.**

9 SECTION 4. IC 16-20-1-21.5 IS ADDED TO THE INDIANA  
10 CODE AS A NEW SECTION TO READ AS FOLLOWS  
11 [EFFECTIVE UPON PASSAGE]: **Sec. 21.5. (a) This section applies**  
12 **only if the governor has declared an emergency under IC 10-14-3.**

13 **(b) As used in this section, "executive order" refers to an**  
14 **executive order issued by the governor under IC 10-14-3.**

15 **(c) As used in this section, "legislative body" means the**  
16 **following:**

17 **(1) Except as provided in subdivision (2), the board of county**  
18 **commissioners for a county operating a county health**  
19 **department under IC 16-20-2 or participating in a multiple**  
20 **county health department under IC 16-20-3.**

21 **(2) The county council for a county that is subject to**  
22 **IC 36-2-3.5.**

23 **(3) The common council, for a city (as defined in IC 36-1-2-3)**  
24 **that operates a city health department under IC 16-20-4.**

25 **(d) As used in this section, "local order" refers to the health**  
26 **laws, ordinances, orders, rules, and regulations of a board of health**  
27 **under this chapter.**

28 **(e) If a local order addresses any aspect of a declared emergency**  
29 **addressed by an executive order, the local order may be less**  
30 **stringent than the executive order to the extent permitted by the**  
31 **executive order.**

32 **(f) If a local order addresses any aspect of a declared emergency**  
33 **that is not addressed by an executive order or if a local order**  
34 **addresses an aspect of a declared emergency more stringently than**  
35 **an executive order, the local order may not take effect, or remain**  
36 **in effect, unless the local order is approved as follows:**

37 **(1) If the local order is issued by the health department of a**  
38 **county, the local order must be approved by the county**  
39 **legislative body.**

40 **(2) If the local health order is issued by a health department**  
41 **that serves multiple counties, the local order may take effect,**  
42 **or remain in effect, for a particular county served by the**



1            **department if the legislative body of that county approves the**  
 2            **local order.**

3            **(3) If the local order is issued by the health department of a**  
 4            **city, the local order must be approved by an ordinance**  
 5            **adopted by the city legislative body and approved by the**  
 6            **mayor.**

7            SECTION 5. IC 16-20-1-26, AS AMENDED BY P.L.122-2012,  
 8            SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 9            UPON PASSAGE]: Sec. 26. (a) **Unless an enforcement action is**  
 10           **being appealed under IC 16-20-5.5**, a local board of health or local  
 11           health officer may enforce the board's or officer's orders, citations, and  
 12           administrative notices by an action in the circuit or superior court. The  
 13           court may take any appropriate action in a proceeding under this  
 14           section, including any of the following:

- 15           (1) Issuing an injunction.  
 16           (2) Entering a judgment.  
 17           (3) Issuing an order and conditions under IC 16-41-9.  
 18           (4) Ordering the suspension or revocation of a license.  
 19           (5) Ordering an inspection.  
 20           (6) Ordering that a property be vacated.  
 21           (7) Ordering that a structure be demolished.  
 22           (8) Imposing a penalty not to exceed an amount set forth in  
 23           IC 36-1-3-8(a)(10).  
 24           (9) Imposing court costs and fees under IC 33-37-4-2 and  
 25           IC 33-37-5.  
 26           (10) Ordering the respondent to take appropriate action in a  
 27           specified time to comply with the order of the local board of  
 28           health or local health officer.  
 29           (11) Ordering a local board of health or local health officer to take  
 30           appropriate action to enforce an order within a specified time.

31           (b) The county attorney in which a local board of health or local  
 32           health officer has jurisdiction shall represent the local health board and  
 33           local health officer in the action unless the county executive, local  
 34           board of health, or health and hospital corporation employs other legal  
 35           counsel or the matter has been referred through law enforcement  
 36           authorities to the prosecuting attorney.

37           **(c) A recipient of any enforcement action described in section**  
 38           **19(b) of this chapter may:**

- 39           **(1) appeal the enforcement action under IC 16-20-5.5; or**  
 40           **(2) bring an action directly in the circuit or superior court.**

41           SECTION 6. IC 16-20-1-28 IS AMENDED TO READ AS  
 42           FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. (a) A local



1 health officer may be removed only for ~~failure to:~~ **one (1) of the**  
 2 **following reasons:**

- 3 (1) **A failure to** perform the officer's statutory duties. ~~or~~  
 4 (2) **A failure to** enforce the rules of the state department.  
 5 (3) **Other good cause.**

6 (b) Except as provided in IC 16-19-3-12, IC 16-19-3-13, and  
 7 IC 16-19-3-15, a local health officer may be removed only by the board  
 8 that appointed the health officer.

9 (c) When removal of a local health officer is sought by the  
 10 appointing authority, the local health officer is entitled to the following:

- 11 (1) At least five (5) days notice.  
 12 (2) An open hearing.  
 13 (3) Representation by counsel.

14 SECTION 7. IC 16-20-2-10 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 10. (a) All members of  
 16 a local board of health shall be appointed for a term of four (4) years.  
 17 **Each member serves until a successor is appointed and qualified.**

18 (b) Unless otherwise required by law, after December 31, 1991, the  
 19 board members serve staggered terms. The appointing authority shall  
 20 appoint the members of a board in existence on December 31, 1991,  
 21 and the initial members of a board established after December 31,  
 22 1991, as follows:

- 23 (1) One (1) member must be appointed for one (1) year.  
 24 (2) Two (2) members must be appointed for two (2) years.  
 25 (3) Two (2) members must be appointed for three (3) years.  
 26 (4) Two (2) members must be appointed for four (4) years.

27 SECTION 8. IC 16-20-2-16 IS AMENDED TO READ AS  
 28 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 16. (a) Each local board  
 29 of health shall appoint a health officer to serve for a term of four (4)  
 30 years. **The health officer serves until a successor is appointed and**  
 31 **qualified.** The health officer must be a licensed physician. **After June**  
 32 **30, 2021, the appointment of a local health officer is subject to the**  
 33 **approval of the appropriate county legislative body. If the**  
 34 **appropriate county legislative body fails to approve a nominated**  
 35 **individual on two (2) separate occasions, the individual is barred**  
 36 **from further consideration for the position.**

37 (b) The appointment shall be certified by the county executive and  
 38 sent to the state department. The state department shall maintain a  
 39 record of the certification.

40 (c) The health officer is eligible for reappointment.

41 (d) The health officer is the executive officer of the local health  
 42 department and shall serve as secretary of the local board of health.



1 SECTION 9. IC 16-20-3-9 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 9. (a) A multiple  
 3 county board of health shall appoint a health officer to serve for a term  
 4 of four (4) years. The health officer must be a licensed physician. **After**  
 5 **June 30, 2021, the appointment of the health officer is subject to**  
 6 **the approval of the legislative body of each participating county. If**  
 7 **the legislative bodies of the participating counties fail to approve**  
 8 **the nominated individual on two (2) separate occasions, the**  
 9 **individual is barred from further consideration for the position.**

10 (b) The appointment of the health officer shall be certified by the  
 11 county executive of each participating county and sent to the state  
 12 department for the state department's records.

13 (c) The health officer is eligible for reappointment **and serves until**  
 14 **a successor is appointed and qualified.**

15 (d) The health officer is the executive officer of the multiple county  
 16 health department and shall serve as secretary of the multiple county  
 17 board of health.

18 SECTION 10. IC 16-20-5.5 IS ADDED TO THE INDIANA CODE  
 19 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 20 UPON PASSAGE]:

21 **Chapter 5.5. Appeal of Local Health Enforcement Actions**

22 **Sec. 1. As used in this chapter, "legislative body" means the**  
 23 **following:**

- 24 (1) **Except as provided in subdivision (2):**  
 25 (A) **the board of county commissioners, for a county that**  
 26 **operates a local board of health under IC 16-20-2; or**  
 27 (B) **the board of county commissioners in the county where**  
 28 **the person or property that is the subject of the**  
 29 **enforcement action is located, if the county participates in**  
 30 **a multiple county health department under IC 16-20-3.**  
 31 (2) **The county council for a county that is subject to**  
 32 **IC 36-2-3.5.**  
 33 (3) **The common council, for a city (as defined in IC 36-1-2-3)**  
 34 **that operates a city health department under IC 16-20-4.**

35 **Sec. 2. (a) A recipient may appeal to the legislative body an**  
 36 **enforcement action issued or taken by a local board of health or**  
 37 **local health officer under IC 16-20-1 in response to:**

- 38 (1) **a declared local public health emergency determined by a**  
 39 **local health department or local health officer; or**  
 40 (2) **a disaster emergency declared by the governor under**  
 41 **IC 10-14-3-12;**

42 **in a manner prescribed by the legislative body.**



1           **(b) In order to make an appeal under this chapter, the recipient**  
 2 **of the enforcement action must file the appeal with the legislative**  
 3 **body not later than seven (7) days from the issuance of the**  
 4 **enforcement action. Upon the proper filing of an appeal under this**  
 5 **section by a recipient, the legislative body may stay the**  
 6 **enforcement action until final disposition of the appeal.**

7           **Sec. 3. (a) The legislative body shall determine whether to hear**  
 8 **an appeal filed under section 2 of this chapter not later than fifteen**  
 9 **(15) days from the filing of the appeal and may issue a denial of an**  
 10 **appeal at any time after the filing of the appeal. Any appeal**  
 11 **granted consideration by the legislative body must be heard at a**  
 12 **public meeting of the legislative body held not later than fifteen**  
 13 **(15) days after the date that the appeal is granted.**

14           **(b) The legislative body shall develop procedures for the review,**  
 15 **consideration, and hearing of an appeal filed under this chapter.**  
 16 **The procedures must include the following:**

17           **(1) A procedure for consolidating appeals if there are at least**  
 18 **two (2) appeals filed:**

19           **(A) from the same order; or**

20           **(B) involving a common question of law and fact.**

21           **(2) Written notice to the appellant and the local board of**  
 22 **health or local health officer that issued the enforcement**  
 23 **action of the appeal of that action, and the date, time, and**  
 24 **location of any hearing concerning the appeal.**

25           **(3) Procedures for the sharing of information between parties**  
 26 **and the legislative body concerning the circumstances**  
 27 **resulting in the enforcement action.**

28           **(4) The order of the proceedings.**

29           **(5) The issuance of a ruling on the appeal following the public**  
 30 **hearing by the legislative body not later than fifteen (15) days**  
 31 **from the date of the hearing.**

32           **(6) The maintenance of records concerning a request for**  
 33 **appeal and any documentation resulting from the**  
 34 **investigation and hearing of the appeal.**

35           **(c) The following apply unless the legislative body has, not later**  
 36 **than fifteen (15) days after the filing of the appeal, placed the**  
 37 **appeal on the agenda for a meeting of the legislative body:**

38           **(1) The appeal is considered denied.**

39           **(2) The legislative body shall inform the person that filed the**  
 40 **appeal in writing that the appeal will not be heard and is**  
 41 **considered denied.**

42           **(3) The considered denial of the appeal is a final disposition of**





1           the appeal.

2           **Sec. 4. The appellant, or a representative of the appellant, must**  
 3 **be present at a hearing conducted by the legislative body. The**  
 4 **failure of the local board of health or local health officer that**  
 5 **issued the enforcement action to be present is not a cause for**  
 6 **postponement of the hearing unless the local board of health or**  
 7 **local health officer requests and is granted a continuance. The**  
 8 **granting of a continuance does not modify any time requirements**  
 9 **under this chapter.**

10           **Sec. 5. (a) The legislative body shall issue a written decision for**  
 11 **any appeal that receives a hearing under this chapter. The written**  
 12 **decision must appear in the written records of the legislative body.**

13           **(b) A decision under this section is appealable to a circuit or**  
 14 **superior court with jurisdiction in the county.**

15           **(c) If an appeal is denied by the legislative body or is ruled in**  
 16 **favor of the local board of health or local health officer, the**  
 17 **enforcement actions under IC 16-20-1-26 apply.**

18           SECTION 11. IC 16-22-8-30, AS AMENDED BY P.L.184-2005,  
 19 SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 20 UPON PASSAGE]: Sec. 30. (a) The board shall appoint a director of  
 21 the division of public health to serve for a term of four (4) years unless  
 22 sooner removed for cause. The director is eligible for reappointment  
 23 **and serves until a successor is appointed and qualified.** The director  
 24 must hold a license to practice medicine in Indiana.

25           **(b) After June 30, 2021, the appointment of the director of the**  
 26 **division of public health is subject to the approval of the**  
 27 **city-county council. If the city-county council fails to approve a**  
 28 **nominated individual on two (2) separate occasions, the individual**  
 29 **is barred from further consideration for the position.**

30           SECTION 12. IC 16-22-8-31, AS AMENDED BY P.L.194-2007,  
 31 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 32 UPON PASSAGE]: Sec. 31. (a) The director of the division of public  
 33 health has the powers, functions, and duties of a local health officer.

34           **(b) Unless an enforcement action is being appealed under section**  
 35 **31.5 of this chapter, orders, citations, and administrative notices of**  
 36 **violation issued by the director of the division of public health, the**  
 37 **director's authorized representative, a supervisor in the division, or an**  
 38 **environmental health specialist may be enforced by the corporation in**  
 39 **a court with jurisdiction by filing a civil action in accordance with**  
 40 **IC 16-42-5-28, IC 33-36-3-5(b), IC 34-28-5-1, IC 36-1-6-4, or**  
 41 **IC 36-7-9-17.**

42           (c) A public health authority may petition a circuit or superior court



1 for an order of isolation or quarantine by filing a civil action in  
2 accordance with IC 16-41-9.

3 (d) Unless otherwise provided by law, a change of venue from the  
4 county may not be granted for court proceedings initiated under this  
5 section.

6 (e) A change of venue from a judge must meet the requirements in  
7 IC 34-35-3-3 for court proceedings initiated under this section.

8 SECTION 13. IC 16-22-8-31.3 IS ADDED TO THE INDIANA  
9 CODE AS A NEW SECTION TO READ AS FOLLOWS  
10 [EFFECTIVE UPON PASSAGE]: **Sec. 31.3. (a) This section applies**  
11 **only if the governor has declared an emergency under IC 10-14-3.**

12 (b) As used in this section, "executive order" refers to an  
13 executive order issued by the governor under IC 10-14-3.

14 (c) As used in this section, "local order" refers to the health  
15 laws, ordinances, orders, rules, and regulations issued under this  
16 chapter.

17 (d) If a local order addresses any aspect of a declared  
18 emergency addressed by an executive order, the local order may be  
19 less stringent than the executive order to the extent permitted by  
20 the executive order.

21 (e) If a local order addresses any aspect of a declared emergency  
22 that is not addressed by an executive order or if a local order  
23 addresses an aspect of a declared emergency more stringently than  
24 an executive order, the local order may not take effect, or remain  
25 in effect, unless the order is approved by an ordinance adopted by  
26 the city-county legislative body and approved by the executive of  
27 the consolidated city.

28 SECTION 14. IC 16-22-8-31.5 IS ADDED TO THE INDIANA  
29 CODE AS A NEW SECTION TO READ AS FOLLOWS  
30 [EFFECTIVE UPON PASSAGE]: **Sec. 31.5. (a) The recipient of an**  
31 **enforcement action taken by the division of public health through**  
32 **its powers, functions, and duties described in section 31(a) of this**  
33 **chapter in response to:**

34 (1) a declared local public health emergency determined by a  
35 local health department or local health officer; or

36 (2) a disaster emergency declared by the governor under  
37 IC 10-14-3-12;

38 may appeal the enforcement action to the Marion County  
39 city-county council in the manner prescribed by the city-county  
40 council.

41 (b) In order to appeal the enforcement action under this section,  
42 the recipient of the enforcement action must file an appeal of the



1 enforcement action with the city-county council not later than  
 2 seven (7) days from the issuance of the enforcement action. Upon  
 3 the proper filing of an appeal under this section by a recipient, the  
 4 legislative body may stay the enforcement action until final  
 5 disposition of the appeal.

6 (c) The city-county council may determine whether or not to  
 7 hear an appeal filed under subsection (b) and may issue a denial of  
 8 an appeal at any time. If the city-county council determines to hear  
 9 an appeal, the city-county council must hear the appeal at a public  
 10 meeting of the city-county council held not later than fifteen (15)  
 11 days from the filing of the appeal under subsection (b).

12 (d) The city-county council shall develop procedures for the  
 13 review, consideration, and hearing of an appeal under this section.  
 14 The procedures must include the following:

15 (1) A procedure for consolidating appeals if there are at least  
 16 two (2) appeals filed:

17 (A) from the same order; or

18 (B) involving a common question of law and fact.

19 (2) Written notice to the appellant and the division of public  
 20 health that issued the enforcement action of the appeal of that  
 21 action, and the date, time, and location of any hearing  
 22 concerning the appeal.

23 (3) Procedures for the sharing of information between parties  
 24 and the city-county council concerning the circumstances  
 25 resulting in the enforcement action.

26 (4) The order of the proceedings.

27 (5) The issuance of a ruling on the appeal following the public  
 28 hearing by the city-county council not later than fifteen (15)  
 29 days from the date of the hearing.

30 (6) The maintenance of records concerning a request for  
 31 appeal and any documentation resulting from the  
 32 investigation and hearing of the appeal.

33 (e) The following apply unless the city-county council has, not  
 34 later than fifteen (15) days after the filing of the appeal, placed the  
 35 appeal on the agenda for a meeting of the city-county council:

36 (1) The appeal is considered denied.

37 (2) The city-county council shall inform the person that filed  
 38 the appeal in writing that the appeal will not be heard and is  
 39 considered denied.

40 (3) The considered denial of the appeal is a final disposition of  
 41 the appeal.

42 (f) The appellant, or a representative of the appellant, must be



1 present at a hearing conducted by the city-county council in order  
2 for the appeal to be heard. The failure of the division of public  
3 health to be present is not a cause for postponement of the hearing  
4 unless the division requests and is granted a continuance. The  
5 granting of a continuance does not modify any time requirements  
6 under this section.

7 (g) The city-county council shall issue a written decision for any  
8 appeal that receives a hearing under this chapter. The written  
9 decision must appear in the written records of the city-county  
10 council.

11 (h) A decision under this section is appealable to a circuit or  
12 superior court with jurisdiction in the county.

13 (i) If an appeal is denied by the city-county council or the  
14 city-county council rules in favor of the division of public health,  
15 the enforcement actions under section 31 of this chapter apply.

16 SECTION 15. An emergency is declared for this act.



## COMMITTEE REPORT

Madam President: The Senate Committee on Public Policy, to which was referred Senate Bill No. 5, 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:

Replace the effective dates in SECTIONS 1 through 8 with "[EFFECTIVE UPON PASSAGE]".

Page 2, line 1, after "to" insert ":

- (1) an emergency order issued by a local health department or local health officer; or**
- (2)".**

Page 2, line 2, delete "IC 10-14-3-12 is" and insert "**IC 10-14-3-12; is**".

Page 2, line 9, after "of" insert ":

- (1) an emergency order issued by a local health department or local health officer; or**
- (2)".**

Page 2, line 10, delete "IC 10-14-3-12 is" and insert "**IC 10-14-3-12; is**".

Page 3, delete lines 1 through 2 and insert:

**"19(b) of this chapter may:**

- (1) appeal the enforcement action under IC 16-20-5.5; or**
- (2) bring an action directly in the circuit or superior court."**

Page 3, line 22, after "to" insert ":

- (1) an emergency order issued by a local health department or local health officer; or**
- (2)".**

Page 3, line 23, delete "IC 10-14-3-12 in" and insert "**IC 10-14-3-12; in**".

Page 5, line 17, after "to" insert ":

- (1) an emergency order issued by the division of public health or the director of the division; or**
- (2)".**

Page 5, line 18, delete "IC 10-14-3-12 may" and insert "**IC 10-14-3-12; may**".

Page 6, after line 30, begin a new paragraph and insert:

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

and when so amended that said bill do pass.

ES 5—LS 6992/DI 104



(Reference is to SB 5 as introduced.)

ALTING, Chairperson

Committee Vote: Yeas 9, Nays 1.

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SENATE MOTION

Madam President: I move that Senate Bill 5 be amended to read as follows:

Page 4, between lines 29 and 30, begin a new line block indented and insert:

**"(3) The considered denial of the appeal is a final disposition of the appeal and the stay of the enforcement action under section 2(b) of this chapter is lifted."**

(Reference is to SB 5 as printed January 29, 2021.)

GARTEN

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures, to which was referred Senate Bill 5, 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 1, delete lines 7 through 12, begin a new paragraph and insert:

"SECTION 2. IC 16-18-2-200 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 200. (a) **Except as provided in subsections (b) and (c), "legislative body" has the meaning set forth in IC 36-1-2-9.**

**(b) For purposes of IC 16-20-1-21.5, "legislative body" has the meaning set forth in IC 16-20-1-21.5(c).**

**(c) For purposes of IC 16-20-5.5, "legislative body" has the meaning set forth in IC 16-20-5.5-1."**

Page 2, delete lines 2 through 5, begin a new line block indented and insert:

**"(1) a declared local public health emergency determined by a local health department or local health officer; or**



**(2) a disaster emergency declared by the governor under IC 10-14-3-12;"**

Page 2, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 4. IC 16-20-1-21.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 21.5. (a) This section applies only if the governor has declared an emergency under IC 10-14-3.**

**(b) As used in this section, "executive order" refers to an executive order issued by the governor under IC 10-14-3.**

**(c) As used in this section, "legislative body" means the following:**

**(1) Except as provided in subdivision (2), the board of county commissioners for a county operating a county health department under IC 16-20-2 or participating in a multiple county health department under IC 16-20-3.**

**(2) The county council for a county that is subject to IC 36-2-3.5.**

**(3) The common council, for a city (as defined in IC 36-1-2-3) that operates a city health department under IC 16-20-4.**

**(d) As used in this section, "local order" refers to the health laws, ordinances, orders, rules, and regulations of a board of health under this chapter.**

**(e) If a local order addresses any aspect of a declared emergency addressed by an executive order, the local order may be less stringent than the executive order to the extent permitted by the executive order.**

**(f) If a local order addresses any aspect of a declared emergency that is not addressed by an executive order or if a local order addresses an aspect of a declared emergency more stringently than an executive order, the local order may not take effect, or remain in effect, unless the local order is approved as follows:**

**(1) If the local order is issued by the health department of a county, the local order must be approved by the county legislative body.**

**(2) If the local health order is issued by a health department that serves multiple counties, the local order may take effect, or remain in effect, for a particular county served by the department if the legislative body of that county approves the local order.**

**(3) If the local order is issued by the health department of a city, the local order must be approved by an ordinance adopted by the city legislative body and approved by the**



**mayor."**

Page 2, delete lines 7 through 18.

Page 3, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 7. IC 16-20-1-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. (a) A local health officer may be removed only for ~~failure to~~ **one (1) of the following reasons:**

- (1) **A failure to** perform the officer's statutory duties. ~~or~~
- (2) **A failure to** enforce the rules of the state department.
- (3) **Other good cause.**

(b) Except as provided in IC 16-19-3-12, IC 16-19-3-13, and IC 16-19-3-15, a local health officer may be removed only by the board that appointed the health officer.

(c) When removal of a local health officer is sought by the appointing authority, the local health officer is entitled to the following:

- (1) At least five (5) days notice.
- (2) An open hearing.
- (3) Representation by counsel.

SECTION 8. IC 16-20-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 10. (a) All members of a local board of health shall be appointed for a term of four (4) years. **Each member serves until a successor is appointed and qualified.**

(b) Unless otherwise required by law, after December 31, 1991, the board members serve staggered terms. The appointing authority shall appoint the members of a board in existence on December 31, 1991, and the initial members of a board established after December 31, 1991, as follows:

- (1) One (1) member must be appointed for one (1) year.
- (2) Two (2) members must be appointed for two (2) years.
- (3) Two (2) members must be appointed for three (3) years.
- (4) Two (2) members must be appointed for four (4) years.

SECTION 9. IC 16-20-2-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 16. (a) Each local board of health shall appoint a health officer to serve for a term of four (4) years. **The health officer serves until a successor is appointed and qualified.** The health officer must be a licensed physician. **After June 30, 2021, the appointment of a local health officer is subject to the approval of the appropriate county executive after a public hearing on the qualifications of the individual nominated by the local health board. If the appropriate county executive fails to approve a nominated individual on two (2) separate occasions, the individual is barred from further consideration for the position.**





(b) The appointment shall be certified by the county executive and sent to the state department. The state department shall maintain a record of the certification.

(c) The health officer is eligible for reappointment.

(d) The health officer is the executive officer of the local health department and shall serve as secretary of the local board of health."

Page 3, delete lines 31 through 34, begin a new line block indented and insert:

**"(1) a declared local public health emergency determined by a local health department or local health officer; or  
(2) a disaster emergency declared by the governor under IC 10-14-3-12;"**

Page 3, line 38, delete "fourteen (14)" and insert "**seven (7)**".

Page 3, line 40, delete "enforcement action is stayed" and insert "**legislative body may stay the enforcement action**".

Page 4, line 1, delete "thirty" and insert "**fifteen (15)**".

Page 4, line 2, delete "(30)".

Page 4, line 5, delete "body." and insert "**body held not later than fifteen (15) days after the date that the appeal is granted.**".

Page 4, between lines 8 and 9, begin a new line block indented and insert:

**"(1) A procedure for consolidating appeals if there are at least two (2) appeals filed:**

**(A) from the same order; or**

**(B) involving a common question of law and fact."**

Page 4, line 9, delete "(1)" and insert "**(2)**".

Page 4, line 13, delete "(2)" and insert "**(3)**".

Page 4, line 16, delete "(3)" and insert "**(4)**".

Page 4, line 17, delete "(4)" and insert "**(5)**".

Page 4, line 20, delete "(5)" and insert "**(6)**".

Page 4, line 24, delete "thirty (30)" and insert "**fifteen (15)**".

Page 4, line 31, delete "appeal and the stay of the enforcement action under" and insert "**appeal**".

Page 4, delete line 32.

Page 4, line 33, delete "appellant" and insert "**appellant, or a representative of the appellant,**".

Page 5, between lines 5 and 6, begin a new paragraph and insert:

"SECTION 11. IC 16-22-8-30, AS AMENDED BY P.L.184-2005, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 30. **(a)** The board shall appoint a director of the division of public health to serve for a term of four (4) years unless sooner removed for cause. The director is eligible for reappointment



**and serves until a successor is appointed and qualified.** The director must hold a license to practice medicine in Indiana.

**(b) After June 30, 2021, the appointment of the director of the division of public health is subject to the approval of the city-county council after a public hearing on the qualifications of the individual nominated by the board. If the city-county council fails to approve a nominated individual on two (2) separate occasions, the individual is barred from further consideration for the position."**

Page 5, between lines 25 and 26, begin a new paragraph and insert:

**"SECTION 13. IC 16-22-8-31.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 31.3. (a) This section applies only if the governor has declared an emergency under IC 10-14-3.**

**(b) As used in this section, "executive order" refers to an executive order issued by the governor under IC 10-14-3.**

**(c) As used in this section, "local order" refers to the health laws, ordinances, orders, rules, and regulations issued under this chapter.**

**(d) If a local order addresses any aspect of a declared emergency addressed by an executive order, the local order may be less stringent than the executive order to the extent permitted by the executive order.**

**(e) If a local order addresses any aspect of a declared emergency that is not addressed by an executive order or if a local order addresses an aspect of a declared emergency more stringently than an executive order, the local order may not take effect, or remain in effect, unless the order is approved by an ordinance adopted by the city-county legislative body and approved by the executive of the consolidated city."**

Page 5, delete lines 32 through 35, begin a new line block indented and insert:

**"(1) a declared local public health emergency determined by a local health department or local health officer; or  
(2) a disaster emergency declared by the governor under IC 10-14-3-12;"**

Page 5, line 42, delete "fourteen (14)" and insert **"seven (7)"**.

Page 6, line 2, delete "enforcement action is stayed" and insert **"legislative body may stay the enforcement action"**.

Page 6, line 8, delete "that is" and insert **"held"**.

Page 6, line 8, delete "thirty (30)" and insert **"fifteen (15)"**.

Page 6, between lines 12 and 13, begin a new line block indented



and insert:

**"(1) A procedure for consolidating appeals if there are at least two (2) appeals filed:**

**(A) from the same order; or**

**(B) involving a common question of law and fact."**

Page 6, line 13, delete "(1)" and insert "(2)".

Page 6, line 17, delete "(2)" and insert "(3)".

Page 6, line 20, delete "(3)" and insert "(4)".

Page 6, line 21, delete "(4)" and insert "(5)".

Page 6, line 24, delete "(5)" and insert "(6)".

Page 6, line 28, delete "thirty (30)" and insert "**fifteen (15)**".

Page 6, between lines 33 and 34, begin a new line block indented and insert:

**"(3) The considered denial of the appeal is a final disposition of the appeal."**

Page 6, line 34, delete "appellant" and insert "**appellant, or a representative of the appellant,**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 5 as reprinted February 3, 2021.)

LEONARD

Committee Vote: yeas 7, nays 3.

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#### HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 5 be amended to read as follows:

Page 4, line 33, delete "executive after a public hearing" and insert "**legislative body.**".

Page 4, delete line 34.

Page 4, line 35, delete "board."

Page 4, line 35, delete "executive" and insert "**legislative body**".

Page 5, between lines 1 and 2, begin a new paragraph and insert:

"SECTION 9. IC 16-20-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 9. (a) A multiple county board of health shall appoint a health officer to serve for a term of four (4) years. The health officer must be a licensed physician. **After**

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**June 30, 2021, the appointment of the health officer is subject to the approval of the legislative body of each participating county. If the legislative bodies of the participating counties fail to approve the nominated individual on two (2) separate occasions, the individual is barred from further consideration for the position.**

(b) The appointment of the health officer shall be certified by the county executive of each participating county and sent to the state department for the state department's records.

(c) The health officer is eligible for reappointment **and serves until a successor is appointed and qualified.**

(d) The health officer is the executive officer of the multiple county health department and shall serve as secretary of the multiple county board of health."

Page 7, line 11, delete "council after a public hearing on the qualifications of" and insert "**council.**".

Page 7, line 12, delete "the individual nominated by the board."  
Renumber all SECTIONS consecutively.

(Reference is to ESB 5 as printed April 1, 2021.)

LEHMAN

