

SENATE BILL No. 70

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-8-3.5.

Synopsis: Fire department merit system. Provides that a fire merit system is established January 1, 2022, in certain cities, towns, and townships (units) that have not established a fire merit system, unless a majority of the unit's: (1) legislative body; and (2) active full-time, paid members of the department; vote to reject the establishment of a fire merit system not later than July 1, 2021. Provides that a unit may dissolve the fire merit system after January 1, 2022, by following the procedure in current law for establishing a fire merit system.

Effective: July 1, 2020.

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January 6, 2020, read first time and referred to Committee on Local Government.



Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

SENATE BILL No. 70

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

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

1 SECTION 1. IC 36-8-3.5-1, AS AMENDED BY P.L.13-2010,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 1. (a) This chapter applies to each municipality or
4 township that has a full-time paid police or fire department. **Except as**
5 **provided in section 5.5 of this chapter**, a municipality may exercise
6 the power of establishing a merit system for its police or fire
7 department under this chapter or by ordinance adopted under
8 IC 36-1-4-14. **Except as provided in section 5.5 of this chapter**, a
9 township may exercise the power of establishing a merit system for its
10 fire department under this chapter or by resolution under IC 36-1-4-14.
11 This chapter does not affect merit systems established:
12 (1) by ordinance under IC 36-1-4-14, except as provided by
13 subsection (e) and section 19.3 of this chapter;
14 (2) by resolution under IC 36-1-4-14, except as provided by
15 subsection (f) and section 19.3 of this chapter; or
16 (3) by a prior statute, except as provided by subsection (b) and
17 section 19.3 of this chapter.



1 (b) If a city had a merit system for its police or fire department
2 under the former IC 18-4-12, IC 19-1-7, IC 19-1-14, IC 19-1-14.2,
3 IC 19-1-14.3, IC 19-1-14.5, IC 19-1-20, IC 19-1-21, IC 19-1-29,
4 IC 19-1-29.5, IC 19-1-31, IC 19-1-31.5, or IC 19-1-37.5, it may retain
5 that system by ordinance of the city legislative body passed before
6 January 1, 1983. The ordinance must initially incorporate all the
7 provisions of the prior statute but may be amended by the legislative
8 body after December 31, 1984. The ordinance retaining the system
9 must be amended, if necessary, to include a provision under which the
10 commission (or governing board of the merit system) has at least
11 one-third (1/3) of its members elected by the active members of the
12 department as prescribed by section 8 of this chapter. Each elected
13 commission member must:

- 14 (1) be a person of good moral character; and
15 (2) except for a member of a fire department having a merit
16 system established under IC 19-1-37.5, not be an active member
17 of a police or fire department or agency.

18 (c) After December 31, 1984, the legislative body also may repeal
19 the ordinance described in subsection (b), but the legislative body shall
20 in the repealing ordinance concurrently establish a new merit system
21 under section 3 of this chapter. (This subsection does not require the
22 legislative body to establish a new merit system when it exercises its
23 power to amend the ordinance under subsection (b).) After the new
24 merit system takes effect, all members of the department are entitled to
25 the same ranks and pay grades the members held under the prior
26 system, subject to changes made in accordance with this chapter.

27 (d) If a city had a merit system for its police or fire department
28 under a prior statute but fails to retain that system under subsection (b),
29 the city legislative body shall, before July 1, 1983, pass an ordinance
30 to establish a new merit system under section 3 of this chapter. If the
31 new merit system is approved as provided by section 4 of this chapter,
32 it takes effect as provided by that section. However, if the new merit
33 system is rejected under section 4 of this chapter, within thirty (30)
34 days the city legislative body shall adopt an ordinance to retain the
35 prior merit system. The prior merit system remains in effect until the
36 new merit system takes effect, after which time all members of the
37 department are entitled to the same ranks and pay grades the members
38 held under the prior system, subject to changes made in accordance
39 with this chapter.

40 (e) An ordinance adopted under IC 36-1-4-14 to establish a police
41 or fire merit system must include a provision under which the
42 commission, or governing board of the merit system, has at least



1 one-third (1/3) of its members elected by the active members of the
 2 department as prescribed by section 8 of this chapter. Each elected
 3 commission member must be a person of good moral character who is
 4 not an active member of a police or fire department or agency. If an
 5 ordinance was adopted under IC 36-1-4-14 before July 1, 1988, the
 6 ordinance must be amended to include this requirement.

7 (f) This chapter does not prevent a township or other unit that has
 8 adopted a merit system under section 3 of this chapter from later
 9 amending or deleting any provisions of the merit system contained in
 10 this chapter. However, the merit system must include a provision under
 11 which the commission has at least one-third (1/3) of its members
 12 elected by the active members of the department, as set forth in section
 13 8 of this chapter and a provision that incorporates the requirements of
 14 section 6(a) of this chapter. This subsection does not require the
 15 legislative body to establish a new merit system when it exercises its
 16 power to amend under this subsection.

17 SECTION 2. IC 36-8-3.5-5.5 IS ADDED TO THE INDIANA
 18 CODE AS A NEW SECTION TO READ AS FOLLOWS
 19 [EFFECTIVE JULY 1, 2020]: **Sec. 5.5. (a) This section applies only
 20 to a unit that does not have a fire merit system established under
 21 this chapter, IC 36-1-4-14, or prior law on June 30, 2021.**

22 **(b) This section applies to a fire department of a unit that meets
 23 the following criteria:**

24 **(1) The fire department has at least twelve (12) active
 25 full-time, paid members.**

26 **(2) The fire department provides fire protection to a
 27 geographic area that has a resident population of at least
 28 fifteen thousand (15,000):**

29 **(A) including the resident population of any geographic
 30 area within a fire protection district or fire protection
 31 territory; and**

32 **(B) excluding the resident population of any geographic
 33 area that the fire department provides fire protection to
 34 under a mutual aid agreement.**

35 **(c) Except as provided in subsection (d), effective January 1,
 36 2022, a fire merit system is established for the unit's fire
 37 department. The following apply to a fire merit system established
 38 under this section:**

39 **(1) A fire merit commission shall be appointed that establishes
 40 or administers policies based on merit for the appointment,
 41 promotion, demotion, and dismissal of members of the
 42 department as set forth in this chapter.**



1 (2) The fire merit system shall be considered to be established
2 by ordinance or resolution, whichever is applicable, that
3 adopts all of the provisions of this chapter.

4 Effective January 1, 2022, the safety board of the unit may not
5 exercise the powers of the fire merit commission set forth in
6 subdivision (1). Appointments to the fire merit commission shall be
7 made not later than March 1, 2022.

8 (d) Subsection (c) does not apply to a unit if, not later than July
9 1, 2021, at least a majority of both:

10 (1) the members of the legislative body; and

11 (2) the active full-time, paid members of the fire department;
12 vote to approve a resolution that rejects establishing a fire merit
13 system. The legislative body shall vote on the resolution first. If the
14 legislative body votes "yes" on the resolution (thereby rejecting a
15 fire merit system), the resolution shall be voted on by the active
16 full-time, paid members of the fire department in accordance with
17 the procedure set forth in section 4 of this chapter. If a majority of
18 the active full-time, paid members of the fire department vote
19 "yes" on the resolution (thereby rejecting a fire merit system), a
20 fire merit system is not established in the unit under this section.

21 (e) Nothing in this section prohibits a unit from adopting an
22 ordinance or resolution after January 1, 2022, that has the effect
23 of amending or deleting provisions of the fire merit system
24 established under this section that are left to the unit's discretion,
25 as set forth in section 3(b) of this chapter.

26 (f) Nothing in this section prohibits a unit from dissolving a fire
27 merit system established under this section after January 1, 2022,
28 by following the procedure for approving or rejecting a fire merit
29 system under section 4 or 5 of this chapter. A fire merit system
30 dissolution takes effect on January 1 following the vote of a
31 majority of:

32 (1) the active full-time, paid members of the fire department
33 to approve the ordinance or resolution dissolving the fire
34 merit system under section 4 of this chapter; or

35 (2) the members of the legislative body to adopt the ordinance
36 or resolution dissolving the fire merit system under section 5
37 of this chapter.

