

# SENATE BILL No. 140

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 3-10-9-5; IC 36-1.

**Synopsis:** Home rule powers of certain units. Gives Indianapolis-Marion County and second class cities (units) additional home rule powers. Provides that a unit may reject statutory restrictions otherwise applicable to the unit and adopt ordinances for governance instead of the rejected statutes. Provides that certain statutes may not be rejected by a unit. Allows a unit to file for bankruptcy under federal law.

**Effective:** July 1, 2014.

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January 8, 2014, read first time and referred to Committee on Tax and Fiscal Policy.

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Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

# SENATE BILL No. 140



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 3-10-9-5 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2014]: Sec. 5. A local public question may not  
3 be placed on the ballot at an election unless the placement of the local  
4 public question on the ballot at the election is expressly authorized by  
5 statute. **A unit to which IC 36-1-3.1-1 applies may place a local**  
6 **public question on the ballot at an election without any statutory**  
7 **authorization.**

8 SECTION 2. IC 36-1-3-6 IS AMENDED TO READ AS FOLLOWS  
9 [EFFECTIVE JULY 1, 2014]: Sec. 6. (a) If there is a constitutional or  
10 statutory provision requiring a specific manner for exercising a power,  
11 a unit wanting to exercise the power must do so in that manner.  
12 **However, a unit to which IC 36-1-3.1 applies may reject the statute**  
13 **under IC 36-1-3.1.**

14 (b) If there is no constitutional or statutory provision requiring a  
15 specific manner for exercising a power, a unit wanting to exercise the  
16 power must either:



- 1 (1) if the unit is a county or municipality, adopt an ordinance  
 2 prescribing a specific manner for exercising the power;  
 3 (2) if the unit is a township, adopt a resolution prescribing a  
 4 specific manner for exercising the power; or  
 5 (3) comply with a statutory provision permitting a specific manner  
 6 for exercising the power.
- 7 (c) An ordinance under subsection (b)(1) must be adopted as  
 8 follows:  
 9 (1) In a municipality, by the legislative body of the municipality.  
 10 (2) In a county subject to IC 36-2-3.5 or IC 36-3-1, by the  
 11 legislative body of the county.  
 12 (3) In any other county, by the executive of the county.
- 13 (d) A resolution under subsection (b)(2) must be adopted by the  
 14 legislative body of the township.
- 15 SECTION 3. IC 36-1-3-8, AS AMENDED BY P.L.13-2013,  
 16 SECTION 148, IS AMENDED TO READ AS FOLLOWS  
 17 [EFFECTIVE JULY 1, 2014]: Sec. 8. (a) Subject to subsection (b), a  
 18 unit does not have the following:  
 19 (1) The power to condition or limit its civil liability, except as  
 20 expressly granted by statute.  
 21 (2) The power to prescribe the law governing civil actions  
 22 between private persons.  
 23 (3) The power to impose duties on another political subdivision,  
 24 except as expressly granted by statute.  
 25 (4) The power to impose a tax, except as expressly granted by  
 26 statute.  
 27 (5) The power to impose a license fee greater than that reasonably  
 28 related to the administrative cost of exercising a regulatory power.  
 29 (6) The power to impose a service charge or user fee greater than  
 30 that reasonably related to reasonable and just rates and charges  
 31 for services.  
 32 (7) The power to regulate conduct that is regulated by a state  
 33 agency, except as expressly granted by statute.  
 34 (8) The power to prescribe a penalty for conduct constituting a  
 35 crime or infraction under statute.  
 36 (9) The power to prescribe a penalty of imprisonment for an  
 37 ordinance violation.  
 38 (10) The power to prescribe a penalty of a fine as follows:  
 39 (A) More than ten thousand dollars (\$10,000) for the violation  
 40 of an ordinance or a regulation concerning air emissions  
 41 adopted by a county that has received approval to establish an  
 42 air permit program under IC 13-17-12-6.



- 1 (B) For a violation of any other ordinance:  
 2 (i) more than two thousand five hundred dollars (\$2,500) for  
 3 a first violation of the ordinance; and  
 4 (ii) except as provided in subsection (c), more than seven  
 5 thousand five hundred dollars (\$7,500) for a second or  
 6 subsequent violation of the ordinance.
- 7 (11) The power to invest money, except as expressly granted by  
 8 statute.
- 9 (12) The power to order or conduct an election, except as  
 10 expressly granted by statute.
- 11 (b) A township does not have the following, except as expressly  
 12 granted by statute:
- 13 (1) The power to require a license or impose a license fee.  
 14 (2) The power to impose a service charge or user fee.  
 15 (3) The power to prescribe a penalty.
- 16 (c) Subsection (a)(10)(B)(ii) does not apply to the violation of an  
 17 ordinance that regulates traffic or parking.
- 18 **(d) This section does not apply to a unit to which IC 36-1-3.1**  
 19 **applies.**
- 20 SECTION 4. IC 36-1-3.1 IS ADDED TO THE INDIANA CODE  
 21 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 22 JULY 1, 2014]:
- 23 **Chapter 3.1. Complete Home Rule**
- 24 **Sec. 1. This chapter applies only to the following:**
- 25 (1) A consolidated city and county.  
 26 (2) A second class city.
- 27 **Sec. 2. This chapter does not apply to a township located in a**  
 28 **city or county described in section 1(1) or 1(2) of this chapter.**
- 29 **Sec. 3. As used in this chapter, "covered unit" means an entity**  
 30 **listed in section 1 of this chapter.**
- 31 **Sec. 4. (a) The home rule powers of a covered unit include those**  
 32 **set forth in IC 36-1-3 and the following supplemental powers:**
- 33 (1) The power to impose a special assessment, an income tax,  
 34 or an ad valorem property tax. However, a covered unit may  
 35 not impose a tax on property that is statutorily exempt from  
 36 taxation. Any additional ad valorem property taxes are  
 37 subject to the covered unit's maximum levy limits under  
 38 IC 6-1.1-18.5.
- 39 (2) The power to create a special taxing district or special  
 40 service district.
- 41 (3) The power to establish quotas for the issuance of alcoholic  
 42 beverage permits in the covered unit.



- 1           **(4) The power to establish cumulative funds, capital projects**  
 2           **funds, sinking funds, or debt service funds and impose a tax**  
 3           **for these funds.**
- 4           **(5) The power to conduct a local public question.**
- 5           **(b) The omission of a power from the list in subsection (a) does**  
 6           **not imply that a covered unit lacks that power under this chapter.**
- 7           **Sec. 5. This chapter constitutes full and complete authority for**  
 8           **a covered unit to file a petition for bankruptcy protection under**  
 9           **Chapter 9 of Title 11 of the United States Code.**
- 10           **Sec. 6. The department of local government finance shall adjust**  
 11           **maximum permissible ad valorem property tax levies, tax rates,**  
 12           **and budgets of the covered unit as necessary to account for the**  
 13           **covered unit's exercise of power under this chapter.**
- 14           **Sec. 7. Except as provided in sections 8 and 11 of this chapter,**  
 15           **a covered unit may transact all business of the covered unit and**  
 16           **perform all powers of local legislation and administration that the**  
 17           **covered unit considers necessary.**
- 18           **Sec. 8. A covered unit does not have the following powers:**
- 19           **(1) The power to condition or limit its civil liability, except as**  
 20           **expressly granted by statute.**
- 21           **(2) The power to prescribe the law governing civil actions**  
 22           **between private persons.**
- 23           **(3) The power to impose duties on another political**  
 24           **subdivision, except as expressly granted by statute.**
- 25           **(4) The power to impose a license fee greater than that**  
 26           **reasonably related to the administrative cost of exercising a**  
 27           **regulatory power.**
- 28           **(5) The power to impose a service charge or user fee greater**  
 29           **than that reasonably related to reasonable and just rates and**  
 30           **charges for services.**
- 31           **(6) The power to regulate conduct that is regulated by a state**  
 32           **agency, except as expressly granted by statute.**
- 33           **(7) The power to prescribe a penalty for conduct constituting**  
 34           **a crime or infraction under statute.**
- 35           **(8) The power to prescribe a penalty of imprisonment for an**  
 36           **ordinance violation.**
- 37           **(9) The power to prescribe a penalty of a fine as follows:**
- 38           **(A) More than ten thousand dollars (\$10,000) for the**  
 39           **violation of an ordinance or a regulation concerning air**  
 40           **emissions adopted by a county that has received approval**  
 41           **to establish an air permit program under IC 13-17-12-6.**  
 42           **(B) The following applies to a violation of any other**



- 1 ordinance:
- 2 (i) More than two thousand five hundred dollars (\$2,500)
- 3 for a first violation of the ordinance.
- 4 (ii) This item does not apply to the violation of an
- 5 ordinance that regulates traffic or parking. More than
- 6 seven thousand five hundred dollars (\$7,500) for a
- 7 second or subsequent violation of the ordinance.
- 8 (10) The power to order or conduct an election, except as
- 9 expressly granted by statute.
- 10 Sec. 9. A covered unit shall comply with a statute that requires
- 11 a specific manner for the covered unit to exercise the power, unless
- 12 the covered unit adopts an ordinance that:
- 13 (1) expressly rejects the statute in its entirety; and
- 14 (2) prescribes a specific manner for the covered unit to
- 15 exercise the power.
- 16 Sec. 10. This chapter does not prohibit the state from requiring
- 17 a covered unit to comply with a statute or rule as a condition of
- 18 receiving a state grant or loan.
- 19 Sec. 11. Notwithstanding section 9 of this chapter, a covered unit
- 20 may not reject the following:
- 21 (1) This chapter and IC 36-1-3.
- 22 (2) Statutes and rules concerning courts.
- 23 (3) Statutes prescribing limits on indebtedness.
- 24 (4) IC 3 and all other statutes concerning elections, election
- 25 districts, qualification of candidates, and vacancies. However,
- 26 a covered unit may conduct a local public question on any
- 27 issue without statutory authorization.
- 28 (5) IC 36-1-5 and IC 36-1-6 concerning codification and
- 29 enforcement of ordinances.
- 30 (6) Statutes and rules concerning issuing bonds, notes,
- 31 debentures, or other obligations by the covered unit or the
- 32 entering into of lease-rental agreements.
- 33 (7) Statutes and rules concerning the establishment, licensing,
- 34 and administration of hospitals and other health care
- 35 facilities, including:
- 36 (A) IC 16-21 concerning hospitals;
- 37 (B) IC 16-22 concerning county hospitals;
- 38 (C) IC 16-23 concerning municipal and other types of
- 39 hospitals; and
- 40 (D) IC 16-23.5 concerning medical centers and Indiana
- 41 University hospitals.
- 42 (8) IC 36-7-3 and IC 36-7-4 concerning land use, planning,



- 1 and zoning.
- 2 (9) Statutes and rules concerning:
- 3 (A) assessment of real and personal property;
- 4 (B) imposition and collection of income, real property, and
- 5 personal property taxes; and
- 6 (C) tax appeals.
- 7 (10) Statutes and rules concerning local government
- 8 reorganization, including IC 36-1.5-1 and IC 36-4-2-11.
- 9 (11) Statutes concerning annexation and disannexation of
- 10 territory, including IC 36-3-3 or IC 36-4-3.
- 11 (12) Statutes concerning eminent domain.
- 12 (13) Statutes regarding access to meetings and records of the
- 13 unit, including IC 5-14-1.5 and IC 5-14-3.
- 14 (14) Statutes and rules concerning publication of notice,
- 15 including IC 5-3-1.
- 16 (15) Statutes and rules concerning preservation of public
- 17 records, including IC 5-15.
- 18 (16) Statutes and rules concerning interlocal cooperation
- 19 agreements, including IC 36-1-7.
- 20 (17) Statutes concerning drainage law, including IC 36-9-17.
- 21 (18) Statutes and rules concerning accounting for public
- 22 funds, including IC 5-11-1.
- 23 (19) Statutes and rules concerning public safety
- 24 communications, including IC 36-8-15, IC 36-8-16.7, and
- 25 IC 36-8-20.
- 26 (20) IC 36-8-21.5 concerning severe weather warning sirens.
- 27 (21) Statutes and rules concerning establishment, licensing,
- 28 and administration of county homes.
- 29 (22) Statutes concerning the powers, duties, and
- 30 responsibilities of city and county officers under IC 36-2,
- 31 IC 36-3, and IC 36-4.
- 32 (23) Statutes concerning the classification of municipalities
- 33 under IC 36-4-1.
- 34 (24) Statutes concerning impeachment and removal from
- 35 office.
- 36 (25) Statutes and rules concerning fire and building safety.
- 37 (26) Statutes and rules concerning pensions of public
- 38 employees.
- 39 (27) Statutes and rules imposing criminal and civil liability for
- 40 acts of a public official or employee of the unit.
- 41 (28) Statutes and rules concerning public works and public
- 42 purchasing.

