



January 19, 2022

SENATE BILL No. 163

DIGEST OF SB 163 (Updated January 13, 2022 12:42 pm - DI 140)

Citations Affected: IC 34-30; IC 36-4; IC 36-5.

Synopsis: Town fiscal management. Changes the population point that distinguishes a second class city from a third class city from 35,000 to 34,000. Authorizes a town with a population of more than 34,000 to create the office of town controller, appointed by the town legislative body.

Effective: July 1, 2022.

Young M

January 4, 2022, read first time and referred to Committee on Local Government.
January 18, 2022, reported favorably — Do Pass.

SB 163—LS 6709/DI 75



January 19, 2022

Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

SENATE BILL No. 163

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 34-30-2-153.7, AS ADDED BY P.L.86-2018,
2 SECTION 326, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2022]: Sec. 153.7. (a) IC 36-5-6-6 (Concerning
4 town clerk-treasurers for certain acts or omissions).

5 (b) **IC 36-5-6-6.5 (Concerning town clerks for certain acts or**
6 **omissions).**

7 (c) **IC 36-5-6.5-6 (Concerning town controllers for certain acts**
8 **or omissions).**

9 SECTION 2. IC 36-4-1-1, AS AMENDED BY P.L.119-2012,
10 SECTION 184, IS AMENDED TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2022]: Sec. 1. (a) Municipalities are classified
12 according to their status and population as follows:

13 STATUS AND POPULATION	CLASS
14 Cities of 600,000 or more	First class cities
15 Cities of 35,000 34,000 to 599,999	Second class cities
16 Cities of less than 35,000 34,000	Third class cities
17 Other municipalities of any	

SB 163—LS 6709/DI 75



1 population Towns
 2 (b) Except as provided in subsection (c), a city that attains a
 3 population of ~~thirty-five~~ **thirty-four** thousand (~~35,000~~) (**34,000**)
 4 remains a second class city even though its population decreases to less
 5 than ~~thirty-five~~ **thirty-four** thousand (~~35,000~~) (**34,000**) at the next
 6 federal decennial census.

7 (c) The legislative body of a city to which subsection (b) applies
 8 may, by ordinance, adopt third class city status.

9 SECTION 3. IC 36-4-1-1.1 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 1.1. (a) Except as
 11 provided in subsection (b), a third class city remains a third class city
 12 even though the city attains a population of at least ~~thirty-five~~
 13 **thirty-four** thousand (~~35,000~~) (**34,000**) at a federal decennial census.

14 (b) The legislative body of a city to which subsection (a) applies
 15 may, by ordinance, adopt second class city status.

16 SECTION 4. IC 36-5-6-2 IS AMENDED TO READ AS FOLLOWS
 17 [EFFECTIVE JULY 1, 2022]: Sec. 2. **Except as provided in**
 18 **IC 36-5-6.5**, the clerk-treasurer elected under this chapter is both the
 19 town clerk and the town fiscal officer.

20 SECTION 5. IC 36-5-6-3, AS AMENDED BY P.L.109-2015,
 21 SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2022]: Sec. 3. (a) The clerk-treasurer must reside within the
 23 town as provided in Article 6, Section 6 of the Constitution of the State
 24 of Indiana. The clerk-treasurer forfeits office if the clerk-treasurer
 25 ceases to be a resident of the town. **An individual who resides in**
 26 **territory that is annexed by the town before the election is**
 27 **considered a resident of the town for purposes of this subsection,**
 28 **even if the annexation took effect less than one (1) year before the**
 29 **election.**

30 (b) Except as provided in subsection (c), (d), (e), or (f), the term of
 31 office of the clerk-treasurer is four (4) years, beginning at noon January
 32 1 after election and continuing until a successor is elected and
 33 qualified.

34 (c) The term of office of a clerk-treasurer elected under
 35 IC 36-5-1-10.1 following the incorporation of the town:

- 36 (1) begins at noon November 30 following the election; and
 37 (2) continues until noon January 1 following the next municipal
 38 election scheduled under IC 3-10-6-5 or IC 3-10-7-6 and until the
 39 clerk-treasurer's successor is elected and qualified.

40 (d) The term of office of a clerk-treasurer subject to an ordinance
 41 described by IC 3-10-6-2.6 is:

- 42 (1) one (1) year if the clerk-treasurer is elected at the next



- 1 municipal election not conducted in a general election year; and
 2 (2) four (4) years for the successors of the clerk-treasurer
 3 described in subdivision (1);
 4 beginning at noon January 1 after the clerk-treasurer's election and
 5 continuing until the clerk-treasurer's successor is elected and qualified.
 6 (e) The term of office of a clerk-treasurer subject to an ordinance
 7 described by IC 3-10-7-2.7 is:
 8 (1) three (3) years if the clerk-treasurer is elected at the next
 9 municipal election not conducted in a general election year; and
 10 (2) four (4) years for the successors of the clerk-treasurer
 11 described in subdivision (1);
 12 beginning noon January 1 after the clerk-treasurer's election and
 13 continuing until the clerk-treasurer's successor is elected and qualified.
 14 (f) The term of office of a clerk-treasurer subject to an ordinance
 15 described by IC 3-10-7-2.9 is:
 16 (1) the term of office provided by the ordinance, not to exceed
 17 four (4) years, for the clerk-treasurer elected in the first election
 18 cycle after adoption of the ordinance; and
 19 (2) four (4) years for the successors of the clerk-treasurer
 20 described in subdivision (1).
 21 SECTION 6. IC 36-5-6-6 IS AMENDED TO READ AS FOLLOWS
 22 [EFFECTIVE JULY 1, 2022]: Sec. 6. **(a) This section does not apply**
 23 **to a town that has adopted an ordinance under IC 36-5-6.5.**
 24 **(a) (b)** The clerk-treasurer shall do the following:
 25 (1) Receive and care for all town money and pay the money out
 26 only on order of the town legislative body.
 27 (2) Keep accounts showing when and from what sources the
 28 clerk-treasurer has received town money and when and to whom
 29 the clerk-treasurer has paid out town money.
 30 (3) Prescribe payroll and account forms for all town offices.
 31 (4) Prescribe the manner in which creditors, officers, and
 32 employees shall be paid.
 33 (5) Manage the finances and accounts of the town and make
 34 investments of town money.
 35 (6) Prepare for the legislative body the budget estimates of
 36 miscellaneous revenue, financial statements, and the proposed tax
 37 rate.
 38 (7) Maintain custody of the town seal and the records of the
 39 legislative body.
 40 (8) Issue all licenses authorized by statute and collect the fees
 41 fixed by ordinance.
 42 (9) Serve as clerk of the legislative body by attending its meetings



1 and recording its proceedings.

2 (10) Administer oaths, take depositions, and take
3 acknowledgment of instruments that are required by statute to be
4 acknowledged, without charging a fee.

5 (11) Serve as clerk of the town court under IC 33-35-3-2, if the
6 judge of the court does not serve as clerk of the court or appoint
7 a clerk of the court under IC 33-35-3-1.

8 (12) Perform all other duties prescribed by statute.

9 ~~(b)~~ (c) A clerk-treasurer is not liable, in an individual capacity, for
10 any act or omission occurring in connection with the performance of
11 the requirements set forth in subsection ~~(a)~~; ~~(b)~~, unless the act or
12 omission constitutes gross negligence or an intentional disregard of the
13 requirements.

14 SECTION 7. IC 36-5-6-6.5 IS ADDED TO THE INDIANA CODE
15 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
16 1, 2022]: **Sec. 6.5. (a) This section applies only to a town that adopts
17 an ordinance under IC 36-5-6.5.**

18 **(b) A reference to a town clerk-treasurer in the Indiana Code is
19 considered to be a reference to the town clerk who serves a town
20 that has an appointed controller under IC 36-5-6.5, to the extent
21 that the reference is connected to the duties of the town clerk set
22 forth in subsection (e).**

23 **(c) A reference to a town clerk-treasurer in the Indiana Code is
24 considered to be a reference to the town controller who serves a
25 town that has an appointed controller under IC 36-5-6.5, to the
26 extent that the reference is connected to the duties of the town
27 controller set forth IC 36-5-6.5-5.**

28 **(d) Not later than the effective date of an ordinance adopted
29 under IC 36-5-6.5, the town clerk-treasurer shall turn over to the
30 controller the records relating to the controller's powers and duties
31 described in IC 36-5-6.5-5.**

32 **(e) The town clerk shall do the following:**

33 **(1) Serve as clerk of the town council under IC 36-5-2-2 and
34 maintain custody of its records.**

35 **(2) Maintain all records required by law.**

36 **(3) Keep the town seal.**

37 **(4) As soon as a successor is elected and qualified, deliver to
38 the successor all the records and property of the clerk's office.**

39 **(5) Perform other duties prescribed by law.**

40 **(6) Administer oaths when necessary in the discharge of the
41 clerk's duties, without charging a fee.**

42 **(7) Take depositions, without charging a fee.**



1 (8) Take acknowledgment of instruments that are required by
2 statute to be acknowledged, without charging a fee.

3 (9) Serve as clerk of the town court under IC 33-35-3-2, if the
4 judge of the court does not serve as clerk of the court or
5 appoint a clerk of the court under IC 33-35-3-1.

6 (f) A town clerk is not liable, in an individual capacity, for any
7 act or omission occurring in connection with the performance of
8 the requirements set forth in subsection (e), unless the act or
9 omission constitutes gross negligence or an intentional disregard
10 of the requirements of law.

11 SECTION 8. IC 36-5-6.5 IS ADDED TO THE INDIANA CODE
12 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2022]:

14 **Chapter 6.5. Town Controller**

15 **Sec. 1. This chapter applies only to a town that:**

- 16 (1) has a population of thirty-four thousand (34,000) or more;
17 and
18 (2) adopts an ordinance under this chapter.

19 **Sec. 2. The town legislative body may adopt an ordinance to**
20 **establish the office of town controller to be appointed by the**
21 **legislative body.**

22 **Sec. 3. The town controller serves as the town's fiscal officer.**

23 **Sec. 4. The town controller is the head of the town department**
24 **of finance.**

25 **Sec. 5. The town controller shall do the following:**

- 26 (1) Prescribe the form of reports and accounts to be submitted
27 to the department.
28 (2) Sign and issue all warrants on the town treasury.
29 (3) Audit and revise all accounts and trusts in which the town
30 is concerned.
31 (4) Keep separate accounts for each item of appropriation
32 made for each town department, including a statement
33 showing the amount drawn on each appropriation, the unpaid
34 contracts charged against it, and the balance remaining.
35 (5) At the end of each fiscal year, submit under oath to the
36 town legislative body a report of the accounts of the town
37 published in pamphlet form and showing revenues, receipts,
38 expenditures, and the sources of revenues.
39 (6) Maintain custody of the records of the department and
40 turn them over to the fiscal officer's successor in office.
41 (7) Perform duties prescribed by statute concerning the
42 negotiation of town bonds, notes, and warrants.



- 1 **(8) Keep a register of bonds of the town and of transfers of**
2 **those bonds.**
- 3 **(9) Manage the finances and accounts of the town and make**
4 **investments of town money, subject to the ordinances of the**
5 **legislative body.**
- 6 **(10) Issue town licenses on payment of the license fee.**
- 7 **(11) Collect fees as fixed by ordinance.**
- 8 **(12) Pay into the town treasury, once each week, all fees and**
9 **other town money collected by the department during the**
10 **preceding week, specifying the source of each item.**
- 11 **(13) Prescribe payroll and account forms for all town offices.**
- 12 **(14) Prescribe the manner in which salaries shall be drawn.**
- 13 **(15) Prescribe the manner in which creditors, officers, and**
14 **employees shall be paid.**
- 15 **(16) Provide that all salaries are payable monthly, unless the**
16 **legislative body establishes more frequent payments.**
- 17 **(17) Notify the town council of the failure of any town officer**
18 **to collect money due the town or to pay town money into the**
19 **town treasury.**
- 20 **(18) Draw warrants on the town treasury for miscellaneous**
21 **town expenditures not made under the direction of a**
22 **department and not specifically fixed by statute.**
- 23 **(19) If a town owns a utility and the controller is directly**
24 **responsible for the billing and collection of that utility's rates**
25 **and charges, the controller shall appoint those employees who**
26 **are also responsible for that billing and collection. These**
27 **employees serve at the controller's pleasure.**
- 28 **Sec. 6. The town controller is not liable, in an individual**
29 **capacity, for any act or omission occurring in connection with the**
30 **performance of the town controller's duties as the town's fiscal**
31 **officer, unless the act or omission constitutes gross negligence or an**
32 **intentional disregard of the controller's duty as fiscal officer.**



COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred Senate Bill No. 163, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 163 as introduced.)

BUCK, Chairperson

Committee Vote: Yeas 8, Nays 0

