

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 ENROLLED ACT No. 304

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 5-8-1-35, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2022 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]:

Sec. 35. (a) When an accusation in writing, verified by the oath of any person or in resolutions adopted by a county executive and county fiscal body in accordance with IC 36-2-8.7 **or IC 36-6-4.5**, is presented to a circuit court, superior court, or probate court, alleging that any officer within the jurisdiction of the court has been guilty of:

- (1) charging and collecting illegal fees for services rendered or to be rendered in the officer's office;
- (2) refusing or neglecting to perform the official duties pertaining to the officer's office; **or**
- (3) in the case of a county officer (as defined in IC 36-2-8.7-1), failing to be physically present in the county officer's office in violation of IC 36-2-8.7-7; **or**
- (4) violating IC 36-6-4-17(b) if the officer is the executive of a township;

the court must cite the party charged to appear before the court at any time not more than ten (10) nor less than five (5) days from the time the accusation was presented, and on that day or some other subsequent day not more than twenty (20) days from the time the accusation was presented must proceed to hear, in a summary manner, the accusation

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and evidence offered in support of the same, and the answer and evidence offered by the party accused.

(b) If after the hearing under subsection (a) it appears that the charge is sustained, the court must do the following:

(1) Enter a decree that the party accused be deprived of the party's office.

(2) Enter a judgment as follows:

(A) For five hundred dollars (\$500) in favor of the prosecuting officer.

(B) For costs as are allowed in civil cases.

(C) For the amount of money that was paid to the officer in compensation from the day when the accusation was filed under this section to the day when judgment is entered in favor of the public entity paying the compensation to the officer.

(c) In an action under this section, a court may award reasonable attorney's fees, court costs, and other reasonable expenses of litigation to the accused officer if:

(1) the officer prevails; and

(2) the court finds that the accusation is frivolous or vexatious.

SECTION 2. IC 5-11-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 3. A person who violates section 1 of this chapter commits a Class C infraction. If violated by an elected state officer, the officer is liable to impeachment, and if violated by any other person, the person is subject to removal for neglect of duty under the procedures described in IC 34-17. **A township executive who violates section 1 of this chapter may also be removed from office by an action under IC 5-8-1-35 that is initiated under IC 36-6-4.5.**

SECTION 3. IC 6-1.1-37-1, AS AMENDED BY P.L.1-2010, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 1. An officer of state or local government who recklessly violates or fails to perform a duty imposed on ~~him~~ **the officer** under:

(1) IC 6-1.1-10-1(b);

(2) IC 6-1.1-12-6;

(3) IC 6-1.1-12-7;

(4) IC 6-1.1-17-1;

(5) IC 6-1.1-17-3(a);

(6) ~~IC 6-1.1-17-5(d)(1)~~; **IC 6-1.1-17-5(d)**;

(7) IC 6-1.1-18-1;

(8) IC 6-1.1-18-5;

(9) IC 6-1.1-18-6;

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- (10) IC 6-1.1-20-5;
- (11) IC 6-1.1-20-6;
- (12) IC 6-1.1-20-7;
- (13) IC 6-1.1-30-14; or
- (14) IC 6-1.1-36-13;

commits a Class A misdemeanor. In addition, the officer is liable for the damages sustained by a person as a result of the officer's violation of the provision or the officer's failure to perform the duty.

SECTION 4. IC 36-6-4-3, AS AMENDED BY P.L.1-2009, SECTION 163, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 3. The executive shall do the following:

- (1) Keep a written record of official proceedings.
- (2) Manage all township property interests.
- (3) Keep township records open for public inspection.
- (4) Attend all meetings of the township legislative body.
- (5) Receive and pay out township funds.
- (6) Examine and settle all accounts and demands chargeable against the township.
- (7) Administer township assistance under IC 12-20 and IC 12-30-4.
- (8) Perform the duties of fence viewer under IC 32-26.
- (9) Provide and maintain cemeteries under IC 23-14.
- (10) Provide fire protection under IC 36-8, except in a township that:
 - (A) is located in a county having a consolidated city; and
 - (B) consolidated the township's fire department under IC 36-3-1-6.1.
- (11) File an annual personnel report under IC 5-11-13.
- (12) Prepare a statement of estimated expenditures and present the statement to the legislative body at the annual meeting under section 11 of this chapter.**
- (13) File the annual budget adopted by the township legislative body with the department of local government finance within the time specified and otherwise in accordance with IC 6-1.1-17-5(d).**
- (14) Submit information to the department of local government finance's computer gateway within the time specified as prescribed under IC 6-1.1-17-3(a).**
- ~~(12)~~ **(15) Provide and maintain township parks and community centers under IC 36-10.**
- ~~(13)~~ **(16) Destroy detrimental plants, noxious weeds, and rank**



vegetation under IC 15-16-8.

~~(14)~~ **(17)** Provide insulin to the poor under IC 12-20-16.

~~(15)~~ **(18)** Perform other duties prescribed by statute.

SECTION 5. IC 36-6-4-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 17. (a) An executive who fails to perform a duty imposed by section 3(1), 3(2), 3(3), 3(4), 3(5), 3(7), 3(8), 5, or 14(1) of this chapter is liable to the township in a sum of not more than one hundred dollars (\$100), to be recovered in a civil action brought in the name of the township.

(b) An executive is entitled to receive the following:

(1) The executive's salary.

(2) Reimbursement for expenses that are reasonably incurred by the executive for the following:

(A) The operation of the executive's office.

(B) Travel and meals while attending seminars or conferences on township matters.

(C) A sum for mileage as permitted under IC 36-6-8-3(b).

The executive may not make any other personal use of township funds without prior approval by the legislative body of the township.

(c) An executive who fails to perform a duty imposed by section 3(12), 3(13), or 3(14) of this chapter or subsection (b) may be removed from office by an action under IC 5-8-1-35 that is initiated under IC 36-6-4.5.

SECTION 6. IC 36-6-4.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]:

Chapter 4.5. Removal of Township Executive from Office

Sec. 1. As used in this chapter, "violation" means a violation set forth in, or a violation of any duty set forth under:

(1) IC 5-8-1-35(a)(1) or IC 5-8-1-35(a)(2);

(2) IC 5-11-13-3;

(3) IC 36-6-4-3(12), IC 36-6-4-3(13), or IC 36-6-4-3(14);

(4) IC 36-6-4-5; or

(5) IC 36-6-4-17(b).

Sec. 2. An action to remove a township executive from office under IC 5-8-1-35 for committing a violation may be initiated as set forth in this chapter.

Sec. 3. The township legislative body may initiate the removal of a township executive from office by adopting a resolution. At least one (1) public hearing must be held by the township legislative body on the resolution at least ten (10) business days before the resolution is adopted. The resolution must contain a concise



statement of the underlying basic facts that support the township legislative body's finding that the township executive committed a violation.

Sec. 4. The township legislative body must file the resolution with the county executive of the county in which the township is located not later than ten (10) business days after the date the resolution is adopted by the township legislative body or the resolution is void.

Sec. 5. (a) Upon receiving a resolution timely filed under section 4 of this chapter, the county executive may initiate the process of petitioning a court to remove the township executive from office under IC 5-8-1-35 by adopting a resolution.

(b) At least one (1) public hearing must be held by the county executive on the resolution at least ten (10) business days before the resolution is adopted. The resolution must contain a concise statement of the underlying basic facts that support the county executive's finding that the township executive committed a violation.

Sec. 6. In the case of a county that:

- (1)** has a consolidated city, the resolution must be adopted by the county executive; or
- (2)** does not have a consolidated city, the resolution must be adopted by an affirmative vote of at least a majority of all members of the county executive.

Sec. 7. The county executive shall certify the resolution to:

- (1)** the county fiscal body;
- (2)** the township legislative body;
- (3)** the township executive; and
- (4)** the clerk of the court in which the action is filed under IC 5-8-1-35;

not later than ten (10) days after the date the resolution is adopted or the resolution is void.

Sec. 8. (a) Upon receiving a resolution certified by the county executive under section 7 of this chapter, the county fiscal body may adopt a resolution to initiate the process of petitioning a court to remove the township executive from office under IC 5-8-1-35.

(b) At least one (1) public hearing must be held by the county fiscal body on the resolution at least ten (10) business days before the resolution is adopted. The resolution must contain a concise statement of the underlying basic facts that support the county fiscal body's finding that the township executive committed a violation. The finding and statement of underlying basic facts



supporting the finding must be identical to those in the resolution adopted by the county executive.

(c) The resolution must be adopted by an affirmative vote of at least:

- (1) five (5) members, in the case of a county fiscal body under IC 36-2-3-2(a);
- (2) seven (7) members, in the case of a county fiscal body under IC 36-2-3-2(b); or
- (3) seventeen (17) members, in the case of a county fiscal body of a county that has a consolidated city under IC 36-3-4-2.

(d) The county fiscal body shall certify the resolution to:

- (1) the county executive;
- (2) the township legislative body;
- (3) the township executive; and
- (4) the clerk of the court in which the action is filed under IC 5-8-1-35;

not later than ten (10) days after the resolution is adopted, or the resolution is void.

SECTION 7. IC 36-6-6-11, AS AMENDED BY P.L.209-2019, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 11. (a) The legislative body shall meet annually in accord **accordance** with IC 6-1.1-17, to adopt the township's annual budget. **The legislative body must meet and adopt the annual budget even if the legislative body intends for the most recent annual appropriations and annual tax levy of the township to be continued for the ensuing budget year.**

(b) The legislative body shall consider the estimates of expenditures made by the executive under IC 36-6-4-11, and may approve or reject all or part of any estimate or any item within an estimate. The legislative body may require the executive to further itemize an estimate not sufficiently itemized.

(c) The legislative body may not appropriate for any purpose an amount more than the executive's estimate of the amount required for that purpose.

(d) The legislative body shall include in the budget:

- (1) provisions for the payment of existing debt of the township as it becomes due; and
- (2) the amount of compensation under section 10 of this chapter.

(e) In making levies for the township general fund, the legislative body may include an amount not more than the amount necessary to compensate its members for their services during the year for which the levies are made.

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(f) After the legislative body has taken action on the executive's estimates, it shall levy taxes for the township funds on property in the township and fix rates of taxation sufficient to provide that revenue during the next year.

(g) A township executive must file the budget adopted by the legislative body with the department of local government finance as required under IC 6-1.1-17-5(d). A township executive that fails to timely file the budget may be removed from office by an action under IC 5-8-1-35 that is initiated under IC 36-6-4.5.

(g) (h) On the assessment date, as defined by IC 6-1.1-1-2, the rates of taxation adopted under this section become a levy and a lien on all taxable property in the township, including property in municipalities in the township. The levy constitutes an appropriation for the specific items in the executive's estimates.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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