



February 7, 2023

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## SENATE BILL No. 353

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DIGEST OF SB 353 (Updated February 2, 2023 1:27 pm - DI 140)

**Citations Affected:** IC 27-1; IC 34-13.

**Synopsis:** Risk management and catastrophic liability funds. Authorizes the insurance commissioner to cease operation of the political subdivision risk management fund upon a determination by the insurance commissioner that: (1) all political subdivisions that were members of the fund have withdrawn from the fund; and (2) all payment of the liabilities of former members of the fund have been determined and finalized. Authorizes the insurance commissioner to cease operation of the political subdivision catastrophic liability fund upon a determination by the insurance commissioner that: (1) all political subdivisions that were members of the fund have withdrawn from the fund; and (2) all payment of the liabilities of former members of the fund have been determined and finalized. Requires the insurance commissioner, when ceasing operation of one of the funds, to distribute the balance in the fund to former members of the fund, distributing to each former member an amount proportional to the total of assessments and (in the case of the political subdivision risk management fund) surcharges paid by the former member. Provides that the laws establishing the political subdivision risk management fund and the  
(Continued next page)

**Effective:** July 1, 2023.

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**Charbonneau, Pol Jr., Melton,  
Randolph Lonnie M**

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January 17, 2023, read first time and referred to Committee on Appropriations.  
February 6, 2023, reported favorably — Do Pass.

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SB 353—LS 7357/DI 55



Digest Continued

political subdivision catastrophic liability fund expire when the insurance commissioner certifies to the executive director of the legislative services agency that: (1) the funds have no remaining members; (2) all payments of liabilities of former members of the funds have been determined and finalized; and (3) the balances in the funds have been distributed to former members of the funds. Amends a provision of the law concerning tort claims against governmental entities to provide that giving notice of a tort claim against a political subdivision to the political subdivision risk management commission is not required if the law establishing the political subdivision risk management commission has expired.



February 7, 2023

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

## SENATE BILL No. 353

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

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

1 SECTION 1. IC 27-1-29-5, AS AMENDED BY P.L.53-2014,  
2 SECTION 141, IS AMENDED TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2023]: Sec. 5. (a) The Indiana political  
4 subdivision risk management commission is created as a separate body  
5 corporate and politic, constituting an instrumentality of the state for the  
6 public purposes set out in this chapter, but not a state agency. The  
7 commission is separate from the state in its corporate and sovereign  
8 capacity. The purpose of the commission is aiding political  
9 subdivisions in protecting themselves against liabilities. The  
10 commission is not subject to IC 27-6-8, and the Indiana guaranty  
11 association created by IC 27-6-8-5 has no obligation to insureds or  
12 claimants of the commission.

13 (b) The commission consists of the insurance commissioner, who  
14 shall serve as chairman, and nine (9) other commission members.  
15 However, the reduction in membership of the commission from ten  
16 (10) appointed members to nine (9) appointed members shall be  
17 accomplished as the terms of members end and new members are

SB 353—LS 7357/DI 55



1 appointed. Until the expiration of the term of a member who is serving  
2 on the commission on January 1, 2014, and resides in the same  
3 congressional district as another member, the commission consists of  
4 ten (10) appointed members. Except for the **insurance** commissioner,  
5 the members of the commission shall be appointed by the governor for  
6 a term of four (4) years. No more than five (5) commission members  
7 appointed by the governor under this section may be members of the  
8 same political party. The commission members appointed by the  
9 governor under this section must include one (1) resident of each  
10 congressional district in Indiana. The commission shall elect one (1) of  
11 the appointed commission members as secretary of the commission.

12 (c) A commission member may be reappointed to the commission.

13 (d) In appointing commission members under this section, the  
14 governor shall consider the qualifications, expertise, and background  
15 that would provide the proper talent to administer this chapter. To the  
16 degree possible, the members must have backgrounds in educational  
17 administration, risk management, and governance of a political  
18 subdivision and must include persons with knowledge of insurance  
19 matters.

20 (e) A vacancy occurring on the commission shall be filled through  
21 the appointment of a resident of the same congressional district as the  
22 vacating commission member for the unexpired term of the  
23 commission member leaving the commission.

24 (f) Each member of the commission who is not a state employee is  
25 entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b).  
26 Such a commission member is also entitled to reimbursement for  
27 traveling expenses and other expenses actually incurred in connection  
28 with the member's duties, as provided in the state travel policies and  
29 procedures established by the department of administration and  
30 approved by the state budget agency.

31 (g) Each member of the commission who is a state employee is  
32 entitled to reimbursement for traveling expenses and other expenses  
33 actually incurred in connection with the commission member's duties,  
34 as provided in the state travel policies and procedures established by  
35 the department of administration and approved by the state budget  
36 agency.

37 (h) All property of the commission is public property devoted to an  
38 essential public and governmental function and purpose and is exempt  
39 from all taxes and special assessments of the state or a political  
40 subdivision of the state.

41 (i) **The term of a member of the commission expires upon the**  
42 **expiration of this chapter under section 29 of this chapter.**



1 SECTION 2. IC 27-1-29-28 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 28. (a) As used in this  
 3 section, "fund" means the political subdivision risk management fund  
 4 established by section 10 of this chapter.

5 (b) Notwithstanding any other provision of this chapter, the  
 6 commission:

7 (1) with the approval of the insurance commissioner; and

8 (2) upon a determination by the commission that:

9 (A) membership in the fund is declining; and

10 (B) financial conditions warrant the action;

11 is authorized to take action under subsection (c):

12 (b) Upon a determination by the commissioner that:

13 (1) all members have withdrawn from the fund; and

14 (2) all payments of liabilities of former members of the fund  
 15 have been determined and finalized;

16 the commissioner is authorized to take action under subsection (c).

17 (c) Under the circumstances set forth in subsection (b), the  
 18 commission may **commissioner shall** do the following with respect to  
 19 the fund:

20 (1) Prevent any political subdivision that is not already a member  
 21 of the fund from becoming a member.

22 (2) Decline to renew the membership of the political subdivisions  
 23 that are members of the fund.

24 (3) ~~When the membership of the last member has expired; Cease~~  
 25 ~~the operation of the fund. except for:~~

26 (A) the payment of liabilities of former members of the fund;  
 27 and

28 (B) the collection of assessments from former members of the  
 29 fund; if any are due;

30 in accordance with this chapter and rules adopted by the  
 31 commission.

32 (4) ~~Allow or cause a partial reduction or complete depletion of the~~  
 33 ~~balance of the fund through:~~

34 (A) the payment of liabilities of former members of the fund;  
 35 and

36 (B) at the discretion of the commission; and with the approval  
 37 of the commissioner, the pro rata return to former members of  
 38 assessments paid by former members of the fund;

39 in accordance with this chapter and rules adopted by the  
 40 commission.

41 (4) **Distribute the balance in the fund, including the reserve**  
 42 **account created under section 10(f) of this chapter, to former**



1 members of the fund, distributing to each former member of  
2 the fund an amount proportional to the total of:

3 (A) assessments paid under section 12 of this chapter; and

4 (B) surcharges paid under section 7(b)(10) of this chapter;  
5 by the former member, regardless of when the former  
6 member withdrew from the fund.

7 (d) After any or all of the actions authorized by subsection (c); the  
8 commission; with the approval of the insurance commissioner; may  
9 resume using the fund to pay the liabilities of members of the fund  
10 under this chapter:

11 SECTION 3. IC 27-1-29-29 IS ADDED TO THE INDIANA CODE  
12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
13 1, 2023]: Sec. 29. (a) Except as provided in subsection (b), this  
14 chapter expires when the insurance commissioner certifies to the  
15 executive director of the legislative services agency that:

16 (1) the fund has no remaining members;

17 (2) all payments of liabilities of former members of the fund  
18 have been determined and finalized; and

19 (3) the balance in the fund has been distributed to former  
20 members of the fund in accordance with section 28(c)(4) of  
21 this chapter.

22 (b) This chapter does not expire under subsection (a) unless  
23 IC 27-1-29.1:

24 (1) has previously expired under IC 27-1-29.1-24; or

25 (2) expires under IC 27-1-29.1-24 at the same time as this  
26 chapter expires under subsection (a)(1) through (a)(3).

27 SECTION 4. IC 27-1-29.1-23 IS ADDED TO THE INDIANA  
28 CODE AS A NEW SECTION TO READ AS FOLLOWS  
29 [EFFECTIVE JULY 1, 2023]: Sec. 23. (a) Upon a determination by  
30 the commissioner that:

31 (1) all members have withdrawn from the fund; and

32 (2) all payments of liabilities of former members of the fund  
33 have been determined and finalized;

34 the commissioner is authorized to take action under subsection (b).

35 (b) Under the circumstances set forth in subsection (a), the  
36 commissioner shall do the following with respect to the fund:

37 (1) Prevent any political subdivision that is not already a  
38 member of the fund from becoming a member.

39 (2) Decline to renew the membership of the political  
40 subdivisions that are members of the fund.

41 (3) Cease operation of the fund.

42 (4) Distribute the balance in the fund, including the reserve



1           **account created under section 8 of this chapter, to former**  
 2           **members of the fund, distributing to each former member of**  
 3           **the fund an amount proportional to the total of assessments**  
 4           **paid under section 22 of this chapter by the former member,**  
 5           **regardless of when the former member withdrew from the**  
 6           **fund.**

7           SECTION 5. IC 27-1-29.1-24 IS ADDED TO THE INDIANA  
 8           CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 9           [EFFECTIVE JULY 1, 2023]: **Sec. 24. This chapter expires when the**  
 10          **insurance commissioner certifies to the executive director of the**  
 11          **legislative services agency that:**

- 12           **(1) the fund has no remaining members;**  
 13           **(2) all payments of liabilities of former members of the fund**  
 14           **have been determined and finalized; and**  
 15           **(3) the balance in the fund has been distributed to former**  
 16           **members of the fund in accordance with section 23(b)(4) of**  
 17           **this chapter.**

18          SECTION 6. IC 34-13-3-8 IS AMENDED TO READ AS  
 19          FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 8. (a) Except as  
 20          provided in section 9 of this chapter **and subsection (b)**, a claim  
 21          against a political subdivision is barred unless notice is filed with:

- 22           (1) the governing body of that political subdivision; and  
 23           (2) **unless IC 27-1-29 has expired under IC 27-1-29-29**, the  
 24           Indiana political subdivision risk management commission  
 25           created under IC 27-1-29;

26          within one hundred eighty (180) days after the loss occurs.

27          (b) A claim against a political subdivision is not barred for failure  
 28          to file notice with the Indiana political subdivision risk management  
 29          commission ~~created under IC 27-1-29-5~~ **under subsection (a)(2)** if the  
 30          political subdivision was not a member of the political subdivision risk  
 31          management fund established under IC 27-1-29-10 at the time the act  
 32          or omission took place.



COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Senate Bill No. 353, 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 353 as introduced.)

MISHLER, Chairperson

Committee Vote: Yeas 10, Nays 0

