



February 23, 2018

ENGROSSED SENATE BILL No. 392

DIGEST OF SB 392 (Updated February 22, 2018 10:05 am - DI 75)

Citations Affected: IC 5-14; IC 6-1.1; IC 36-1.

Synopsis: Local government matters. Establishes a process to: (1) divide and transfer land that is owned by a county, city, or town; and (2) assess the value of land that a county, city, or town owns that the county, city, or town has divided and transferred to an adjacent property owner. Provides that, in a tax sale, a county executive may include any costs directly attributable to the county in the price for the sale of a certificate of sale. Amends the law exempting a county executive or a town legislative body from giving notice of a meeting if the meeting concerns routine administrative functions. Provides that if a public record is in an electronic format, a state or local government agency (excluding the office of the county recorder) shall provide an electronic copy or a paper copy of the public record, at the option of the person making the request for the public record. Prohibits, with certain exceptions, a state or local government agency from charging a fee for providing a public record by electronic mail. Provides that in the case of a county that sells a county hospital before July 1, 2018, the county council and the county executive may, by adopting substantially similar ordinances, establish a charitable nonprofit foundation (foundation) to
(Continued next page)

Effective: July 1, 2018.

**Niemeyer, Bohacek,
Randolph Lonnie M**

(HOUSE SPONSORS — SLAGER, AYLESWORTH, CLERE)

January 8, 2018, read first time and referred to Committee on Local Government.
January 18, 2018, reported favorably — Do Pass.
January 22, 2018, read second time, ordered engrossed. Engrossed.
January 25, 2018, read third time, passed. Yeas 47, nays 1.

HOUSE ACTION

February 6, 2018, read first time and referred to Committee on Local Government.
February 22, 2018, amended, reported — Do Pass.

ES 392—LS 6727/DI 129



Digest Continued

hold some or all of the proceeds of the sale of the county hospital in trust for the benefit of the county. Provides the details for the operation of the foundation and use of the trust funds. Provides that another unit in the same county may enter into an interlocal agreement with the county council, the county executive, and the board to invest funds obtained by the unit from the sale of a capital asset into the foundation. Establishes requirements for the contents of the interlocal agreement. Provides that the department of local government finance (DLGF) may not reduce the actual or maximum permissible property tax levy of a unit that enters into an interlocal agreement on account of money transferred into or expended from the foundation. Permits the county to: (1) use money from the principal amount of the donation as a pledge of money to bonds, leases, or other obligations; and (2) pay bonds issued by the county. Specifies that the DLGF may not reduce a county's maximum or actual permissible property tax levy on account of money deposited into or expended from a foundation. Makes conforming changes.

ES 392—LS 6727/DI 129



February 23, 2018

Second Regular Session 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 392

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

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

1 SECTION 1. IC 5-14-1.5-5, AS AMENDED BY P.L.134-2012,
2 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2018]: Sec. 5. (a) Public notice of the date, time, and place of
4 any meetings, executive sessions, or of any rescheduled or reconvened
5 meeting, shall be given at least forty-eight (48) hours (excluding
6 Saturdays, Sundays, and legal holidays) before the meeting. This
7 requirement does not apply to reconvened meetings (not including
8 executive sessions) where announcement of the date, time, and place
9 of the reconvened meeting is made at the original meeting and recorded
10 in the memoranda and minutes thereof, and there is no change in the
11 agenda.

12 (b) Public notice shall be given by the governing body of a public
13 agency as follows:

14 (1) The governing body of a public agency shall give public
15 notice by posting a copy of the notice at the principal office of the
16 public agency holding the meeting or, if no such office exists, at
17 the building where the meeting is to be held.

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1 (2) The governing body of a public agency shall give public
2 notice by delivering notice to all news media which deliver an
3 annual written request for the notices not later than December 31
4 for the next succeeding calendar year to the governing body of the
5 public agency. The governing body shall give notice by one (1) of
6 the following methods, which shall be determined by the
7 governing body:

8 (A) Depositing the notice in the United States mail with
9 postage prepaid.

10 (B) Transmitting the notice by electronic mail, if the public
11 agency has the capacity to transmit electronic mail.

12 (C) Transmitting the notice by facsimile (fax).

13 (3) This subdivision applies only to the governing body of a
14 public agency of a political subdivision described in section
15 2(a)(2), 2(a)(4), or 2(a)(5) of this chapter that adopts a policy to
16 provide notice under this subdivision. Notice under this
17 subsection is in addition to providing notice under subdivisions
18 (1) and (2). If the governing body adopts a policy under this
19 subdivision, the governing body of a public agency shall give
20 public notice by delivering notice to any person (other than news
21 media) who delivers to the governing body of the public agency
22 an annual written request for the notices not later than December
23 31 for the next succeeding calendar year. The governing body
24 shall give notice by one (1) of the following methods, which shall
25 be determined by the governing body:

26 (A) Transmitting the notice by electronic mail, if the public
27 agency has the capacity to send electronic mail.

28 (B) Publishing the notice on the public agency's Internet web
29 site at least forty-eight (48) hours in advance of the meeting,
30 if the public agency has an Internet web site.

31 A court may not declare void any policy, decision, or final action under
32 section 7 of this chapter based on a failure to give a person notice under
33 subdivision (3) if the public agency made a good faith effort to comply
34 with subdivision (3). If a governing body comes into existence after
35 December 31, it shall comply with this subsection upon receipt of a
36 written request for notice. In addition, a state agency (as defined in
37 IC 4-13-1-1) shall provide electronic access to the notice through the
38 computer gateway administered by the office of technology established
39 by IC 4-13.1-2-1.

40 (c) Notice of regular meetings need be given only once each year,
41 except that an additional notice shall be given where the date, time, or
42 place of a regular meeting or meetings is changed. This subsection does



- 1 not apply to executive sessions.
- 2 (d) If a meeting is called to deal with an emergency involving actual
- 3 or threatened injury to person or property, or actual or threatened
- 4 disruption of the governmental activity under the jurisdiction of the
- 5 public agency by any event, then the time requirements of notice under
- 6 this section shall not apply, but:
- 7 (1) news media which have requested notice of meetings under
- 8 subsection (b)(2) must be given the same notice as is given to the
- 9 members of the governing body; and
- 10 (2) the public must be notified by posting a copy of the notice
- 11 according to subsection (b)(1).
- 12 (e) This section shall not apply where notice by publication is
- 13 required by statute, ordinance, rule, or regulation.
- 14 (f) This section shall not apply to **the following:**
- 15 (1) The department of local government finance, the Indiana
- 16 board of tax review, or any other governing body which meets in
- 17 continuous session, except that this section applies to meetings of
- 18 these governing bodies which are required by or held pursuant to
- 19 statute, ordinance, rule, or regulation. ~~or~~
- 20 (2) The executive of a county or the legislative body of a town if
- 21 the meetings are held solely to ~~receive information or~~
- 22 ~~recommendations in order to carry out administrative functions;~~
- 23 ~~to carry out administrative functions; or confer with staff~~
- 24 ~~members on matters relating to the internal management of the~~
- 25 ~~unit. carry out the administrative functions related to the~~
- 26 ~~county executive or town legislative body's executive powers.~~
- 27 ~~"Administrative functions" do not include the awarding of~~
- 28 ~~contracts; the entering into contracts; or any other action creating~~
- 29 ~~an obligation or otherwise binding a county or town. means only~~
- 30 ~~routine activities that are reasonably related to the everyday~~
- 31 ~~internal management of the county or town, including~~
- 32 ~~conferring with, receiving information from, and making~~
- 33 ~~recommendations to staff members and other county or town~~
- 34 ~~officials or employees. "Administrative functions" does not~~
- 35 ~~include:~~
- 36 (A) taking final action on public business;
- 37 (B) the exercise of legislative powers; or
- 38 (C) awarding of or entering into contracts, or any other
- 39 action creating an obligation or otherwise binding the
- 40 county or town.
- 41 (g) This section does not apply to the general assembly.
- 42 (h) Notice has not been given in accordance with this section if a



1 governing body of a public agency convenes a meeting at a time so
 2 unreasonably departing from the time stated in its public notice that the
 3 public is misled or substantially deprived of the opportunity to attend,
 4 observe, and record the meeting.

5 SECTION 2. IC 5-14-3-3, AS AMENDED BY P.L.58-2016,
 6 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2018]: Sec. 3. (a) Any person may inspect and copy the public
 8 records of any public agency during the regular business hours of the
 9 agency, except as provided in section 4 of this chapter. A request for
 10 inspection or copying must:

11 (1) identify with reasonable particularity the record being
 12 requested; and

13 (2) be, at the discretion of the agency, in writing on or in a form
 14 provided by the agency.

15 No request may be denied because the person making the request
 16 refuses to state the purpose of the request, unless such condition is
 17 required by other applicable statute. If a request is for inspection or
 18 copying of a law enforcement recording, the request must provide the
 19 information required under subsection (i).

20 (b) A public agency may not deny or interfere with the exercise of
 21 the right stated in subsection (a). Within a reasonable time after the
 22 request is received by the agency, the public agency shall either:

23 (1) provide the requested copies to the person making the request;
 24 or

25 (2) allow the person to make copies:
 26 (A) on the agency's equipment; or
 27 (B) on the person's own equipment.

28 (c) Notwithstanding subsections (a) and (b), a public agency may or
 29 may not do the following:

30 (1) In accordance with a contract described in section 3.5 of this
 31 chapter, permit a person to inspect and copy through the use of
 32 enhanced access public records containing information owned by
 33 or entrusted to the public agency.

34 (2) Permit a governmental entity to use an electronic device to
 35 inspect and copy public records containing information owned by
 36 or entrusted to the public agency.

37 (d) Except as provided in subsection (e) **and subject to subsection**
 38 **(j)**, a public agency that maintains or contracts for the maintenance of
 39 public records in an electronic data storage system shall make
 40 reasonable efforts to provide to a person making a request a copy of all
 41 disclosable data contained in the records on paper, disk, tape, drum, or
 42 any other method of electronic retrieval if the medium requested is



1 compatible with the agency's data storage system. This subsection does
2 not apply to an electronic map.

3 (e) A state agency may adopt a rule under IC 4-22-2, and a political
4 subdivision may enact an ordinance, prescribing the conditions under
5 which a person who receives information on disk or tape under
6 subsection (d) may or may not use the information for commercial
7 purposes, including to sell, advertise, or solicit the purchase of
8 merchandise, goods, or services, or sell, loan, give away, or otherwise
9 deliver the information obtained by the request to any other person for
10 these purposes. Use of information received under subsection (d) in
11 connection with the preparation or publication of news, for nonprofit
12 activities, or for academic research is not prohibited. A person who
13 uses information in a manner contrary to a rule or ordinance adopted
14 under this subsection may be prohibited by the state agency or political
15 subdivision from obtaining a copy or any further data under subsection
16 (d).

17 (f) Notwithstanding the other provisions of this section, a public
18 agency is not required to create or provide copies of lists of names and
19 addresses (including electronic mail account addresses) unless the
20 public agency is required to publish such lists and disseminate them to
21 the public under a statute. However, if a public agency has created a
22 list of names and addresses (excluding electronic mail account
23 addresses), it must permit a person to inspect and make memoranda
24 abstracts from the list unless access to the list is prohibited by law. The
25 lists of names and addresses (including electronic mail account
26 addresses) described in subdivisions (1) through (3) may not be
27 disclosed by public agencies to any individual or entity for political
28 purposes and may not be used by any individual or entity for political
29 purposes. In addition, the lists of names and addresses (including
30 electronic mail account addresses) described in subdivisions (1)
31 through (3) may not be disclosed by public agencies to commercial
32 entities for commercial purposes and may not be used by commercial
33 entities for commercial purposes. The prohibition in this subsection
34 against the disclosure of lists for political or commercial purposes
35 applies to the following lists of names and addresses (including
36 electronic mail account addresses):

37 (1) A list of employees of a public agency.

38 (2) A list of persons attending conferences or meetings at a state
39 educational institution or of persons involved in programs or
40 activities conducted or supervised by the state educational
41 institution.

42 (3) A list of students who are enrolled in a public school



- 1 corporation if the governing body of the public school corporation
 2 adopts a policy:
- 3 (A) with respect to disclosure related to a commercial purpose,
 4 prohibiting the disclosure of the list to commercial entities for
 5 commercial purposes;
 - 6 (B) with respect to disclosure related to a commercial purpose,
 7 specifying the classes or categories of commercial entities to
 8 which the list may not be disclosed or by which the list may
 9 not be used for commercial purposes; or
 - 10 (C) with respect to disclosure related to a political purpose,
 11 prohibiting the disclosure of the list to individuals and entities
 12 for political purposes.

13 A policy adopted under subdivision (3)(A) or (3)(B) must be uniform
 14 and may not discriminate among similarly situated commercial entities.
 15 For purposes of this subsection, "political purposes" means influencing
 16 the election of a candidate for federal, state, legislative, local, or school
 17 board office or the outcome of a public question or attempting to solicit
 18 a contribution to influence the election of a candidate for federal, state,
 19 legislative, local, or school board office or the outcome of a public
 20 question.

21 (g) A public agency may not enter into or renew a contract or an
 22 obligation:

- 23 (1) for the storage or copying of public records; or
 - 24 (2) that requires the public to obtain a license or pay copyright
 25 royalties for obtaining the right to inspect and copy the records
 26 unless otherwise provided by applicable statute;
- 27 if the contract, obligation, license, or copyright unreasonably impairs
 28 the right of the public to inspect and copy the agency's public records.

29 (h) If this section conflicts with IC 3-7, the provisions of IC 3-7
 30 apply.

31 (i) A request to inspect or copy a law enforcement recording must
 32 be in writing. A request identifies a law enforcement recording with
 33 reasonable particularity as required by this section only if the request
 34 provides the following information regarding the law enforcement
 35 activity depicted in the recording:

- 36 (1) The date and approximate time of the law enforcement
 37 activity.
- 38 (2) The specific location where the law enforcement activity
 39 occurred.
- 40 (3) The name of at least one (1) individual, other than a law
 41 enforcement officer, who was directly involved in the law
 42 enforcement activity.



1 **(j) This subsection applies to a public record that is in an**
 2 **electronic format. This subsection does not apply to a public record**
 3 **recorded in the office of the county recorder. A public agency shall**
 4 **provide an electronic copy or a paper copy of a public record, at**
 5 **the option of the person making the request for the public record.**
 6 **This subsection does not require a public agency to change the**
 7 **format of a public record.**

8 SECTION 3. IC 5-14-3-8, AS AMENDED BY P.L.58-2016,
 9 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2018]: Sec. 8. (a) For the purposes of this section, "state
 11 agency" has the meaning set forth in IC 4-13-1-1.

12 (b) Except as provided in this section, a public agency may not
 13 charge any fee under this chapter **for the following:**

14 (1) To inspect a public record. ~~or~~

15 (2) To search for, examine, or review a record to determine
 16 whether the record may be disclosed.

17 **(3) To provide an electronic copy of a public record by**
 18 **electronic mail. However, a public agency may charge a fee**
 19 **for a public record transmitted by electronic mail if the fee**
 20 **for the public record is authorized under:**

21 **(A) subsection (f) or (j);**

22 **(B) section 6(c) of this chapter; or**

23 **(C) IC 36-2-7-10 or IC 36-2-7-10.1 concerning records of**
 24 **the county recorder.**

25 (c) The Indiana department of administration shall establish a
 26 uniform copying fee for the copying of one (1) page of a standard-sized
 27 document by state agencies. The fee may not exceed the average cost
 28 of copying records by state agencies or ten cents (\$0.10) per page,
 29 whichever is greater. A state agency may not collect more than the
 30 uniform copying fee for providing a copy of a public record. However,
 31 a state agency shall establish and collect a reasonable fee for copying
 32 nonstandard-sized documents.

33 (d) This subsection applies to a public agency that is not a state
 34 agency. The fiscal body (as defined in IC 36-1-2-6) of the public
 35 agency, or the governing body, if there is no fiscal body, shall establish
 36 a fee schedule for the certification or copying of documents. The fee for
 37 certification of documents may not exceed five dollars (\$5) per
 38 document. The fee for copying documents may not exceed the greater
 39 of:

40 (1) ten cents (\$0.10) per page for copies that are not color copies
 41 or twenty-five cents (\$0.25) per page for color copies; or

42 (2) the actual cost to the agency of copying the document.



1 As used in this subsection, "actual cost" means the cost of paper and
 2 the per-page cost for use of copying or facsimile equipment and does
 3 not include labor costs or overhead costs. A fee established under this
 4 subsection must be uniform throughout the public agency and uniform
 5 to all purchasers.

6 (e) If:

7 (1) a person is entitled to a copy of a public record under this
 8 chapter; and

9 (2) the public agency which is in possession of the record has
 10 reasonable access to a machine capable of reproducing the public
 11 record;

12 the public agency must provide at least one (1) copy of the public
 13 record to the person. However, if a public agency does not have
 14 reasonable access to a machine capable of reproducing the record or if
 15 the person cannot reproduce the record by use of enhanced access
 16 under section 3.5 of this chapter, the person is only entitled to inspect
 17 and manually transcribe the record. A public agency may require that
 18 the payment for copying costs be made in advance.

19 (f) Notwithstanding subsection (b), (c), (d), (g), (h), or (i), a public
 20 agency shall collect any certification, copying, facsimile machine
 21 transmission, or search fee that is specified by statute or is ordered by
 22 a court.

23 (g) Except as provided by subsection (h), for providing a duplicate
 24 of a computer tape, computer disc, microfilm, law enforcement
 25 recording, or similar or analogous record system containing
 26 information owned by the public agency or entrusted to it, a public
 27 agency may charge a fee, uniform to all purchasers, that does not
 28 exceed the sum of the following:

29 (1) The agency's direct cost of supplying the information in that
 30 form. However, the fee for a copy of a law enforcement recording
 31 may not exceed one hundred fifty dollars (\$150).

32 (2) The standard cost for selling the same information to the
 33 public in the form of a publication if the agency has published the
 34 information and made the publication available for sale.

35 (3) In the case of the legislative services agency, a reasonable
 36 percentage of the agency's direct cost of maintaining the system
 37 in which the information is stored. However, the amount charged
 38 by the legislative services agency under this subdivision may not
 39 exceed the sum of the amounts it may charge under subdivisions
 40 (1) and (2).

41 (h) This subsection applies to the fee charged by a public agency for
 42 providing enhanced access to a public record. A public agency may



1 charge any reasonable fee agreed on in the contract under section 3.5
2 of this chapter for providing enhanced access to public records.

3 (i) This subsection applies to the fee charged by a public agency for
4 permitting a governmental entity to inspect public records by means of
5 an electronic device. A public agency may charge any reasonable fee
6 for the inspection of public records under this subsection, or the public
7 agency may waive any fee for the inspection.

8 (j) Except as provided in subsection (k), a public agency may charge
9 a fee, uniform to all purchasers, for providing an electronic map that is
10 based upon a reasonable percentage of the agency's direct cost of
11 maintaining, upgrading, and enhancing the electronic map and for the
12 direct cost of supplying the electronic map in the form requested by the
13 purchaser. If the public agency is within a political subdivision having
14 a fiscal body, the fee is subject to the approval of the fiscal body of the
15 political subdivision.

16 (k) The fee charged by a public agency under subsection (j) to cover
17 costs for maintaining, upgrading, and enhancing an electronic map may
18 be waived by the public agency if the electronic map for which the fee
19 is charged will be used for a noncommercial purpose, including the
20 following:

- 21 (1) Public agency program support.
- 22 (2) Nonprofit activities.
- 23 (3) Journalism.
- 24 (4) Academic research.

25 (l) This subsection does not apply to a state agency. A fee collected
26 under subsection (g) for the copying of a law enforcement recording
27 may be:

- 28 (1) retained by the public agency; and
- 29 (2) used without appropriation for one (1) or more of the
30 following purposes:
 - 31 (A) To purchase cameras and other equipment for use in
32 connection with the agency's law enforcement recording
33 program.
 - 34 (B) For training concerning law enforcement recording.
 - 35 (C) To defray the expenses of storing, producing, and copying
36 law enforcement recordings.

37 Money from a fee described in this subsection does not revert to the
38 local general fund at the end of a fiscal year.

39 SECTION 4. IC 6-1.1-4-14 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 14. (a) Except as
41 provided in subsection (b), ~~of this section,~~ land may not be assessed to
42 an adjacent property holder if it:



- 1 (1) is occupied by and is within the right-of-way of a railroad,
- 2 interurban, or street railway;
- 3 (2) is within the line of a levee constructed and maintained either
- 4 by a levee association or under any law of this state;
- 5 (3) is used and occupied as part of a public drainage ditch,
- 6 including land that:
- 7 (A) is adjacent to the ditch; and
- 8 (B) cannot be used for farmland or any other purpose because
- 9 of a need for access to the ditch; or
- 10 (4) is within a right-of-way that is used and occupied as a public
- 11 highway.
- 12 (b) ~~Where~~ **If** land described in subsection (a)(1), (a)(2), or (a)(3) has
- 13 not been transferred by deed to a person who holds the land for
- 14 railroad, interurban, street railway, levee, drainage, or public highway
- 15 purposes, the land shall be assessed to the adjacent property owner.
- 16 However, the assessed value of the land ~~so assessed~~ shall be deducted
- 17 from the assessed value of the land assessed to the adjacent property
- 18 owner.
- 19 (c) If an assessor and a landowner fail to agree on the amount of
- 20 land described in subsection (a)(1), (a)(2), (a)(3), or (a)(4), the assessor
- 21 shall have the county surveyor make a survey to determine the amount
- 22 of land so described.
- 23 SECTION 5. IC 6-1.1-4-14.1 IS ADDED TO THE INDIANA
- 24 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 25 [EFFECTIVE JULY 1, 2018]: **Sec. 14.1. (a) This section does not**
- 26 **apply to land to which section 14 of this chapter applies.**
- 27 **(b) Land may be divided and transferred in equal shares to an**
- 28 **adjacent property owner or owners who consent to the transfer of**
- 29 **the divided land for no money if:**
- 30 **(1) a county, city, or town owns the land that is divided;**
- 31 **(2) the divided land has an area that does not exceed three**
- 32 **hundred (300) square feet; and**
- 33 **(3) the shape and area of the land or divided land indicates**
- 34 **that the legal description of the land is in error.**
- 35 **(c) If land described in subsection (b) has not been transferred**
- 36 **by deed to a person who holds the land adjacent to the land**
- 37 **described in subsection (b), the land shall be assessed equally to the**
- 38 **owner or owners of the adjacent parcel or parcels. However, the**
- 39 **assessed value of the adjacent parcel or parcels shall be adjusted**
- 40 **to reflect the assessed value attributable to the adjacent parcel or**
- 41 **parcels.**
- 42 **(d) If an assessor and an adjacent property owner fail to agree**



1 on the area of land described in subsection (b) that the assessor
 2 assesses under subsection (c), the assessor shall have the county
 3 surveyor make a survey to determine the amount of land
 4 transferred under subsection (b) or assessed under subsection (c).
 5 The assessor shall use the results of the survey under this
 6 subsection to adjust the assessed value of the land assessed to the
 7 adjacent parcel owner or owners to reflect action taken under this
 8 subsection.

9 SECTION 6. IC 6-1.1-24-6.1, AS AMENDED BY P.L.187-2016,
 10 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2018]: Sec. 6.1. (a) The county executive may do the
 12 following:

13 (1) By resolution, identify properties concerning which the county
 14 executive desires to offer to the public the certificates of sale
 15 acquired by the county executive under section 6 of this chapter.

16 (2) Except as otherwise provided in subsection (c), in conformity
 17 with IC 5-3-1-4, publish:

18 (A) notice of the date, time, and place for a public sale; and

19 (B) a listing of parcels on which certificates will be offered by
 20 parcel number and minimum bid amount;

21 once each week for three (3) consecutive weeks, with the final
 22 advertisement being not less than thirty (30) days before the sale
 23 date. The expenses of the publication shall be paid out of the
 24 county general fund.

25 (3) Sell each certificate of sale covered by the resolution for a
 26 price that:

27 (A) is less than the minimum sale price prescribed by section
 28 5 of this chapter; and

29 (B) includes any costs to the county executive directly
 30 attributable to the sale of the certificate of sale.

31 (b) Except as otherwise provided in subsection (c), notice of the list
 32 of properties prepared under subsection (a) and the date, time, and
 33 place for the public sale of the certificates of sale shall be published in
 34 accordance with IC 5-3-1. The notice must:

35 (1) include a description of the property by parcel number and
 36 common address;

37 (2) specify that the county executive will accept bids for the
 38 certificates of sale for the price referred to in subsection (a)(3);

39 (3) specify the minimum bid for each parcel;

40 (4) include a statement that a person redeeming each tract or item
 41 of real property after the sale of the certificate must pay:

42 (A) the amount of the minimum bid under section 5 of this



1 chapter for which the tract or item of real property was last
 2 offered for sale;
 3 (B) ten percent (10%) of the amount for which the certificate
 4 is sold;
 5 (C) the attorney's fees and costs of giving notice under
 6 IC 6-1.1-25-4.5;
 7 (D) the costs of a title search or of examining and updating the
 8 abstract of title for the tract or item of real property;
 9 (E) all taxes and special assessments on the tract or item of
 10 real property paid by the purchaser after the sale of the
 11 certificate plus interest at the rate of ten percent (10%) per
 12 annum on the amount of taxes and special assessments paid by
 13 the purchaser on the redeemed property; and
 14 (F) all costs of sale, advertising costs, and other expenses of
 15 the county directly attributable to the sale of certificates of
 16 sale; and
 17 (5) include a statement that, if the certificate is sold for an amount
 18 more than the minimum bid under section 5 of this chapter for
 19 which the tract or item of real property was last offered for sale
 20 and the property is not redeemed, the owner of record of the tract
 21 or item of real property who is divested of ownership at the time
 22 the tax deed is issued may have a right to the tax sale surplus.
 23 (c) For properties identified under subsection (a) for which the
 24 certificates of sale are not sold when initially offered for sale under this
 25 section, the county executive may omit from the notice the descriptions
 26 of the tracts or items of real property under subsection (b)(1) and the
 27 associated minimum bids under subsection (b)(3) if:
 28 (1) the county executive includes in the notice a statement that
 29 descriptions of those tracts or items of real property are available
 30 on the Internet web site of the county government or the county
 31 government's contractor and the information may be obtained in
 32 an alternative form from the county executive upon request; and
 33 (2) the descriptions of those tracts or items of real property for
 34 which a certificate of sale is eligible for sale under this section are
 35 made available on the Internet web site of the county government
 36 or the county government's contractor and may be obtained from
 37 the county executive in an alternative form upon request in
 38 accordance with section 3.4 of this chapter.
 39 SECTION 7. IC 36-1-14-5 IS ADDED TO THE INDIANA CODE
 40 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 41 1, 2018]: **Sec. 5. (a) This section applies to the sale of a county
 42 hospital before July 1, 2018.**



- 1 **(b) As used in this section, "board" means the board of trustees**
- 2 **of a foundation established under subsection (e).**
- 3 **(c) As used in this section, "foundation" means a charitable**
- 4 **nonprofit foundation established under subsection (d).**
- 5 **(d) A county council and a county executive may, by adopting**
- 6 **substantially similar ordinances, establish a charitable nonprofit**
- 7 **foundation to hold some or all of the proceeds of the sale of a**
- 8 **county hospital in trust for the benefit of the county. The county**
- 9 **council and the county executive may adopt ordinances under this**
- 10 **subsection before, after, or at the time of the sale of the county**
- 11 **hospital.**
- 12 **(e) The board of trustees of the foundation is established. The**
- 13 **board consists of the following five (5) members:**
- 14 **(1) One (1) member of the county council, appointed by the**
- 15 **president of the county council.**
- 16 **(2) One (1) member of the county executive, appointed by the**
- 17 **president of the county executive.**
- 18 **(3) One (1) individual who has at least five (5) years of**
- 19 **experience as a certified public accountant, a financial**
- 20 **adviser, a banker, or an investment manager, appointed by**
- 21 **the president of the county council.**
- 22 **(4) One (1) individual who has at least five (5) years of**
- 23 **experience as a certified public accountant, a financial**
- 24 **adviser, a banker, or an investment manager, appointed by**
- 25 **the president of the county executive.**
- 26 **(5) The county treasurer.**
- 27 **A member who serves on the board under this subsection is not**
- 28 **entitled to compensation for service as a board member. Subject to**
- 29 **the approval of the policy by the county council and the county**
- 30 **executive, the board may establish a policy to reimburse a member**
- 31 **of the board for the member's travel expenses and other expenses**
- 32 **actually incurred in connection with the member's duties.**
- 33 **(f) The county treasurer shall serve as the chairperson of the**
- 34 **board.**
- 35 **(g) The board of a foundation established under this section**
- 36 **shall contract with investment managers, investment advisors,**
- 37 **investment counsel, trust companies, banks, or other finance**
- 38 **professionals to assist the board in its investment program.**
- 39 **(h) The county council and the county executive shall do the**
- 40 **following:**
- 41 **(1) Formulate an investment policy that ensures that money**
- 42 **held by the foundation is invested in accordance with**



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IC 30-2-12.

(2) Establish a policy concerning distributions of income and principal from the foundation.

A policy concerning distributions of income and principal that is established under subdivision (2) must specify that, except as provided in subsection (i)(5), the board may not expend or transfer money from the principal amount of the donation to the foundation.

(i) The following apply if a foundation is established under this section:

(1) The county council and the county executive shall determine the amount of the proceeds from the sale of the county hospital that shall be transferred by the county fiscal officer to the foundation.

(2) The principal amount of the donation to the foundation consists of the following:

(A) The amount transferred to the foundation under subdivision (1).

(B) Any donations, gifts, or other money received from any private source.

(3) The county council and county executive shall establish a policy to set the annual rate of spending from the foundation. The rate of spending established by the county council and county executive may not exceed five percent (5%) of the principal amount of the donation calculated on January 1 of each year. The county council and county executive may change the annual rate of spending by a majority vote of the members of the county council and a majority vote of the members of the county executive. Any principal that is disbursed from the foundation to the county is not subject to the procedures to access the principal amount of the donation described in subdivision (5).

(4) The county council and county executive may not access the principal amount of the donation in the first five (5) years from the date the foundation is established under this section. Beginning after the fifth year from the date the foundation is established under this section, the county council and county executive may access the principal amount of the donation in accordance with subdivision (5).

(5) This subdivision does not apply to an expenditure or transfer of money that is part of the principal amount of the donation that is used to meet the annual rate of spending and



1 does not exceed the annual rate of spending established under
2 subdivision (3). The county council and county executive may
3 approve an expenditure or transfer of any money that is part
4 of the principal amount of the donation in accordance with
5 the following:

6 (A) The county council and county executive may access
7 the lesser of ten percent (10%) of the three (3) year
8 average balance or two million dollars (\$2,000,000) from
9 the principal amount of the donation as follows:

10 (i) A vote of five (5) of the seven (7) members of the
11 county council and a majority vote of the county
12 executive at a joint meeting of the county council and the
13 county executive must vote in favor of accessing the
14 principal amount of the donation.

15 (ii) A vote under item (i) to access the principal amount
16 of the donation may occur not more than one (1) time
17 per year.

18 (iii) The three (3) year average balance is based on the
19 opening balance of the principal amount of the donation
20 on the first day of the month of each of the thirty-six (36)
21 months immediately preceding the joint meeting of the
22 county council and the county executive described in
23 item (i).

24 (iv) If the foundation has existed for less than thirty-six
25 (36) months, the average is based on the opening balance
26 of the principal amount of the donation on the first day
27 of the month of each of the months during which the
28 foundation has existed.

29 (B) If the county council and county executive wish to
30 access an amount from the principal amount of the
31 donation that is more than the amount available under
32 clause (A) but not more than fifty percent (50%) of the
33 principal amount of the donation, the board shall proceed
34 as follows:

35 (i) Five (5) of the seven (7) members of the county
36 council and a majority vote of the county executive at a
37 joint meeting of the county council and the county
38 executive must vote in favor of accessing the principal
39 amount of the donation. The votes of the county council
40 and the county executive at the joint meeting must occur
41 on two (2) occasions as provided in item (ii).

42 (ii) The votes described in item (i) must occur on two (2)



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occasions that are at least one (1) year apart but not more than two (2) years apart.

(iii) The votes described in item (i) must be based on identical language in an ordinance that sets forth the approved use of the funds accessed from the principal amount of the donation.

If the language in an ordinance under this clause is different from the language used in the first vote, the process to vote on accessing the principal amount of the donation must start over. The process to access the principal amount of the donation described in this clause may be used only once in any five (5) year period.

(C) To compute the five (5) year period described in clause (B), the period begins from the date on which the second vote to access the principal amount of the donation occurs.

(6) The foundation must be audited annually by an independent third party auditor.

(7) The board must meet at least quarterly to receive a quarterly compliance and performance update from the investment advisor.

(j) A unit located in a county to which this section applies may enter into an interlocal agreement under IC 36-1-7 with the county council, the county executive, and the board to invest funds obtained by the unit from the sale of a capital asset into the foundation established under this section. An interlocal agreement entered into under this subsection must contain the following:

(1) Funds transferred to the foundation from the sale of a capital asset under this subsection must be held in a separate account within the foundation and are not subject to the requirements of accessing principal and income established in this section.

(2) A policy concerning distributions of income and principal from the unit's account within the foundation.

The department of local government finance may not reduce the actual or maximum permissible property tax levy under IC 6-1.1-18.5 or any other law of a unit that enters into an interlocal agreement under this subsection on account of money transferred into or expended from a foundation established under this section.

(k) Subject to subsection (i)(4), money from the principal amount of the donation may be used for any legal or corporate purpose of the county, including the pledge of money to pay bonds,



1 leases, or other obligations under IC 5-1-14-4. Money from the
2 principal amount of the donation that is expended or transferred
3 under subsection (i)(5) may be used to pay bonds issued by the
4 county. The county council and the county executive may vote once
5 under subsection (i)(5) to expend or transfer money from the
6 principal amount of the donation to pay interest on bonds issued by
7 the county.

8 (l) The department of local government finance may not reduce
9 the county's actual or maximum permissible property tax levy
10 under IC 6-1.1-18.5 or any other law on account of money
11 deposited into or expended from a foundation established under
12 this section.



COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred Senate Bill No. 392, 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 392 as introduced.)

BUCK, Chairperson

Committee Vote: Yeas 7, Nays 0

COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred Senate Bill 392, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-14-1.5-5, AS AMENDED BY P.L.134-2012, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 5. (a) Public notice of the date, time, and place of any meetings, executive sessions, or of any rescheduled or reconvened meeting, shall be given at least forty-eight (48) hours (excluding Saturdays, Sundays, and legal holidays) before the meeting. This requirement does not apply to reconvened meetings (not including executive sessions) where announcement of the date, time, and place of the reconvened meeting is made at the original meeting and recorded in the memoranda and minutes thereof, and there is no change in the agenda.

(b) Public notice shall be given by the governing body of a public agency as follows:

- (1) The governing body of a public agency shall give public notice by posting a copy of the notice at the principal office of the public agency holding the meeting or, if no such office exists, at the building where the meeting is to be held.
- (2) The governing body of a public agency shall give public

ES 392—LS 6727/DI 129



notice by delivering notice to all news media which deliver an annual written request for the notices not later than December 31 for the next succeeding calendar year to the governing body of the public agency. The governing body shall give notice by one (1) of the following methods, which shall be determined by the governing body:

(A) Depositing the notice in the United States mail with postage prepaid.

(B) Transmitting the notice by electronic mail, if the public agency has the capacity to transmit electronic mail.

(C) Transmitting the notice by facsimile (fax).

(3) This subdivision applies only to the governing body of a public agency of a political subdivision described in section 2(a)(2), 2(a)(4), or 2(a)(5) of this chapter that adopts a policy to provide notice under this subdivision. Notice under this subsection is in addition to providing notice under subdivisions (1) and (2). If the governing body adopts a policy under this subdivision, the governing body of a public agency shall give public notice by delivering notice to any person (other than news media) who delivers to the governing body of the public agency an annual written request for the notices not later than December 31 for the next succeeding calendar year. The governing body shall give notice by one (1) of the following methods, which shall be determined by the governing body:

(A) Transmitting the notice by electronic mail, if the public agency has the capacity to send electronic mail.

(B) Publishing the notice on the public agency's Internet web site at least forty-eight (48) hours in advance of the meeting, if the public agency has an Internet web site.

A court may not declare void any policy, decision, or final action under section 7 of this chapter based on a failure to give a person notice under subdivision (3) if the public agency made a good faith effort to comply with subdivision (3). If a governing body comes into existence after December 31, it shall comply with this subsection upon receipt of a written request for notice. In addition, a state agency (as defined in IC 4-13-1-1) shall provide electronic access to the notice through the computer gateway administered by the office of technology established by IC 4-13.1-2-1.

(c) Notice of regular meetings need be given only once each year, except that an additional notice shall be given where the date, time, or place of a regular meeting or meetings is changed. This subsection does not apply to executive sessions.



(d) If a meeting is called to deal with an emergency involving actual or threatened injury to person or property, or actual or threatened disruption of the governmental activity under the jurisdiction of the public agency by any event, then the time requirements of notice under this section shall not apply, but:

(1) news media which have requested notice of meetings under subsection (b)(2) must be given the same notice as is given to the members of the governing body; and

(2) the public must be notified by posting a copy of the notice according to subsection (b)(1).

(e) This section shall not apply where notice by publication is required by statute, ordinance, rule, or regulation.

(f) This section shall not apply to **the following**:

(1) The department of local government finance, the Indiana board of tax review, or any other governing body which meets in continuous session, except that this section applies to meetings of these governing bodies which are required by or held pursuant to statute, ordinance, rule, or regulation. ~~or~~

(2) The executive of a county or the legislative body of a town if the meetings are held solely to ~~receive information or recommendations in order to carry out administrative functions; to carry out administrative functions; or confer with staff members on matters relating to the internal management of the unit.~~ **carry out the administrative functions related to the county executive or town legislative body's executive powers. "Administrative functions" do not include the awarding of contracts, the entering into contracts, or any other action creating an obligation or otherwise binding a county or town. means only routine activities that are reasonably related to the everyday internal management of the county or town, including conferring with, receiving information from, and making recommendations to staff members and other county or town officials or employees. "Administrative functions" does not include:**

(A) taking final action on public business;

(B) the exercise of legislative powers; or

(C) awarding of or entering into contracts, or any other action creating an obligation or otherwise binding the county or town.

(g) This section does not apply to the general assembly.

(h) Notice has not been given in accordance with this section if a governing body of a public agency convenes a meeting at a time so



unreasonably departing from the time stated in its public notice that the public is misled or substantially deprived of the opportunity to attend, observe, and record the meeting.

SECTION 2. IC 5-14-3-3, AS AMENDED BY P.L.58-2016, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3. (a) Any person may inspect and copy the public records of any public agency during the regular business hours of the agency, except as provided in section 4 of this chapter. A request for inspection or copying must:

- (1) identify with reasonable particularity the record being requested; and
- (2) be, at the discretion of the agency, in writing on or in a form provided by the agency.

No request may be denied because the person making the request refuses to state the purpose of the request, unless such condition is required by other applicable statute. If a request is for inspection or copying of a law enforcement recording, the request must provide the information required under subsection (i).

(b) A public agency may not deny or interfere with the exercise of the right stated in subsection (a). Within a reasonable time after the request is received by the agency, the public agency shall either:

- (1) provide the requested copies to the person making the request; or
- (2) allow the person to make copies:
 - (A) on the agency's equipment; or
 - (B) on the person's own equipment.

(c) Notwithstanding subsections (a) and (b), a public agency may or may not do the following:

- (1) In accordance with a contract described in section 3.5 of this chapter, permit a person to inspect and copy through the use of enhanced access public records containing information owned by or entrusted to the public agency.
- (2) Permit a governmental entity to use an electronic device to inspect and copy public records containing information owned by or entrusted to the public agency.

(d) Except as provided in subsection (e) **and subject to subsection (j)**, a public agency that maintains or contracts for the maintenance of public records in an electronic data storage system shall make reasonable efforts to provide to a person making a request a copy of all disclosable data contained in the records on paper, disk, tape, drum, or any other method of electronic retrieval if the medium requested is compatible with the agency's data storage system. This subsection does



not apply to an electronic map.

(e) A state agency may adopt a rule under IC 4-22-2, and a political subdivision may enact an ordinance, prescribing the conditions under which a person who receives information on disk or tape under subsection (d) may or may not use the information for commercial purposes, including to sell, advertise, or solicit the purchase of merchandise, goods, or services, or sell, loan, give away, or otherwise deliver the information obtained by the request to any other person for these purposes. Use of information received under subsection (d) in connection with the preparation or publication of news, for nonprofit activities, or for academic research is not prohibited. A person who uses information in a manner contrary to a rule or ordinance adopted under this subsection may be prohibited by the state agency or political subdivision from obtaining a copy or any further data under subsection (d).

(f) Notwithstanding the other provisions of this section, a public agency is not required to create or provide copies of lists of names and addresses (including electronic mail account addresses) unless the public agency is required to publish such lists and disseminate them to the public under a statute. However, if a public agency has created a list of names and addresses (excluding electronic mail account addresses), it must permit a person to inspect and make memoranda abstracts from the list unless access to the list is prohibited by law. The lists of names and addresses (including electronic mail account addresses) described in subdivisions (1) through (3) may not be disclosed by public agencies to any individual or entity for political purposes and may not be used by any individual or entity for political purposes. In addition, the lists of names and addresses (including electronic mail account addresses) described in subdivisions (1) through (3) may not be disclosed by public agencies to commercial entities for commercial purposes and may not be used by commercial entities for commercial purposes. The prohibition in this subsection against the disclosure of lists for political or commercial purposes applies to the following lists of names and addresses (including electronic mail account addresses):

- (1) A list of employees of a public agency.
- (2) A list of persons attending conferences or meetings at a state educational institution or of persons involved in programs or activities conducted or supervised by the state educational institution.
- (3) A list of students who are enrolled in a public school corporation if the governing body of the public school corporation



adopts a policy:

- (A) with respect to disclosure related to a commercial purpose, prohibiting the disclosure of the list to commercial entities for commercial purposes;
- (B) with respect to disclosure related to a commercial purpose, specifying the classes or categories of commercial entities to which the list may not be disclosed or by which the list may not be used for commercial purposes; or
- (C) with respect to disclosure related to a political purpose, prohibiting the disclosure of the list to individuals and entities for political purposes.

A policy adopted under subdivision (3)(A) or (3)(B) must be uniform and may not discriminate among similarly situated commercial entities. For purposes of this subsection, "political purposes" means influencing the election of a candidate for federal, state, legislative, local, or school board office or the outcome of a public question or attempting to solicit a contribution to influence the election of a candidate for federal, state, legislative, local, or school board office or the outcome of a public question.

(g) A public agency may not enter into or renew a contract or an obligation:

- (1) for the storage or copying of public records; or
- (2) that requires the public to obtain a license or pay copyright royalties for obtaining the right to inspect and copy the records unless otherwise provided by applicable statute;

if the contract, obligation, license, or copyright unreasonably impairs the right of the public to inspect and copy the agency's public records.

(h) If this section conflicts with IC 3-7, the provisions of IC 3-7 apply.

(i) A request to inspect or copy a law enforcement recording must be in writing. A request identifies a law enforcement recording with reasonable particularity as required by this section only if the request provides the following information regarding the law enforcement activity depicted in the recording:

- (1) The date and approximate time of the law enforcement activity.
- (2) The specific location where the law enforcement activity occurred.
- (3) The name of at least one (1) individual, other than a law enforcement officer, who was directly involved in the law enforcement activity.

(j) This subsection applies to a public record that is in an



electronic format. This subsection does not apply to a public record recorded in the office of the county recorder. A public agency shall provide an electronic copy or a paper copy of a public record, at the option of the person making the request for the public record. This subsection does not require a public agency to change the format of a public record.

SECTION 3. IC 5-14-3-8, AS AMENDED BY P.L.58-2016, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 8. (a) For the purposes of this section, "state agency" has the meaning set forth in IC 4-13-1-1.

(b) Except as provided in this section, a public agency may not charge any fee under this chapter **for the following:**

- (1) To inspect a public record. ~~or~~
- (2) To search for, examine, or review a record to determine whether the record may be disclosed.
- (3) To provide an electronic copy of a public record by electronic mail. However, a public agency may charge a fee for a public record transmitted by electronic mail if the fee for the public record is authorized under:**
 - (A) subsection (f) or (j);**
 - (B) section 6(c) of this chapter; or**
 - (C) IC 36-2-7-10 or IC 36-2-7-10.1 concerning records of the county recorder.**

(c) The Indiana department of administration shall establish a uniform copying fee for the copying of one (1) page of a standard-sized document by state agencies. The fee may not exceed the average cost of copying records by state agencies or ten cents (\$0.10) per page, whichever is greater. A state agency may not collect more than the uniform copying fee for providing a copy of a public record. However, a state agency shall establish and collect a reasonable fee for copying nonstandard-sized documents.

(d) This subsection applies to a public agency that is not a state agency. The fiscal body (as defined in IC 36-1-2-6) of the public agency, or the governing body, if there is no fiscal body, shall establish a fee schedule for the certification or copying of documents. The fee for certification of documents may not exceed five dollars (\$5) per document. The fee for copying documents may not exceed the greater of:

- (1) ten cents (\$0.10) per page for copies that are not color copies or twenty-five cents (\$0.25) per page for color copies; or
- (2) the actual cost to the agency of copying the document.

As used in this subsection, "actual cost" means the cost of paper and



the per-page cost for use of copying or facsimile equipment and does not include labor costs or overhead costs. A fee established under this subsection must be uniform throughout the public agency and uniform to all purchasers.

(e) If:

- (1) a person is entitled to a copy of a public record under this chapter; and
- (2) the public agency which is in possession of the record has reasonable access to a machine capable of reproducing the public record;

the public agency must provide at least one (1) copy of the public record to the person. However, if a public agency does not have reasonable access to a machine capable of reproducing the record or if the person cannot reproduce the record by use of enhanced access under section 3.5 of this chapter, the person is only entitled to inspect and manually transcribe the record. A public agency may require that the payment for copying costs be made in advance.

(f) Notwithstanding subsection (b), (c), (d), (g), (h), or (i), a public agency shall collect any certification, copying, facsimile machine transmission, or search fee that is specified by statute or is ordered by a court.

(g) Except as provided by subsection (h), for providing a duplicate of a computer tape, computer disc, microfilm, law enforcement recording, or similar or analogous record system containing information owned by the public agency or entrusted to it, a public agency may charge a fee, uniform to all purchasers, that does not exceed the sum of the following:

- (1) The agency's direct cost of supplying the information in that form. However, the fee for a copy of a law enforcement recording may not exceed one hundred fifty dollars (\$150).
- (2) The standard cost for selling the same information to the public in the form of a publication if the agency has published the information and made the publication available for sale.
- (3) In the case of the legislative services agency, a reasonable percentage of the agency's direct cost of maintaining the system in which the information is stored. However, the amount charged by the legislative services agency under this subdivision may not exceed the sum of the amounts it may charge under subdivisions (1) and (2).

(h) This subsection applies to the fee charged by a public agency for providing enhanced access to a public record. A public agency may charge any reasonable fee agreed on in the contract under section 3.5



of this chapter for providing enhanced access to public records.

(i) This subsection applies to the fee charged by a public agency for permitting a governmental entity to inspect public records by means of an electronic device. A public agency may charge any reasonable fee for the inspection of public records under this subsection, or the public agency may waive any fee for the inspection.

(j) Except as provided in subsection (k), a public agency may charge a fee, uniform to all purchasers, for providing an electronic map that is based upon a reasonable percentage of the agency's direct cost of maintaining, upgrading, and enhancing the electronic map and for the direct cost of supplying the electronic map in the form requested by the purchaser. If the public agency is within a political subdivision having a fiscal body, the fee is subject to the approval of the fiscal body of the political subdivision.

(k) The fee charged by a public agency under subsection (j) to cover costs for maintaining, upgrading, and enhancing an electronic map may be waived by the public agency if the electronic map for which the fee is charged will be used for a noncommercial purpose, including the following:

- (1) Public agency program support.
- (2) Nonprofit activities.
- (3) Journalism.
- (4) Academic research.

(l) This subsection does not apply to a state agency. A fee collected under subsection (g) for the copying of a law enforcement recording may be:

- (1) retained by the public agency; and
- (2) used without appropriation for one (1) or more of the following purposes:
 - (A) To purchase cameras and other equipment for use in connection with the agency's law enforcement recording program.
 - (B) For training concerning law enforcement recording.
 - (C) To defray the expenses of storing, producing, and copying law enforcement recordings.

Money from a fee described in this subsection does not revert to the local general fund at the end of a fiscal year."

Page 4, after line 25, begin a new paragraph and insert:

"SECTION 7. IC 36-1-14-5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2018]: **Sec. 5. (a) This section applies to the sale of a county hospital before July 1, 2018.**



(b) As used in this section, "board" means the board of trustees of a foundation established under subsection (e).

(c) As used in this section, "foundation" means a charitable nonprofit foundation established under subsection (d).

(d) A county council and a county executive may, by adopting substantially similar ordinances, establish a charitable nonprofit foundation to hold some or all of the proceeds of the sale of a county hospital in trust for the benefit of the county. The county council and the county executive may adopt ordinances under this subsection before, after, or at the time of the sale of the county hospital.

(e) The board of trustees of the foundation is established. The board consists of the following five (5) members:

(1) One (1) member of the county council, appointed by the president of the county council.

(2) One (1) member of the county executive, appointed by the president of the county executive.

(3) One (1) individual who has at least five (5) years of experience as a certified public accountant, a financial adviser, a banker, or an investment manager, appointed by the president of the county council.

(4) One (1) individual who has at least five (5) years of experience as a certified public accountant, a financial adviser, a banker, or an investment manager, appointed by the president of the county executive.

(5) The county treasurer.

A member who serves on the board under this subsection is not entitled to compensation for service as a board member. Subject to the approval of the policy by the county council and the county executive, the board may establish a policy to reimburse a member of the board for the member's travel expenses and other expenses actually incurred in connection with the member's duties.

(f) The county treasurer shall serve as the chairperson of the board.

(g) The board of a foundation established under this section shall contract with investment managers, investment advisors, investment counsel, trust companies, banks, or other finance professionals to assist the board in its investment program.

(h) The county council and the county executive shall do the following:

(1) Formulate an investment policy that ensures that money held by the foundation is invested in accordance with



IC 30-2-12.

(2) Establish a policy concerning distributions of income and principal from the foundation.

A policy concerning distributions of income and principal that is established under subdivision (2) must specify that, except as provided in subsection (i)(5), the board may not expend or transfer money from the principal amount of the donation to the foundation.

(i) The following apply if a foundation is established under this section:

(1) The county council and the county executive shall determine the amount of the proceeds from the sale of the county hospital that shall be transferred by the county fiscal officer to the foundation.

(2) The principal amount of the donation to the foundation consists of the following:

(A) The amount transferred to the foundation under subdivision (1).

(B) Any donations, gifts, or other money received from any private source.

(3) The county council and county executive shall establish a policy to set the annual rate of spending from the foundation. The rate of spending established by the county council and county executive may not exceed five percent (5%) of the principal amount of the donation calculated on January 1 of each year. The county council and county executive may change the annual rate of spending by a majority vote of the members of the county council and a majority vote of the members of the county executive. Any principal that is disbursed from the foundation to the county is not subject to the procedures to access the principal amount of the donation described in subdivision (5).

(4) The county council and county executive may not access the principal amount of the donation in the first five (5) years from the date the foundation is established under this section. Beginning after the fifth year from the date the foundation is established under this section, the county council and county executive may access the principal amount of the donation in accordance with subdivision (5).

(5) This subdivision does not apply to an expenditure or transfer of money that is part of the principal amount of the donation that is used to meet the annual rate of spending and



does not exceed the annual rate of spending established under subdivision (3). The county council and county executive may approve an expenditure or transfer of any money that is part of the principal amount of the donation in accordance with the following:

(A) The county council and county executive may access the lesser of ten percent (10%) of the three (3) year average balance or two million dollars (\$2,000,000) from the principal amount of the donation as follows:

(i) A vote of five (5) of the seven (7) members of the county council and a majority vote of the county executive at a joint meeting of the county council and the county executive must vote in favor of accessing the principal amount of the donation.

(ii) A vote under item (i) to access the principal amount of the donation may occur not more than one (1) time per year.

(iii) The three (3) year average balance is based on the opening balance of the principal amount of the donation on the first day of the month of each of the thirty-six (36) months immediately preceding the joint meeting of the county council and the county executive described in item (i).

(iv) If the foundation has existed for less than thirty-six (36) months, the average is based on the opening balance of the principal amount of the donation on the first day of the month of each of the months during which the foundation has existed.

(B) If the county council and county executive wish to access an amount from the principal amount of the donation that is more than the amount available under clause (A) but not more than fifty percent (50%) of the principal amount of the donation, the board shall proceed as follows:

(i) Five (5) of the seven (7) members of the county council and a majority vote of the county executive at a joint meeting of the county council and the county executive must vote in favor of accessing the principal amount of the donation. The votes of the county council and the county executive at the joint meeting must occur on two (2) occasions as provided in item (ii).

(ii) The votes described in item (i) must occur on two (2)



occasions that are at least one (1) year apart but not more than two (2) years apart.

(iii) The votes described in item (i) must be based on identical language in an ordinance that sets forth the approved use of the funds accessed from the principal amount of the donation.

If the language in an ordinance under this clause is different from the language used in the first vote, the process to vote on accessing the principal amount of the donation must start over. The process to access the principal amount of the donation described in this clause may be used only once in any five (5) year period.

(C) To compute the five (5) year period described in clause (B), the period begins from the date on which the second vote to access the principal amount of the donation occurs.

(6) The foundation must be audited annually by an independent third party auditor.

(7) The board must meet at least quarterly to receive a quarterly compliance and performance update from the investment advisor.

(j) A unit located in a county to which this section applies may enter into an interlocal agreement under IC 36-1-7 with the county council, the county executive, and the board to invest funds obtained by the unit from the sale of a capital asset into the foundation established under this section. An interlocal agreement entered into under this subsection must contain the following:

(1) Funds transferred to the foundation from the sale of a capital asset under this subsection must be held in a separate account within the foundation and are not subject to the requirements of accessing principal and income established in this section.

(2) A policy concerning distributions of income and principal from the unit's account within the foundation.

The department of local government finance may not reduce the actual or maximum permissible property tax levy under IC 6-1.1-18.5 or any other law of a unit that enters into an interlocal agreement under this subsection on account of money transferred into or expended from a foundation established under this section.

(k) Subject to subsection (i)(4), money from the principal amount of the donation may be used for any legal or corporate purpose of the county, including the pledge of money to pay bonds,



leases, or other obligations under IC 5-1-14-4. Money from the principal amount of the donation that is expended or transferred under subsection (i)(5) may be used to pay bonds issued by the county. The county council and the county executive may vote once under subsection (i)(5) to expend or transfer money from the principal amount of the donation to pay interest on bonds issued by the county.

(l) The department of local government finance may not reduce the county's actual or maximum permissible property tax levy under IC 6-1.1-18.5 or any other law on account of money deposited into or expended from a foundation established under this section."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 392 as printed January 19, 2018.)

ZENT

Committee Vote: yeas 12, nays 0.

