

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.

## SENATE ENROLLED ACT No. 392

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

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

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 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.

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

- (1) is occupied by and is within the right-of-way of a railroad, interurban, or street railway;
- (2) is within the line of a levee constructed and maintained either by a levee association or under any law of this state;



(3) is used and occupied as part of a public drainage ditch, including land that:

(A) is adjacent to the ditch; and

(B) cannot be used for farmland or any other purpose because of a need for access to the ditch; or

(4) is within a right-of-way that is used and occupied as a public highway.

(b) ~~Where~~ **If** land described in subsection (a)(1), (a)(2), or (a)(3) has not been transferred by deed to a person who holds the land for railroad, interurban, street railway, levee, drainage, or public highway purposes, the land shall be assessed to the adjacent property owner. However, the assessed value of the land ~~so assessed~~ shall be deducted from the assessed value of the land assessed to the adjacent property owner.

(c) If an assessor and a landowner fail to agree on the amount of land described in subsection (a)(1), (a)(2), (a)(3), or (a)(4), the assessor shall have the county surveyor make a survey to determine the amount of land so described.

**SECTION 5. IC 6-1.1-4-14.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 14.1. (a) This section does not apply to land to which section 14 of this chapter applies.**

**(b) Land may be divided and transferred in equal shares to an adjacent property owner or owners who consent to the transfer of the divided land for no money if:**

**(1) a county, city, or town owns the land that is divided;**

**(2) the divided land has an area that does not exceed three hundred (300) square feet; and**

**(3) the shape and area of the land or divided land indicates that the legal description of the land is in error.**

**(c) If land described in subsection (b) has not been transferred by deed to a person who holds the land adjacent to the land described in subsection (b), the land shall be assessed equally to the owner or owners of the adjacent parcel or parcels. However, the assessed value of the adjacent parcel or parcels shall be adjusted to reflect the assessed value attributable to the adjacent parcel or parcels.**

**(d) If an assessor and an adjacent property owner fail to agree on the area of land described in subsection (b) that the assessor assesses under subsection (c), the assessor shall have the county surveyor make a survey to determine the amount of land transferred under subsection (b) or assessed under subsection (c).**



**The assessor shall use the results of the survey under this subsection to adjust the assessed value of the land assessed to the adjacent parcel owner or owners to reflect action taken under this subsection.**

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

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

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

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

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

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

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

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

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

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

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

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

(3) specify the minimum bid for each parcel;

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

(A) the amount of the minimum bid under section 5 of this chapter for which the tract or item of real property was last offered for sale;

(B) ten percent (10%) of the amount for which the certificate is sold;



(C) the attorney's fees and costs of giving notice under IC 6-1.1-25-4.5;

(D) the costs of a title search or of examining and updating the abstract of title for the tract or item of real property;

(E) all taxes and special assessments on the tract or item of real property paid by the purchaser after the sale of the certificate plus interest at the rate of ten percent (10%) per annum on the amount of taxes and special assessments paid by the purchaser on the redeemed property; and

(F) all costs of sale, advertising costs, and other expenses of the county directly attributable to the sale of certificates of sale; and

(5) include a statement that, if the certificate is sold for an amount more than the minimum bid under section 5 of this chapter for which the tract or item of real property was last offered for sale and the property is not redeemed, the owner of record of the tract or item of real property who is divested of ownership at the time the tax deed is issued may have a right to the tax sale surplus.

(c) For properties identified under subsection (a) for which the certificates of sale are not sold when initially offered for sale under this section, the county executive may omit from the notice the descriptions of the tracts or items of real property under subsection (b)(1) and the associated minimum bids under subsection (b)(3) if:

(1) the county executive includes in the notice a statement that descriptions of those tracts or items of real property are available on the Internet web site of the county government or the county government's contractor and the information may be obtained in an alternative form from the county executive upon request; and

(2) the descriptions of those tracts or items of real property for which a certificate of sale is eligible for sale under this section are made available on the Internet web site of the county government or the county government's contractor and may be obtained from the county executive in an alternative form upon request in accordance with section 3.4 of this chapter.



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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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