

SENATE BILL No. 393

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-4-1; IC 20-26-4-5.

Synopsis: Public official surety bonds. Requires that copies of political subdivision personnel bonds must be submitted to, and maintained in a data base by, the state board of accounts. Requires certain public employees and contractors that have access to public funds to file a bond. Specifies guidelines for fixing the amount of certain bonds and requires aggregate coverage. Provides for purchase of a blanket bond that includes aggregate coverage.

Effective: July 1, 2015; January 1, 2016.

Charbonneau

January 12, 2015, read first time and referred to Committee on Local Government.



First Regular Session 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE BILL No. 393



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 5-4-1-5.1 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5.1. (a) "Political
 3 subdivision" as used in this section has the meaning set forth in
 4 IC 36-1-2-13 and excludes any department or agency of the state.
 5 (b) Every elected or appointed officer, official, deputy, ~~or~~ employee,
 6 **or contractor** of a political subdivision who is required by section 18
 7 of this chapter to file an official bond for the faithful performance of
 8 duty, except the county recorder and deputies and employees of the
 9 recorder, shall file the bond in the office of the county recorder in the
 10 county of residence of the officer, official, deputy, or employee. The
 11 county recorder and deputies and employees of the recorder shall file
 12 their bonds in the office of the clerk of the circuit court.
 13 (c) The bonds described in subsection (b) shall be filed within ten
 14 (10) days of their issuance or, if approval is required, within ten (10)
 15 days after their approval by the person required to approve the bonds.
 16 The recorder shall record all of the bonds filed under this section,



1 indexing them alphabetically under the name of the principal and
 2 referring to the title, office, and page number where recorded. The
 3 bonds shall be kept in a safe and convenient place in the recorder's
 4 office with a reference to the date filed and record and page where
 5 recorded.

6 (d) Every county officer who is required to give bond shall have a
 7 copy of the oath of office recorded with the bond.

8 **(e) Not later than ten (10) days after receiving a bond under this**
 9 **section, the recorder or clerk of the circuit court shall submit a**
 10 **copy of the bond to the state board of accounts. The state board of**
 11 **accounts may:**

12 **(1) permit an electronic copy of a bond to be submitted; or**

13 **(2) prescribe a form to be used in submitting a copy of a bond**
 14 **under this subsection.**

15 **(f) The state board of accounts shall maintain a data base of**
 16 **bonds received under this section and make the data base available**
 17 **to the public on the state board of accounts Internet web site. To**
 18 **the extent practicable, the data base must include a list that**
 19 **specifies:**

20 **(1) every individual who is required by section 18 of this**
 21 **chapter to file; and**

22 **(2) whether each individual specified under subdivision (1)**
 23 **has obtained and filed;**

24 **an official bond for the faithful performance of duty.**

25 SECTION 2. IC 5-4-1-18, AS AMENDED BY P.L.117-2011,
 26 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JANUARY 1, 2016]: Sec. 18. (a) Except as provided in subsection (b),
 28 the following city, town, county, or township officers and employees
 29 **individuals shall file and maintain in place** an individual surety bond
 30 **during each year that the individual serves as an officer, employee,**
 31 **or contractor:**

32 (1) City judges, controllers, clerks, and clerk-treasurers.

33 (2) Town judges and clerk-treasurers.

34 (3) Auditors, treasurers, recorders, surveyors, sheriffs, coroners,
 35 assessors, and clerks.

36 (4) Township trustees.

37 (5) Those employees directed to file an individual bond by the
 38 fiscal body of a city, town, or county.

39 (6) Township assessors (if any).

40 **(7) Individuals:**

41 **(A) who are employees or contractors of a city, town,**
 42 **county, or township; and**



1 **(B) whose official duties include receiving, processing,**
 2 **depositing, disbursing, or otherwise having access to funds**
 3 **that belong to the federal government, the state, a political**
 4 **subdivision, or another governmental entity.**

5 (b) The fiscal body of a city, town, county, or township may by
 6 ordinance authorize the purchase of a blanket bond ~~or a crime~~
 7 ~~insurance policy that:~~

8 **(1) is** endorsed to include faithful performance to cover the
 9 faithful performance of; **and**

10 **(2) includes aggregate coverage sufficient to provide coverage**
 11 **amounts specified for;**

12 all employees, commission members, and persons acting on behalf of
 13 the local government unit, including ~~those~~ **the** officers, **employees,**
 14 **and contractors** described in subsection (a) **who are required to file**
 15 **a bond under this chapter.**

16 **(c) The fiscal body of a city, town, county, or township may by**
 17 **ordinance (or for a township, by resolution) authorize the purchase**
 18 **of a crime insurance policy that provides coverage for criminal**
 19 **acts or omissions committed by officers, employees, contractors,**
 20 **commission members, and persons acting on behalf of the local**
 21 **government unit. For the sole purpose of recovering public funds**
 22 **on behalf of a local government unit, the state is considered to be**
 23 **an additional named insured on all crime insurance policies**
 24 **obtained under this subsection.**

25 ~~(e)~~ **(d)** Except as provided in subsections ~~(h)~~ **(j)** and ~~(i)~~ **(k)**, the
 26 fiscal bodies of the respective units shall fix the amount of the bond of
 27 city controllers, city clerk-treasurers, town clerk-treasurers, Barrett Law
 28 fund custodians, county treasurers, county sheriffs, circuit court clerks,
 29 township trustees, and conservancy district financial clerks as follows:

30 (1) The amount must equal thirty thousand dollars (\$30,000) for
 31 each one million dollars (\$1,000,000) of receipts of the officer's
 32 office during the last complete fiscal year before the purchase of
 33 the bond, subject to subdivision (2).

34 (2) The amount may not be less than thirty thousand dollars
 35 (\$30,000) nor more than three hundred thousand dollars
 36 (\$300,000) unless the fiscal body approves a greater amount for
 37 the officer or employee.

38 County auditors shall file bonds in amounts of not less than thirty
 39 thousand dollars (\$30,000), as fixed by the fiscal body of the county.

40 **(e) The amount of the bond of any other a person who is not**
 41 **specified in subsection (d) and is** required to file an individual bond
 42 shall be fixed by the fiscal body of the unit **as follows:**



1 **(1) If the person is not described in subsection (a)(7),** at not
2 less than fifteen thousand dollars (\$15,000).

3 **(2) If the person is described in subsection (a)(7), at not less**
4 **than five thousand dollars (\$5,000).**

5 ~~(d)~~ **(f)** Except as provided in subsection ~~(j)~~; **(l)**, a controller of a
6 solid waste management district established under IC 13-21 or
7 IC 13-9.5 (before its repeal) shall file an individual surety bond in an
8 amount:

9 (1) fixed by the board of directors of the solid waste management
10 district; and

11 (2) that is at least thirty thousand dollars (\$30,000).

12 ~~(e)~~ **(g)** Except as provided under subsection ~~(d)~~; **(f)**, a person who
13 is required to file an individual surety bond by the board of directors of
14 a solid waste management district established under IC 13-21 or
15 IC 13-9.5 (before its repeal) shall file a bond in an amount fixed by the
16 board of directors.

17 ~~(f)~~ **(h)** In 1982 and every four (4) years after that, the state examiner
18 shall review the bond amounts fixed under this section and report in an
19 electronic format under IC 5-14-6 to the general assembly whether
20 changes are necessary to ensure adequate and economical coverage.

21 ~~(g)~~ **(i)** The commissioner of insurance shall prescribe the form of the
22 bonds or crime **insurance** policies required by this section, in
23 consultation with **the state board of accounts and** the commission on
24 public records under IC 5-15-5.1-6. **A bond or crime insurance policy**
25 **that does not conform to the form prescribed under this subsection**
26 **may not be used to meet the requirements of this chapter.**

27 ~~(h)~~ **(j)** Notwithstanding subsection ~~(e)~~; **(d)**, the state board of
28 accounts may fix the amount of the bond for a city controller, city
29 clerk-treasurer, town clerk-treasurer, Barrett Law fund custodian,
30 county treasurer, county sheriff, circuit court clerk, township trustee,
31 or conservancy district financial clerk at an amount that exceeds thirty
32 thousand dollars (\$30,000) for each one million dollars (\$1,000,000)
33 of receipts of the officer's office during the last complete fiscal year
34 before the purchase of the bond. However, the bond amount may not
35 exceed three hundred thousand dollars (\$300,000). An increased bond
36 amount may be established under this subsection only if the state
37 examiner issues a report under IC 5-11-5-1 that includes a finding that
38 the officer engaged in malfeasance, misfeasance, or nonfeasance that
39 resulted in the misappropriation of, diversion of, or inability to account
40 for public funds.

41 ~~(i)~~ **(k)** Notwithstanding subsection ~~(e)~~; **(e)**, the state board of
42 accounts may fix the amount of the bond for any person who is ~~not~~



1 described in:

- 2 **(1) subsection ~~(h)~~ (e)(1) and is required to file an individual bond**
 3 **at an amount that exceeds fifteen thousand dollars (\$15,000); or**
 4 **(2) subsection (e)(2) and is required to file an individual bond**
 5 **at an amount that exceeds five thousand dollars (\$5,000).**

6 An increased bond amount may be established under this subsection
 7 only if the state examiner issues a report under IC 5-11-5-1 that
 8 includes a finding that the person engaged in malfeasance,
 9 misfeasance, or nonfeasance that resulted in the misappropriation of,
 10 diversion of, or inability to account for public funds.

11 ~~(j)~~ **(l)** Notwithstanding subsection ~~(d)~~, **(f)**, the state board of
 12 accounts may fix the amount of the bond for a controller of a solid
 13 waste management district established under IC 13-21 or IC 13-9.5
 14 (before its repeal) at an amount that exceeds thirty thousand dollars
 15 (\$30,000). An increased bond amount may be established under this
 16 subsection only if the state examiner issues a report under IC 5-11-5-1
 17 that includes a finding that the controller engaged in malfeasance,
 18 misfeasance, or nonfeasance that resulted in the misappropriation of,
 19 diversion of, or inability to account for public funds.

20 ~~(k)~~ **(m)** Both of the following apply to a bond ~~or crime insurance~~
 21 ~~policy~~ that is filed to comply with this section:

22 ~~(1) Unless the bond or policy is canceled, the bond or policy must~~
 23 ~~continue in force for the term of office of the individual who files~~
 24 ~~the bond or policy:~~

25 **(1) Each bond must have a term of one (1) year commencing**
 26 **on the first day of the:**

27 **(A) calendar year;**

28 **(B) fiscal year of the political subdivision or governmental**
 29 **unit; or**

30 **(C) individual's service in the office or employment**
 31 **position for which a bond is required.**

32 **(2) Consecutive yearly bonds filed by an individual must**
 33 **provide separate coverage for each year.** The aggregate
 34 liability of the surety or insurer is the ~~amount specified in the~~
 35 ~~bond or policy:~~ **sum of the amounts specified in the bonds**
 36 **issued.**

37 SECTION 3. IC 20-26-4-5, AS ADDED BY P.L. 1-2005, SECTION
 38 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JANUARY 1, 2016]: Sec. 5. **(a)** For each school year commencing July
 40 1:

41 **(1) the treasurer of each governing body and the governing body's**
 42 **school corporation; and**



- 1 **(2) a deputy treasurer, if so appointed; and**
 2 **(3) any individual whose official duties include receiving,**
 3 **processing, depositing, disbursing, or otherwise having access**
 4 **to funds that belong to a school corporation or the governing**
 5 **body of a school corporation;**
 6 shall give a bond for the faithful performance of the treasurer's, ~~and~~
 7 deputy treasurer's, **or individual's** duties written by an insurance
 8 company licensed to do business in Indiana, in an amount determined
 9 by the governing body. The treasurer shall be responsible under the
 10 treasurer's bond for the acts of a deputy treasurer appointed as provided
 11 in section 1 of this chapter.
- 12 **(b) A governing body may authorize the purchase of a blanket**
 13 **bond that:**
 14 **(1) is endorsed to include faithful performance to cover the**
 15 **faithful performance of all employees and individuals acting**
 16 **on behalf of the governing body or the governing body's**
 17 **school corporation, including the individuals described in**
 18 **subsection (a); and**
 19 **(2) includes aggregate coverage sufficient to provide coverage**
 20 **amounts specified for each individual who is required to give**
 21 **a bond under this section.**

