



March 17, 2015

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## ENGROSSED SENATE BILL No. 393

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DIGEST OF SB 393 (Updated March 12, 2015 10:01 am - DI 75)

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

**Synopsis:** Public official surety bonds. Requires that copies of political subdivision personnel bonds must be filed with the county auditor or fiscal officer of the political subdivision and with the state board of accounts. Requires the state board of accounts to maintain a database of received bonds. 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.

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### Charbonneau, Head, Randolph, Broden

(HOUSE SPONSORS — TRUITT, PRICE, LEHMAN)

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January 12, 2015, read first time and referred to Committee on Local Government.  
January 22, 2015, reported favorably — Do Pass.  
January 26, 2015, read second time, amended, ordered engrossed.  
January 27, 2015, engrossed. Read third time, passed. Yeas 49, nays 1.

HOUSE ACTION

March 3, 2015, read first time and referred to Committee on Local Government.  
March 16, 2015, reported — Do Pass.

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ES 393—LS 6932/DI 97





March 17, 2015

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.

## ENGROSSED SENATE BILL No. 393

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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 **with the fiscal officer of the political**  
10 **subdivision and** in the office of the county recorder in the county of  
11 residence of the officer, official, deputy, or employee. The county  
12 recorder and deputies and employees of the recorder shall file their  
13 bonds **with the county auditor and** in the office of the clerk of the  
14 circuit court.  
15 (c) The bonds described in subsection (b) shall be filed within ten  
16 (10) days of their issuance or, if approval is required, within ten (10)

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1 days after their approval by the person required to approve the bonds.  
 2 The recorder shall record all of the bonds filed under this section,  
 3 indexing them alphabetically under the name of the principal and  
 4 referring to the title, office, and page number where recorded. The  
 5 bonds shall be kept in a safe and convenient place in the recorder's  
 6 office with a reference to the date filed and record and page where  
 7 recorded.

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

10 (e) **The fiscal officer of a political subdivision with whom an**  
 11 **official bond is filed under subsection (b) shall file a copy of the**  
 12 **bond with the state board of accounts:**

13 (1) **contemporaneously with the filing of the political**  
 14 **subdivision's annual financial report required under**  
 15 **IC 5-11-1-4(a); and**

16 (2) **electronically in the manner prescribed under**  
 17 **IC 5-14-3.8-7.**

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

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

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

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

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

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

36 (2) Town judges and clerk-treasurers.

37 (3) Auditors, treasurers, recorders, surveyors, sheriffs, coroners,  
 38 assessors, and clerks.

39 (4) Township trustees.

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

42 (6) Township assessors (if any).



1           **(7) Individuals:**

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

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

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

11           **(1) is endorsed to include faithful performance to cover the**  
12           **faithful performance of; and**

13           **(2) includes aggregate coverage sufficient to provide coverage**  
14           **amounts specified for;**

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

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

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

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

37           (2) The amount may not be less than thirty thousand dollars  
38 (\$30,000) nor more than three hundred thousand dollars  
39 (\$300,000) unless the fiscal body approves a greater amount for  
40 the officer or employee.

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



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

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

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

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

12 (1) fixed by the board of directors of the solid waste management  
 13 district; and

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

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

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

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

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



1 for public funds.

2 ~~(i)~~ **(k)** Notwithstanding subsection ~~(e)~~; **(e)**, the state board of  
3 accounts may fix the amount of the bond for any person who is ~~not~~  
4 described in:

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

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

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

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

25 ~~(1) Unless the bond or policy is canceled, the bond or policy must~~  
26 ~~continue in force for the term of office of the individual who files~~  
27 ~~the bond or policy.~~

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

30 **(A) calendar year;**

31 **(B) fiscal year of the political subdivision or governmental**  
32 **unit; or**

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

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

40 SECTION 3. IC 20-26-4-5, AS ADDED BY P.L.1-2005, SECTION  
41 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
42 JANUARY 1, 2016]: Sec. 5. **(a)** For each school year commencing July

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





## COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred Senate Bill No. 393, 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 393 as introduced.)

HEAD, Chairperson

Committee Vote: Yeas 8, Nays 0

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 SENATE MOTION

Madam President: I move that Senate Bill 393 be amended to read as follows:

Page 1, line 9, after "bond" insert "**with the fiscal officer of the political subdivision and**".

Page 1, line 12, after "bonds" insert "**with the county auditor and**".

Page 2, delete lines 8 through 14, begin a new paragraph and insert:

**"(e) The fiscal officer of a political subdivision with whom an official bond is filed under subsection (b) shall file a copy of the bond with the state board of accounts:**

**(1) contemporaneously with the filing of the political subdivision's annual financial report required under IC 5-11-1-4(a); and**

**(2) electronically in the manner prescribed under IC 5-14-3.8-7."**

(Reference is to SB 393 as printed January 23, 2015.)

CHARBONNEAU



COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred Senate Bill 393, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to SB 393 as reprinted January 27, 2015.)

PRICE

Committee Vote: Yeas 9, Nays 0

