

## HOUSE BILL No. 1174

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DIGEST OF HB 1174 (Updated February 2, 1998 6:58 pm - DI 75)

**Citations Affected:** IC 3-6; IC 3-10; IC 3-11; IC 20-4; IC 36-5; IC 36-9; noncode.

**Synopsis:** State and local administration. Prescribes the ballot language for two public questions submitting amendments to the Constitution of the State of Indiana to the electorate at the 1998 general election. (The proposed amendments to the Constitution of the State of Indiana concern voting rights and the residence of the auditor of state, the secretary of state, and the treasurer of state.) Changes the name of a combined county election board and board of registration to the board of elections and registration. Changes the title of the chief deputy of the board to "director". Changes the title of the assistant chief deputy of the board to "assistant director". Removes a provision that requires the director of the board to receive an annual salary of not less than the salary of other chief deputies in the county. Provides that the board establishes the number and compensation of the employees of the board. Provides that the county chairman of the two major political  
(Continued next page)

**Effective:** Upon passage; July 1, 1997 (retroactive); January 1, 1998 (retroactive); July 1, 1998.

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**Kromkowski**

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January 8, 1998, read first time and referred to Committee on Elections and Apportionment.

January 29, 1998, amended, reported — Do Pass.

February 2, 1998, read second time, amended, ordered engrossed.

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parties in the county each appoint one-half of the board employees. Provides that the director, the assistant director, and the board employees serve at the pleasure of their respective appointing authorities. Provides that the county executive may establish a precinct that is located within a university campus without regard to the number of registered voters permitted by law if less than 40% of the active voters entitled to vote in the precinct voted in the last primary election. (Current law allows the precinct to be established without regard to the number of voters if less than 40% voted in the last general election.) Provides that the governing body of a school corporation in Tippecanoe County breaks a tie in an election for the governing body and fills a vacancy on the governing body. Provides additional procedures for breaking a tie vote or filling a vacancy if the governing body is evenly divided. Permits the town board of a town with a population of at least 10,000 to expand the town legislative body to seven members and to stagger the terms of all the members. Permits the town board of certain towns to expand the town legislative body from three members to five members. Permits the Indianapolis board of public works to levy a tax within the service district to pay for mowing services along rights-of-way or on abandoned property. Repeals a statute that restricts the sale of energy byproducts by certain facilities located in Marion County.

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Reprinted  
February 3, 1998

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

## HOUSE BILL No. 1174

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 3-6-5.2-2 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. As used in this  
3 chapter, "~~combined~~ "board" refers to the ~~combined county election~~  
4 ~~board and~~ board of **elections and** registration established by section 3  
5 of this chapter.

6 SECTION 2. IC 3-6-5.2-3 IS AMENDED TO READ AS  
7 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 3. The ~~combined~~  
8 ~~county election board and~~ board of **elections and** registration is  
9 established and shall be known as the \_\_\_\_\_ (name of county)  
10 ~~combined county election board and~~ board of **elections and**  
11 registration.

12 SECTION 3. IC 3-6-5.2-4 IS AMENDED TO READ AS  
13 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 4. The ~~combined~~ board  
14 is comprised of the following five (5) members:

15 (1) The county chairmen of the major political parties of the

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1 county shall each appoint two (2) members of the board.  
 2 Members of the board appointed under this subdivision must be  
 3 voters of the county and serve a term of two (2) years or until their  
 4 successors are appointed.

5 (2) The circuit court clerk, who is an ex officio member of the  
 6 board.

7 SECTION 4. IC 3-6-5.2-5 IS AMENDED TO READ AS  
 8 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5. Each member of the  
 9 ~~combined~~ board shall be paid an annual salary of not less than ten  
 10 thousand dollars (\$10,000). The salaries of the board members shall be  
 11 fixed in the manner prescribed by IC 36-2-5 or IC 36-3-6 and paid out  
 12 of the county general fund in accordance with IC 3-5-3-1 as other  
 13 election expenses are paid.

14 SECTION 5. IC 3-6-5.2-6, AS AMENDED BY P.L.13-1995,  
 15 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 16 JULY 1, 1998]: Sec. 6. (a) The ~~combined~~ board has all of the powers  
 17 and duties given in this title to the following:

- 18 (1) The county election board.
- 19 (2) The board of registration.
- 20 (3) The circuit court clerk.
- 21 (4) The county executive.

22 (b) The ~~chief deputy director~~ **chief deputy director** appointed under section 7 of this  
 23 chapter shall perform all the duties of the circuit court clerk under this  
 24 title. The ~~combined~~ board shall perform all the duties of the county  
 25 executive under this title.

26 SECTION 6. IC 3-6-5.2-7 IS AMENDED TO READ AS  
 27 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 7. (a) The ~~combined~~  
 28 board may vest day to day operations in a ~~chief deputy director~~ **chief deputy director** of the  
 29 ~~combined~~ board and in an assistant ~~chief deputy director~~ **chief deputy director** of the  
 30 ~~combined~~ board.

31 (b) The ~~chief deputy director~~ **chief deputy director** of the ~~combined~~ board is appointed  
 32 by the county chairman of the political party whose nominee received  
 33 the highest number of votes in the county for secretary of state in the  
 34 last election.

35 (c) The assistant ~~chief deputy director~~ **chief deputy director** of the ~~combined~~ board is  
 36 appointed by the county chairman of the political party whose nominee  
 37 received the second highest number of votes in the county for secretary  
 38 of state in the last election.

39 (d) ~~The chief deputy of the combined board shall receive an annual~~  
 40 ~~salary of not less than the salary of other chief deputies in the county.~~  
 41 The assistant ~~chief deputy director~~ **chief deputy director** shall receive an annual salary of  
 42 not less than two thousand dollars (\$2,000) less than the salary of the

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1 chief deputy director.

2 (e) The board shall establish the number and compensation of  
3 the employees of the board. The county chairman of each of the  
4 major political parties in the county shall appoint one-half (1/2) of  
5 the board employees. The director, the assistant director, and the  
6 board employees serve at the pleasure of their respective  
7 appointing authorities.

8 SECTION 7. IC 3-10-6-4.5 IS ADDED TO THE INDIANA CODE  
9 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
10 1, 1998]: Sec. 4.5. (a) Notwithstanding section 2 of this chapter, this  
11 section applies to a town with a legislative body that adopts an  
12 ordinance under IC 36-5-2-4.5.

13 (b) Unless a primary election is not required under section 4 of  
14 this chapter, a primary election shall be held in a town under this  
15 section at both of the following times:

16 (1) During a year that municipal elections are held under  
17 section 5 of this chapter.

18 (2) At the time of the primary election held in the year stated  
19 in an ordinance adopted under IC 36-5-2-4.5(c)(2).

20 (c) At a primary election held under subsection (b), a political  
21 party with a nominee who receives at least ten percent (10%) of the  
22 votes cast in the state for secretary of state at the most recent  
23 election for secretary of state shall nominate candidates for the  
24 following town offices:

25 (1) At the time of the primary held in the town under  
26 subsection (b)(1), the following candidates:

27 (A) Four (4) candidates for the town legislative body, three  
28 (3) of whom are elected from districts and one (1) who is  
29 elected at large. If the town legislative body adopts an  
30 ordinance under IC 36-5-2-4.5(e), all candidates are elected  
31 from districts.

32 (B) Candidates for all other town offices other than the  
33 town legislative body.

34 (2) At the time of the primary election held under subsection  
35 (b)(2), three (3) candidates for the town legislative body, two  
36 (2) of whom are elected from districts and one (1) who is  
37 elected at large. If the town legislative body adopts an  
38 ordinance under IC 36-5-2-4.5(e), all candidates are elected  
39 from districts.

40 The primary election is conducted under this chapter.

41 (d) Notwithstanding section 5 of this chapter, an election to fill  
42 town offices under this section is held as follows:



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1           **(1) During a year municipal elections are held under section**  
 2           **5 of this chapter, the following town offices are elected:**

3           **(A) Four (4) members of the town legislative body, three**  
 4           **(3) of whom are elected from districts and one (1) who is**  
 5           **elected at large. If the town legislative body adopts an**  
 6           **ordinance under IC 36-5-2-4.5(e), all members are elected**  
 7           **from districts.**

8           **(B) All other town offices other than the town legislative**  
 9           **body.**

10           **(2) During a year in which candidates for the town legislative**  
 11           **body are nominated under subsection (c)(2), three (3)**  
 12           **members of the town legislative body, two (2) of whom are**  
 13           **elected from districts and one (1) who is elected at large. If the**  
 14           **town legislative body adopts an ordinance under**  
 15           **IC 36-5-2-4.5(e), all members are elected from districts.**

16           **The election shall be conducted under this chapter.**

17           SECTION 8. IC 3-11-1.5-3.5, AS AMENDED BY P.L.12-1995,  
 18           SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 19           JULY 1, 1998]: Sec. 3.5. (a) This section does not apply to a precinct  
 20           located in a county having a consolidated city.

21           (b) This section applies to a precinct:

22           (1) that is located wholly or partially within the campus of:

- 23           (A) Ball State University;
- 24           (B) Indiana State University;
- 25           (C) Indiana University;
- 26           (D) Purdue University;
- 27           (E) The University of Evansville;
- 28           (F) The University of Southern Indiana; or
- 29           (G) Vincennes University;

30           with more full-time students enrolled at that campus than are  
 31           enrolled at any other campus of that university; or

32           (2) that contains a structure owned by a university described in  
 33           subdivision (1) that houses more than one hundred (100) students  
 34           of the university.

35           (c) A county executive may establish a precinct subject to this  
 36           section without regard to the number of registered voters permitted  
 37           under section 3 of this chapter if less than forty percent (40%) of the  
 38           active voters entitled to vote in the precinct voted in the last ~~general~~  
 39           **primary** election.

40           SECTION 9. IC 3-11-4-3, AS AMENDED BY P.L.3-1997,  
 41           SECTION 273, IS AMENDED TO READ AS FOLLOWS  
 42           [EFFECTIVE JULY 1, 1998]: Sec. 3. (a) Except as provided in

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1 subsections (b) and (c) and sections 6 and 8 of this chapter, an  
 2 application for an absentee ballot must be received by the circuit court  
 3 clerk not earlier than ninety (90) days before election day nor later  
 4 than:

5 (1) noon on the day before election day if the voter completes the  
 6 application in the office of the circuit court clerk;

7 (2) noon on the day before election day if:

8 (A) the application is a mailed or hand delivered application  
 9 from a confined voter or person caring for a confined person;  
 10 and

11 (B) the applicant requests that the absentee ballots be  
 12 delivered to the applicant by an absentee voter board; or

13 (3) midnight on the eighth day before election day if the  
 14 application:

15 (A) is a mailed application; or

16 (B) was transmitted by a facsimile (FAX) machine;

17 from other voters.

18 (b) This subsection applies to an absentee ballot application from a  
 19 confined voter or person caring for a confined voter that is mailed or  
 20 hand delivered to the circuit court clerk of a county having a  
 21 consolidated city. An application subject to this subsection that is hand  
 22 delivered must be received by the circuit court clerk not earlier than  
 23 ninety (90) days before election day nor later than 10 p.m. on the fifth  
 24 day before election day. An application subject to this subsection that  
 25 is mailed must be received by the circuit court clerk not earlier than  
 26 ninety (90) days before election day and not later than 10 p.m. on the  
 27 eighth day before election day.

28 (c) This subsection applies to an absentee ballot application from a  
 29 confined voter or a person caring for a confined voter that is mailed or  
 30 hand delivered to the circuit court clerk of a county having a population  
 31 of more than four hundred thousand (400,000) but less than seven  
 32 hundred thousand (700,000). An application subject to this section  
 33 must be received by the ~~chief deputy director~~ **chief deputy director** of the ~~combined~~ board  
 34 **of elections and registration** not earlier than ninety (90) days before  
 35 election day nor later than 10 p.m. on the fourth day before election  
 36 day.

37 SECTION 10. IC 20-4-1-42 IS ADDED TO THE INDIANA CODE  
 38 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY  
 39 1, 1998]: **Sec. 42. (a) This section applies only to a school**  
 40 **corporation with territory in a county having a population of more**  
 41 **than one hundred twenty-nine thousand (129,000) but less than one**  
 42 **hundred thirty thousand six hundred (130,600).**



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- 1           **(b) This section applies whenever there is a:**
- 2           **(1) tie vote in an election for a member of the governing body**
- 3           **of a school corporation; or**
- 4           **(2) vacancy on the governing body of a school corporation.**
- 5           **(c) Notwithstanding any other law, if a tie vote occurs among**
- 6           **any of the candidates for the governing body or a vacancy occurs**
- 7           **on the governing body, the remaining members of the governing**
- 8           **body, even if the remaining members do not constitute a majority**
- 9           **of the governing body, shall by a majority vote of the remaining**
- 10          **members:**
- 11          **(1) select one (1) of the candidates who shall be declared and**
- 12          **certified elected; or**
- 13          **(2) fill the vacancy by appointing an individual to fill the**
- 14          **vacancy.**
- 15          **(d) An individual appointed to fill a vacancy under subsection**
- 16          **(c)(2):**
- 17          **(1) must satisfy all the qualifications required of a member of**
- 18          **the governing body; and**
- 19          **(2) shall fill the remainder of the unexpired term of the**
- 20          **vacating member.**
- 21          **(e) If a tie vote occurs among the remaining members of the**
- 22          **governing body or the governing body fails to act within thirty (30)**
- 23          **days after the election or the vacancy occurs, the fiscal body (as**
- 24          **defined in IC 3-5-2-25) of the political subdivision:**
- 25          **(1) located where the majority of registered voters of the**
- 26          **school corporation reside; and**
- 27          **(2) that contains the smallest geographic area;**
- 28          **shall break the tie or make the appointment. A member of the**
- 29          **fiscal body who was a candidate and is involved in a tie vote may**
- 30          **not cast a vote under this subsection.**
- 31          **(f) If the fiscal body of a political subdivision is required to act**
- 32          **under this section and a vote in the fiscal body results in a tie, the**
- 33          **deciding vote to break the tie vote shall be cast by the following:**
- 34          **(1) If the political subdivision is a town, by the clerk-treasurer**
- 35          **of the town.**
- 36          **(2) If the political subdivision is not a town, by the executive**
- 37          **of the political subdivision.**
- 38          **SECTION 11. IC 36-5-2-4.5 IS ADDED TO THE INDIANA CODE**
- 39          **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
- 40          **1, 1998]: Sec. 4.5. (a) This section applies to a town if both of the**
- 41          **following apply:**
- 42          **(1) The town has a population of more than ten thousand**

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- 1 (10,000).  
 2 (2) The town legislative body adopts an ordinance adopting  
 3 the provisions of this section. A town may not adopt an  
 4 ordinance under this section during a year in which municipal  
 5 elections are held under IC 3-10-6-5.  
 6 (b) A town legislative body has the following members:  
 7 (1) Five (5) members, each elected by the voters of a district.  
 8 The districts are established by ordinance by the town  
 9 legislative body as provided in this chapter.  
 10 (2) Two (2) members elected at large by all the voters of the  
 11 town.  
 12 (c) An ordinance adopted under this section must provide for  
 13 the following:  
 14 (1) Four (4) members of the legislative body are elected  
 15 during a year that municipal elections are held under  
 16 IC 3-10-6-5.  
 17 (2) Three (3) members of the legislative body are elected  
 18 either:  
 19 (A) during the year before the year described in  
 20 subdivision (1); or  
 21 (B) during the year after the year described in subdivision  
 22 (1).  
 23 The year for elections under this subdivision must be chosen  
 24 so that during the elections held for the town legislative body  
 25 under subdivision (4), a member of the town legislative body  
 26 does not serve a term of more than four (4) years.  
 27 (3) The members of the legislative body elected at large may  
 28 not be elected at the same time.  
 29 (4) At the first two (2) elections after the ordinance is adopted,  
 30 members are elected to serve the following terms:  
 31 (A) Two (2) members elected under subdivision (1) are  
 32 elected to a four (4) year term and two (2) members elected  
 33 under subdivision (1) are elected to a three (3) year term.  
 34 (B) Two (2) members elected under subdivision (2) are  
 35 elected to a four (4) year term and one (1) member elected  
 36 under subdivision (2) is elected to a three (3) year term.  
 37 The ordinance must provide a random procedure to  
 38 determine which members serve four (4) year terms and  
 39 which members serve three (3) year terms.  
 40 (5) A member of the town board elected after the elections  
 41 described in subdivision (4) serves a term of four (4) years.  
 42 (6) The term of office of a member begins on January 1 after

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1 the member's election.

2 (d) An ordinance adopted under this section may provide that  
3 before the first election after adoption of the ordinance, members  
4 of the town legislative body added to the legislative body by the  
5 ordinance may be appointed to the legislative body by a vote of the  
6 current members of the legislative body.

7 (e) After the first two (2) elections held as described in  
8 subsection (c)(4), the town legislative body may adopt an ordinance  
9 to do the following:

- 10 (1) Divide the town into seven (7) districts.  
11 (2) Provide that the members elected at large are each elected  
12 from a district.

13 An ordinance adopted under this subsection must comply with this  
14 chapter in establishing the districts and provide details to provide  
15 a transition from electing two (2) members at large to electing all  
16 members from districts.

17 (f) Subject to this section, members of the town legislative body  
18 are elected as provided in IC 3-10-6-4.5.

19 SECTION 12. IC 36-5-2-4.6 IS ADDED TO THE INDIANA CODE  
20 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
21 1, 1998]: Sec. 4.6. (a) This section applies to a town if both of the  
22 following apply:

- 23 (1) The town has a population of less than five thousand  
24 (5,000).  
25 (2) The town is located in a county having a population of  
26 more than seventy-five thousand (75,000) but less than  
27 seventy-eight thousand (78,000).  
28 (3) The town legislative body adopts an ordinance adopting  
29 the provisions of this section. A town may not adopt an  
30 ordinance under this section during a year in which municipal  
31 elections are held under IC 3-10-6-5.

32 (b) A town legislative body has the following members:

- 33 (1) Three (3) members, each elected by the voters of a district.  
34 The districts are established by ordinance by the town  
35 legislative body as provided in this chapter.  
36 (2) Two (2) members elected at large by all the voters of the  
37 town.

38 (c) An ordinance adopted under this section must provide for  
39 the following:

- 40 (1) Three (3) members of the legislative body are elected  
41 during a year that municipal elections are held under  
42 IC 3-10-6-5.



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- 1           **(2) Two (2) members of the legislative body are elected either:**
- 2           **(A) during the year before the year described in**
- 3           **subdivision (1); or**
- 4           **(B) during the year after the year described in subdivision**
- 5           **(1).**

6           **The year for elections under this subdivision must be chosen**  
 7           **so that during the elections held for the town legislative body**  
 8           **under subdivision (4), a member of the town legislative body**  
 9           **does not serve a term of more than four (4) years.**

10          **(3) The members of the legislative body elected at large may**  
 11          **not be elected at the same time.**

12          **(4) The term of office of a member begins on January 1 after**  
 13          **the member's election.**

14          **(d) An ordinance adopted under this section may provide that**  
 15          **before the first election after adoption of the ordinance, members**  
 16          **of the town legislative body added to the legislative body by the**  
 17          **ordinance may be appointed to the legislative body by a vote of the**  
 18          **current members of the legislative body.**

19          **(e) Subject to this section, members of the town legislative body**  
 20          **are elected as provided in IC 3-10-6-4.5.**

21          SECTION 13. IC 36-9-31-3, AS AMENDED BY P.L.1-1996,  
 22          SECTION 96, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 23          JULY 1, 1998]: Sec. 3. In order to provide for the collection and  
 24          disposal of waste in the consolidated city and for the management,  
 25          operation, acquisition, and financing of facilities for waste disposal, the  
 26          board may exercise the following powers on behalf of the city, in  
 27          addition to the powers specifically set forth elsewhere in this chapter:

- 28           (1) To sue and be sued.
- 29           (2) To exercise the power of eminent domain as provided in
- 30           IC 32-11 within the corporate boundaries of the city; however, the
- 31           power of eminent domain may not be exercised to acquire the
- 32           property of any public utility used for the production or
- 33           distribution of energy.
- 34           (3) To provide for the collection of waste accumulated within the
- 35           service district and to provide for disposal of waste accumulated
- 36           within the waste disposal district, including contracting with
- 37           persons for collection, disposal, or waste storage, and the recovery
- 38           of byproducts from waste, and granting these persons the right to
- 39           collect and dispose of any such wastes and store and recover
- 40           byproducts from them.
- 41           (4) To plan, design, construct, finance, manage, own, lease,
- 42           operate, and maintain facilities for waste disposal.

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- 1 (5) To enter into all contracts or agreements necessary or
- 2 incidental to the collection, disposal, or recovery of byproducts
- 3 from waste, such as put or pay contracts, contracts and
- 4 agreements for the design, construction, operation, financing,
- 5 ownership, or maintenance of facilities or the processing or
- 6 disposal of waste or the sale or other disposition of any products
- 7 generated by a facility. Notwithstanding any other statute, any
- 8 such contract or agreement may be for a period not to exceed forty
- 9 (40) years.
- 10 (6) To enter into agreements for the leasing of facilities in
- 11 accordance with IC 36-1-10; however, any such agreement having
- 12 an original term of five (5) or more years is subject to approval by
- 13 the state board of tax commissioners under IC 6-3.5. Such an
- 14 agreement may be executed before approval, but if the state board
- 15 of tax commissioners does not approve the agreement it is void.
- 16 (7) To purchase, lease, or otherwise acquire real or personal
- 17 property.
- 18 (8) To contract for architectural, engineering, legal, or other
- 19 professional services.
- 20 (9) To exclusively control, within the city, the collection,
- 21 transportation, storage, and disposal of waste and, subject to the
- 22 provisions of sections 6 and 8 of this chapter, to fix fees in
- 23 connection with these matters.
- 24 (10) To determine exclusively the location and character of any
- 25 facility, subject to local zoning ordinances and environmental
- 26 management laws (as defined in IC 13-11-2-71).
- 27 (11) To sell or lease to any person any facility or part of it.
- 28 (12) To make and contract for plans, surveys, studies, and
- 29 investigations.
- 30 (13) To enter upon property to make surveys, soundings, borings,
- 31 and examinations.
- 32 (14) To accept gifts, grants, or loans of money, other property, or
- 33 services from any source, public or private, and to comply with
- 34 their terms.
- 35 (15) To issue from time to time waste disposal district bonds to
- 36 finance the cost of facilities as provided in section 9 of this
- 37 chapter.
- 38 (16) To issue from time to time revenue bonds to finance the cost
- 39 of facilities as provided in section 10 of this chapter.
- 40 (17) To issue from time to time waste disposal development
- 41 bonds to finance the cost of facilities as provided in section 11 of
- 42 this chapter.

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- 1 (18) To issue from time to time notes in anticipation of grants or
- 2 in anticipation of the issuance of bonds to finance the cost of
- 3 facilities as provided in section 13 of this chapter.
- 4 (19) To establish fees for the collection and disposal of waste,
- 5 subject to the provisions of sections 6 and 8 of this chapter.
- 6 (20) To levy a tax within the service district to pay costs of
- 7 operation in connection with waste collection, waste disposal,
- 8 **mowing services**, and animal control, subject to regular budget
- 9 and tax levy procedures. **For purposes of this subdivision,**
- 10 **"mowing services" refers only to mowing services for**
- 11 **rights-of-way or on abandoned property.**
- 12 (21) To levy a tax within the waste disposal district to pay costs
- 13 of operation in connection with waste disposal, subject to regular
- 14 budget and tax levy procedures.
- 15 (22) To borrow in anticipation of taxes.
- 16 (23) To employ staff engineers, clerks, secretaries, and other
- 17 employees in accordance with an approved budget.
- 18 (24) To issue requests for proposals and requests for
- 19 qualifications as provided in section 4 of this chapter.
- 20 (25) To require all persons located within the service district or
- 21 waste disposal district to deposit waste at sites designated by the
- 22 board.
- 23 (26) To otherwise do all things necessary for the collection and
- 24 disposal of waste and the recovery of byproducts from it.
- 25 SECTION 14. IC 36-9-31-24 IS REPEALED [EFFECTIVE JULY
- 26 1, 1998].
- 27 SECTION 15. [EFFECTIVE UPON PASSAGE] (a) **The**
- 28 **amendment to Article 2, Sections 2, 3, and 14 and to Article 16,**
- 29 **Section 1 of the Constitution of the State of Indiana agreed to by**
- 30 **the One Hundred Ninth General Assembly and the One Hundred**
- 31 **Tenth General Assembly of the State of Indiana shall be submitted**
- 32 **to the electors of the state at the 1998 general election, in the**
- 33 **manner provided for the submission of constitutional amendments**
- 34 **under IC 3.**
- 35 (b) **Under Article 16, Section 1 of the Constitution of the State**
- 36 **of Indiana, which requires the general assembly to submit**
- 37 **constitutional amendments to the electors, and in accordance with**
- 38 **IC 3-10-3, the general assembly prescribes the form in which the**
- 39 **public question concerning the ratification of this state**
- 40 **constitutional amendment must appear on the 1998 general**
- 41 **election ballot:**
- 42 **PUBLIC QUESTION #1**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred House Bill 1174, 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, delete lines 1 through 15 begin a new paragraph and insert:

"SECTION 1. IC 3-6-5.2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. As used in this chapter, "~~combined~~ "board" refers to the ~~combined county election board and~~ board of **elections and** registration established by section 3 of this chapter.

SECTION 2. IC 3-6-5.2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 3. The ~~combined county election board and~~ board of **elections and** registration is established and shall be known as the \_\_\_\_\_ (name of county) ~~combined county election board and~~ board of **elections and** registration.

SECTION 3. IC 3-6-5.2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 4. The ~~combined~~ board is comprised of the following five (5) members:

(1) The county chairmen of the major political parties of the county shall each appoint two (2) members of the board. Members of the board appointed under this subdivision must be voters of the county and serve a term of two (2) years or until their successors are appointed.

(2) The circuit court clerk, who is an ex officio member of the board.

SECTION 4. IC 3-6-5.2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5. Each member of the ~~combined~~ board shall be paid an annual salary of not less than ten thousand dollars (\$10,000). The salaries of the board members shall be fixed in the manner prescribed by IC 36-2-5 or IC 36-3-6 and paid out of the county general fund in accordance with IC 3-5-3-1 as other election expenses are paid.

SECTION 5. IC 3-6-5.2-6, AS AMENDED BY P.L.13-1995, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 6. (a) The ~~combined~~ board has all of the powers and duties given in this title to the following:

(1) The county election board.

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- (2) The board of registration.
- (3) The circuit court clerk.
- (4) The county executive.

(b) The ~~chief deputy~~ **director** appointed under section 7 of this chapter shall perform all the duties of the circuit court clerk under this title. The ~~combined~~ board shall perform all the duties of the county executive under this title.

SECTION 6. IC 3-6-5.2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 7. (a) The ~~combined~~ board may vest day to day operations in a ~~chief deputy~~ **director** of the ~~combined~~ board and in an assistant ~~chief deputy~~ **director** of the ~~combined~~ board.

(b) The ~~chief deputy~~ **director** of the ~~combined~~ board is appointed by the county chairman of the political party whose nominee received the highest number of votes in the county for secretary of state in the last election.

(c) The assistant ~~chief deputy~~ **director** of the ~~combined~~ board is appointed by the county chairman of the political party whose nominee received the second highest number of votes in the county for secretary of state in the last election.

(d) ~~The chief deputy of the combined board shall receive an annual salary of not less than the salary of other chief deputies in the county. The assistant chief deputy director shall receive an annual salary of not less than two thousand dollars (\$2,000) less than the salary of the chief deputy director.~~

(e) **The board shall establish the number and compensation of the employees of the board. The county chairman of each of the major political parties in the county shall appoint one-half (1/2) of the board employees. The director, the assistant director, and the board employees serve at the pleasure of their respective appointing authorities.**

SECTION 7. IC 3-10-6-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 4.5. (a) **Notwithstanding section 2 of this chapter, this section applies to a town with a legislative body that adopts an ordinance under IC 36-5-2-4.5.**

(b) **Unless a primary election is not required under section 4 of this chapter, a primary election shall be held in a town under this section at both of the following times:**

- (1) **During a year that municipal elections are held under section 5 of this chapter.**
- (2) **At the time of the primary election held in the year stated**

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in an ordinance adopted under IC 36-5-2-4.5(c)(2).

(c) At a primary election held under subsection (b), a political party with a nominee who receives at least ten percent (10%) of the votes cast in the state for secretary of state at the most recent election for secretary of state shall nominate candidates for the following town offices:

(1) At the time of the primary held in the town under subsection (b)(1), the following candidates:

(A) Four (4) candidates for the town legislative body, three (3) of whom are elected from districts and one (1) who is elected at large. If the town legislative body adopts an ordinance under IC 36-5-2-4.5(e), all candidates are elected from districts.

(B) Candidates for all other town offices other than the town legislative body.

(2) At the time of the primary election held under subsection (b)(2), three (3) candidates for the town legislative body, two (2) of whom are elected from districts and one (1) who is elected at large. If the town legislative body adopts an ordinance under IC 36-5-2-4.5(e), all candidates are elected from districts.

The primary election is conducted under this chapter.

(d) Notwithstanding section 5 of this chapter, an election to fill town offices under this section is held as follows:

(1) During a year municipal elections are held under section 5 of this chapter, the following town offices are elected:

(A) Four (4) members of the town legislative body, three (3) of whom are elected from districts and one (1) who is elected at large. If the town legislative body adopts an ordinance under IC 36-5-2-4.5(e), all members are elected from districts.

(B) All other town offices other than the town legislative body.

(2) During a year in which candidates for the town legislative body are nominated under subsection (c)(2), three (3) members of the town legislative body, two (2) of whom are elected from districts and one (1) who is elected at large. If the town legislative body adopts an ordinance under IC 36-5-2-4.5(e), all members are elected from districts.

The election shall be conducted under this chapter.

SECTION 8. IC 3-11-1.5-3.5, AS AMENDED BY P.L.12-1995, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



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JULY 1, 1998]: Sec. 3.5. (a) This section does not apply to a precinct located in a county having a consolidated city.

(b) This section applies to a precinct:

(1) that is located wholly or partially within the campus of:

- (A) Ball State University;
- (B) Indiana State University;
- (C) Indiana University;
- (D) Purdue University;
- (E) The University of Evansville;
- (F) The University of Southern Indiana; or
- (G) Vincennes University;

with more full-time students enrolled at that campus than are enrolled at any other campus of that university; or

(2) that contains a structure owned by a university described in subdivision (1) that houses more than one hundred (100) students of the university.

(c) A county executive may establish a precinct subject to this section without regard to the number of registered voters permitted under section 3 of this chapter if less than forty percent (40%) of the active voters entitled to vote in the precinct voted in the last ~~general~~ **primary** election.

SECTION 9. IC 3-11-4-3, AS AMENDED BY P.L.3-1997, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 3. (a) Except as provided in subsections (b) and (c) and sections 6 and 8 of this chapter, an application for an absentee ballot must be received by the circuit court clerk not earlier than ninety (90) days before election day nor later than:

(1) noon on the day before election day if the voter completes the application in the office of the circuit court clerk;

(2) noon on the day before election day if:

(A) the application is a mailed or hand delivered application from a confined voter or person caring for a confined person; and

(B) the applicant requests that the absentee ballots be delivered to the applicant by an absentee voter board; or

(3) midnight on the eighth day before election day if the application:

(A) is a mailed application; or

(B) was transmitted by a facsimile (FAX) machine;

from other voters.

(b) This subsection applies to an absentee ballot application from a

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confined voter or person caring for a confined voter that is mailed or hand delivered to the circuit court clerk of a county having a consolidated city. An application subject to this subsection that is hand delivered must be received by the circuit court clerk not earlier than ninety (90) days before election day nor later than 10 p.m. on the fifth day before election day. An application subject to this subsection that is mailed must be received by the circuit court clerk not earlier than ninety (90) days before election day and not later than 10 p.m. on the eighth day before election day.

(c) This subsection applies to an absentee ballot application from a confined voter or a person caring for a confined voter that is mailed or hand delivered to the circuit court clerk of a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). An application subject to this section must be received by the **chief deputy director** of the **combined board of elections and registration** not earlier than ninety (90) days before election day nor later than 10 p.m. on the fourth day before election day.

SECTION 10. IC 20-4-1-42 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 42. (a) This section applies only to a school corporation with territory in a county having a population of more than one hundred twenty-nine thousand (129,000) but less than one hundred thirty thousand six hundred (130,600).**

**(b) This section applies whenever there is a:**

- (1) tie vote in an election for a member of the governing body of a school corporation; or**
- (2) vacancy on the governing body of a school corporation.**

**(c) Notwithstanding any other law, if a tie vote occurs among any of the candidates for the governing body or a vacancy occurs on the governing body, the remaining members of the governing body, even if the remaining members do not constitute a majority of the governing body, shall by a majority vote of the remaining members:**

- (1) select one (1) of the candidates who shall be declared and certified elected; or**
- (2) fill the vacancy by appointing an individual to fill the vacancy.**

**(d) An individual appointed to fill a vacancy under subsection (c)(2):**

- (1) must satisfy all the qualifications required of a member of the governing body; and**



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(2) shall fill the remainder of the unexpired term of the vacating member.

(e) If a tie vote occurs among the remaining members of the governing body or the governing body fails to act within thirty (30) days after the election or the vacancy occurs, the fiscal body (as defined in IC 3-5-2-25) of the political subdivision:

(1) located where the majority of registered voters of the school corporation reside; and

(2) that contains the smallest geographic area;

shall break the tie or make the appointment. A member of the fiscal body who was a candidate and is involved in a tie vote may not cast a vote under this subsection.

(f) If the fiscal body of a political subdivision is required to act under this section and a vote in the fiscal body results in a tie, the deciding vote to break the tie vote shall be cast by the following:

(1) If the political subdivision is a town, by the clerk-treasurer of the town.

(2) If the political subdivision is not a town, by the executive of the political subdivision.

SECTION 11. IC 36-5-2-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 4.5. (a) This section applies to a town if both of the following apply:

(1) The town has a population of more than ten thousand (10,000).

(2) The town legislative body adopts an ordinance adopting the provisions of this section. A town may not adopt an ordinance under this section during a year in which municipal elections are held under IC 3-10-6-5.

(b) A town legislative body has the following members:

(1) Five (5) members, each elected by the voters of a district. The districts are established by ordinance by the town legislative body as provided in this chapter.

(2) Two (2) members elected at large by all the voters of the town.

(c) An ordinance adopted under this section must provide for the following:

(1) Four (4) members of the legislative body are elected during a year that municipal elections are held under IC 3-10-6-5.

(2) Three (3) members of the legislative body are elected either:

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(A) during the year before the year described in subdivision (1); or

(B) during the year after the year described in subdivision (1).

The year for elections under this subdivision must be chosen so that during the elections held for the town legislative body under subdivision (4), a member of the town legislative body does not serve a term of more than four (4) years.

(3) The members of the legislative body elected at large may not be elected at the same time.

(4) At the first two (2) elections after the ordinance is adopted, members are elected to serve the following terms:

(A) Two (2) members elected under subdivision (1) are elected to a four (4) year term and two (2) members elected under subdivision (1) are elected to a three (3) year term.

(B) Two (2) members elected under subdivision (2) are elected to a four (4) year term and one (1) member elected under subdivision (2) is elected to a three (3) year term.

The ordinance must provide a random procedure to determine which members serve four (4) year terms and which members serve three (3) year terms.

(5) A member of the town board elected after the elections described in subdivision (4) serves a term of four (4) years.

(6) The term of office of a member begins on January 1 after the member's election.

(d) An ordinance adopted under this section may provide that before the first election after adoption of the ordinance, members of the town legislative body added to the legislative body by the ordinance may be appointed to the legislative body by a vote of the current members of the legislative body.

(e) After the first two (2) elections held as described in subsection (c)(4), the town legislative body may adopt an ordinance to do the following:

(1) Divide the town into seven (7) districts.

(2) Provide that the members elected at large are each elected from a district.

An ordinance adopted under this subsection must comply with this chapter in establishing the districts and provide details to provide a transition from electing two (2) members at large to electing all members from districts.

(f) Subject to this section, members of the town legislative body are elected as provided in IC 3-10-6-4.5.

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SECTION 12. IC 36-9-31-3, AS AMENDED BY P.L.1-1996, SECTION 96, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 3. In order to provide for the collection and disposal of waste in the consolidated city and for the management, operation, acquisition, and financing of facilities for waste disposal, the board may exercise the following powers on behalf of the city, in addition to the powers specifically set forth elsewhere in this chapter:

- (1) To sue and be sued.
- (2) To exercise the power of eminent domain as provided in IC 32-11 within the corporate boundaries of the city; however, the power of eminent domain may not be exercised to acquire the property of any public utility used for the production or distribution of energy.
- (3) To provide for the collection of waste accumulated within the service district and to provide for disposal of waste accumulated within the waste disposal district, including contracting with persons for collection, disposal, or waste storage, and the recovery of byproducts from waste, and granting these persons the right to collect and dispose of any such wastes and store and recover byproducts from them.
- (4) To plan, design, construct, finance, manage, own, lease, operate, and maintain facilities for waste disposal.
- (5) To enter into all contracts or agreements necessary or incidental to the collection, disposal, or recovery of byproducts from waste, such as put or pay contracts, contracts and agreements for the design, construction, operation, financing, ownership, or maintenance of facilities or the processing or disposal of waste or the sale or other disposition of any products generated by a facility. Notwithstanding any other statute, any such contract or agreement may be for a period not to exceed forty (40) years.
- (6) To enter into agreements for the leasing of facilities in accordance with IC 36-1-10; however, any such agreement having an original term of five (5) or more years is subject to approval by the state board of tax commissioners under IC 6-3.5. Such an agreement may be executed before approval, but if the state board of tax commissioners does not approve the agreement it is void.
- (7) To purchase, lease, or otherwise acquire real or personal property.
- (8) To contract for architectural, engineering, legal, or other professional services.
- (9) To exclusively control, within the city, the collection,

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transportation, storage, and disposal of waste and, subject to the provisions of sections 6 and 8 of this chapter, to fix fees in connection with these matters.

(10) To determine exclusively the location and character of any facility, subject to local zoning ordinances and environmental management laws (as defined in IC 13-11-2-71).

(11) To sell or lease to any person any facility or part of it.

(12) To make and contract for plans, surveys, studies, and investigations.

(13) To enter upon property to make surveys, soundings, borings, and examinations.

(14) To accept gifts, grants, or loans of money, other property, or services from any source, public or private, and to comply with their terms.

(15) To issue from time to time waste disposal district bonds to finance the cost of facilities as provided in section 9 of this chapter.

(16) To issue from time to time revenue bonds to finance the cost of facilities as provided in section 10 of this chapter.

(17) To issue from time to time waste disposal development bonds to finance the cost of facilities as provided in section 11 of this chapter.

(18) To issue from time to time notes in anticipation of grants or in anticipation of the issuance of bonds to finance the cost of facilities as provided in section 13 of this chapter.

(19) To establish fees for the collection and disposal of waste, subject to the provisions of sections 6 and 8 of this chapter.

(20) To levy a tax within the service district to pay costs of operation in connection with waste collection, waste disposal, **mowing services**, and animal control, subject to regular budget and tax levy procedures. **For purposes of this subdivision, "mowing services" refers only to mowing services for rights-of-way or on abandoned property.**

(21) To levy a tax within the waste disposal district to pay costs of operation in connection with waste disposal, subject to regular budget and tax levy procedures.

(22) To borrow in anticipation of taxes.

(23) To employ staff engineers, clerks, secretaries, and other employees in accordance with an approved budget.

(24) To issue requests for proposals and requests for qualifications as provided in section 4 of this chapter.

(25) To require all persons located within the service district or

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waste disposal district to deposit waste at sites designated by the board.

(26) To otherwise do all things necessary for the collection and disposal of waste and the recovery of byproducts from it.

SECTION 13. IC 36-9-31-24 IS REPEALED [EFFECTIVE JULY 1, 1998]."

Delete pages 2 through 16.

Page 17, delete lines 1 through 12.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to House Bill 1174 as introduced.)

KROMKOWSKI, Chair

Committee Vote: yeas 15, nays 0.

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## HOUSE MOTION

Mr. Speaker: I move that House Bill 1174 be amended to read as follows:

Page 8, between lines 18 and 19, begin a new paragraph and insert:

"SECTION 12. IC 36-5-2-4.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 4.6. (a) This section applies to a town if both of the following apply:**

**(1) The town has a population of less than five thousand (5,000).**

**(2) The town is located in a county having a population of more than seventy-five thousand (75,000) but less than seventy-eight thousand (78,000).**

**(3) The town legislative body adopts an ordinance adopting the provisions of this section. A town may not adopt an ordinance under this section during a year in which municipal elections are held under IC 3-10-6-5.**

**(b) A town legislative body has the following members:**

**(1) Three (3) members, each elected by the voters of a district. The districts are established by ordinance by the town legislative body as provided in this chapter.**

**(2) Two (2) members elected at large by all the voters of the town.**

**(c) An ordinance adopted under this section must provide for the following:**

**(1) Three (3) members of the legislative body are elected during a year that municipal elections are held under IC 3-10-6-5.**

**(2) Two (2) members of the legislative body are elected either:**  
**(A) during the year before the year described in subdivision (1); or**

**(B) during the year after the year described in subdivision (1).**

**The year for elections under this subdivision must be chosen so that during the elections held for the town legislative body under subdivision (4), a member of the town legislative body does not serve a term of more than four (4) years.**

**(3) The members of the legislative body elected at large may not be elected at the same time.**

**(4) The term of office of a member begins on January 1 after the member's election.**

**(d) An ordinance adopted under this section may provide that**

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**before the first election after adoption of the ordinance, members of the town legislative body added to the legislative body by the ordinance may be appointed to the legislative body by a vote of the current members of the legislative body.**

**(e) Subject to this section, members of the town legislative body are elected as provided in IC 3-10-6-4.5."**

Renumber all SECTIONS consecutively.

(Reference is to House Bill 1174 as printed January 30, 1998.)

WHETSTONE

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