

January 28, 1998

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## HOUSE BILL No. 1399

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DIGEST OF HB 1399 (Updated January 27, 1998 11:54 am - DI 94)

**Citations Affected:** IC 36-7-23.

**Synopsis:** Multiple jurisdiction infrastructure authorities. Allows any combination of cities, towns, and counties to form a multiple jurisdiction infrastructure authority to promote cooperation to assist in developing the units participating in the authority. Eliminates the law authorizing two (2) or more counties to establish a multiple county authority to perform responsibilities similar to a multiple jurisdiction infrastructure authority. Requires that members of the authority must be elected officials.

**Effective:** July 1, 1998.

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**Crosby, Lytle, Hasler, Friend**

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January 13, 1998, read first time and referred to Committee on Local Government.  
January 27, 1998, amended, reported — Do Pass.

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HB 1399—LS 7260/DI 51



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January 28, 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. 1399

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

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

1 SECTION 1. IC 36-7-23-1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. As used in this  
3 chapter, "authority" refers to a multiple ~~county~~ **jurisdiction**  
4 **infrastructure** authority established ~~by~~ **under** this chapter.

5 SECTION 2. IC 36-7-23-3.7 IS ADDED TO THE INDIANA CODE  
6 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
7 1, 1998]: **Sec. 3.7. This chapter applies to all units except townships.**

8 SECTION 3. IC 36-7-23-4 IS AMENDED TO READ AS  
9 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 4. (a) A multiple  
10 ~~county~~ **jurisdiction infrastructure** authority may be established under  
11 this chapter by:

- 12 (1) ordinance of the fiscal body of each ~~county~~ **unit** participating  
13 in the authority; and  
14 (2) **if a county is one (1) of the units participating in the**  
15 **authority**, the order of the executive of ~~each that~~ county;  
16 ~~participating in the authority.~~ **and**  
17 (3) **an agreement among the participating units, executed by**

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- 1           **the executive of each participating unit following the approval**  
 2           **of the legislative body of each of the participating units.**  
 3           (b) The authority is a public body corporate and politic. The  
 4 authority is separate from the state, but the exercise by the authority of  
 5 its powers is an essential governmental function.  
 6           (c) An agreement to establish an authority must include:  
 7           (1) more than one (1) ~~county~~ **unit** as a participant; and  
 8           (2) a formula for distributing funds ~~from local taxes~~ contributed  
 9           by a ~~county or a municipality wholly or partially located in a~~  
 10           ~~county included in the agreement.~~ **the units participating in the**  
 11           **authority.**  
 12           (d) **An authority may add additional participating units at any**  
 13           **time by following the procedures set forth in subsection (a).**  
 14           (e) **A unit may participate in more than one (1) authority.**  
 15           SECTION 4. IC 36-7-23-5 IS AMENDED TO READ AS  
 16 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5. The purpose of the  
 17 authority is to **promote cooperation among the units participating**  
 18 **in the authority in order to** assist the development of the ~~incorporated~~  
 19 ~~and unincorporated areas of each county~~ **units** included in the  
 20 agreement by doing the following:  
 21           (1) Utilizing private and public sector resources to address  
 22 development problems and opportunities.  
 23           (2) **Planning**, developing, rehabilitating, and otherwise managing  
 24 ~~regional infrastructures and other regional services.~~  
 25 **infrastructure located in the authority's jurisdiction.**  
 26           (3) Supplementing, but not supplanting, traditional local or state  
 27 responsibilities.  
 28           (4) Providing financial resources to local communities to address  
 29 their infrastructure needs.  
 30           (5) Providing revenue bonding capacity and resources for bond  
 31 retirement, or lease rental capacity and resources, that can be  
 32 directed to development or recapitalization of ~~the regional~~  
 33 ~~infrastructure~~ **located in the authority's jurisdiction.**  
 34           (6) Providing the means to develop revenue producing  
 35 infrastructure ventures, where revenue can be rechanneled back  
 36 into the overall infrastructure development effort.  
 37           (7) Providing an overall balanced infrastructure investment  
 38 strategy that addresses important ~~regional~~ **needs of the**  
 39 **participating units for capital projects.**  
 40           (8) Providing operating involvement appropriate to each  
 41 infrastructure component.  
 42           (9) Providing for a continuing and stable source of public funding



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1 for ~~regional~~ infrastructure development **for participating units.**

2 (10) Providing the mechanism to address other regional services  
3 as determined to be appropriate by the board.

4 SECTION 5. IC 36-7-23-9 IS AMENDED TO READ AS  
5 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 9. The powers of the  
6 authority are vested in a board of directors. The board is comprised of  
7 the following members:

8 (1) One (1) member appointed by the ~~county~~ executive of each  
9 **county: unit participating in the authority.**

10 (2) One (1) member appointed by the ~~county~~ fiscal body of each  
11 **county: unit participating in the authority.**

12 ~~(3) The executive director of the authority.~~

13 SECTION 6. IC 36-7-23-10 IS AMENDED TO READ AS  
14 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 10. (a) A member  
15 appointed under section 9 of this chapter ~~by a county executive or~~  
16 ~~county fiscal body~~ must be a resident of the **county unit** whose officials  
17 or representatives make the appointment.

18 (b) A member appointed under section 9(1) or 9(2) of this chapter  
19 by a ~~county unit~~ executive or ~~county unit~~ fiscal body must be an  
20 elected official of the **county unit** whose officials or representatives  
21 make the appointment.

22 SECTION 7. IC 36-7-23-11 IS AMENDED TO READ AS  
23 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 11. (a) A member of  
24 the board appointed under ~~section 9(1) through 9(2)~~ **section 9** of this  
25 chapter serves a term of four (4) years.

26 (b) The agreement establishing the authority under this chapter must  
27 provide:

28 (1) that the terms of the initial members appointed under section  
29 9(1) through 9(2) of this chapter expire after one (1), two (2),  
30 three (3), or four (4) years; and

31 (2) for approximately twenty-five percent (25%) of the terms of  
32 the initial members appointed under ~~section 9(1) through 9(2)~~  
33 **section 9** of this chapter to expire in each of the first four (4)  
34 years that the agreement is in effect.

35 SECTION 8. IC 36-7-23-12 IS AMENDED TO READ AS  
36 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 12. The **officials**  
37 **responsible for appointing authority members of the board** shall fill  
38 a vacancy on the board among the members appointed under ~~section~~  
39 ~~9(1) through 9(3)~~ **section 9** of this chapter by appointment for the  
40 unexpired term.

41 SECTION 9. IC 36-7-23-13 IS AMENDED TO READ AS  
42 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 13. (a) A member of

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1 the board is entitled to reimbursement for traveling expenses and other  
 2 expenses actually incurred in connection with the member's duties, as  
 3 provided in the state travel policies and procedures established by the  
 4 department of administration and approved by the budget agency.

5 **(b) A member of the board is not entitled to either a salary or a**  
 6 **per diem for services rendered in connection with the member's**  
 7 **duties.**

8 SECTION 10. IC 36-7-23-15 IS AMENDED TO READ AS  
 9 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 15. The members shall  
 10 elect:

11 (1) a ~~vice~~ chairman;

12 (2) a ~~secretary~~; **vice chairman**;

13 **(3) a secretary**; and

14 ~~(3)~~ **(4)** other officers determined to be necessary for the board to  
 15 function;

16 at the first meeting of the board in January of each year.

17 SECTION 11. IC 36-7-23-17 IS AMENDED TO READ AS  
 18 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 17. (a) A majority of  
 19 the members of the board constitutes a quorum for the transaction of  
 20 business. The affirmative vote of a majority of the board is necessary  
 21 for an action to be taken by the board.

22 (b) A member may vote by written proxy delivered in advance to  
 23 ~~another member~~ **the chairman or secretary** of the board.

24 (c) A vacancy in the membership of the board does not impair the  
 25 right of a quorum to exercise all rights and perform all duties of the  
 26 board.

27 SECTION 12. IC 36-7-23-32 IS AMENDED TO READ AS  
 28 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 32. (a) The board ~~shall~~  
 29 **may** appoint an executive director of the authority.

30 (b) ~~Whenever a vacancy exists in the office of~~ **If the board**  
 31 **determines to appoint an** executive director, the board shall appoint  
 32 a nominating committee composed of members of the board. The  
 33 committee must submit a recommendation to the board concerning the  
 34 individuals qualified to serve as executive director.

35 SECTION 13. IC 36-7-23-33 IS AMENDED TO READ AS  
 36 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 33. The executive  
 37 director shall:

38 (1) administer, manage, and direct the affairs and activities of the  
 39 authority in accordance with the policies of the board and under  
 40 the control and direction of the board;

41 ~~(2) preside as chairman at the meetings of the board~~;

42 ~~(3)~~ **(2)** maintain and be custodian of all books, documents, and

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1 papers filed with the authority and the official seal of the  
 2 authority; and  
 3 ~~(4)~~ (3) perform other duties directed by the members to carry out  
 4 the purposes of this chapter.

5 SECTION 14. IC 36-7-23-52 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 52. (a) A resolution  
 7 establishing just and reasonable fees, rates, and charges for the use of  
 8 infrastructures under this chapter may be ~~adopted~~ **adopted** by the board  
 9 after a public hearing. Notice of the hearing must be published ~~and~~  
 10 ~~posted~~; ~~in each county that is a member of the authority~~; **one (1) time,**  
 11 **at least ten (10) days before the hearing, in one (1) newspaper**  
 12 **published in each county in which a participating unit is located** in  
 13 accordance with IC 5-3-1. The notice must provide a summary of the  
 14 resolution.

15 (b) Fees, rates, and charges adopted by the authority for a particular  
 16 infrastructure shall comply with statutes authorizing units to adopt fees,  
 17 rates, and charges for that particular type of infrastructure or, if there  
 18 is no statute authorizing units to adopt fees, rates, and charges for that  
 19 particular type of infrastructure, the fees, rates, and charges must  
 20 comply with IC 36-1-3.

21 SECTION 15. IC 36-7-23-53 IS AMENDED TO READ AS  
 22 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 53. (a) An authority  
 23 may enter into a lease of any infrastructure that could be financed with  
 24 the proceeds of bonds issued under this chapter with a lessor for a term  
 25 not to exceed fifty (50) years, and the lease may provide for payments  
 26 to be made by the authority from any revenues of the authority.

27 (b) A lease may provide that payments by the authority to the lessor  
 28 are required only to the extent and only for the period that the lessor is  
 29 able to provide the leased infrastructure in accordance with the lease.  
 30 The terms of each lease must be based upon the value of the  
 31 infrastructure leased and may not create a debt of the authority or a  
 32 ~~county~~ member for purposes of the Constitution of the State of Indiana.

33 (c) A lease may be entered into by the authority only after a public  
 34 hearing by the board at which all interested parties are provided the  
 35 opportunity to be heard. After the public hearing, the board may adopt  
 36 a resolution authorizing the execution of the lease on behalf of the  
 37 authority if the board finds that the service to be provided throughout  
 38 the term of the lease will serve the public purpose of the authority and  
 39 is in the best interests of its residents.

40 (d) The authority may:  
 41 (1) pledge revenues to make payments under the lease; and  
 42 (2) establish a special fund to make the payments.



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1 (e) Lease rentals may be limited to money in the special fund so that  
2 the obligations of the authority to make the lease rental payments are  
3 not considered debt of the authority or a ~~county~~ member for purposes  
4 of the Constitution of the State of Indiana.

5 (f) Except as provided in this section, no approvals of any  
6 governmental body or agency are required before the authority enters  
7 into a lease under this section.

8 SECTION 16. IC 36-7-23-58 IS AMENDED TO READ AS  
9 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 58. The infrastructure,  
10 or any part of ~~them~~, **the infrastructure**, to be financed under this  
11 chapter, may be financed by any one (1) or more or any combination of  
12 one (1) or more of the methods provided for in this chapter. The  
13 authority may pledge any money or mortgage or pledge property  
14 available to it under this chapter as set forth in IC 5-1-14-4 and any  
15 ~~county~~ member may pledge any money or mortgage or pledge property  
16 available to it to the authority as set forth in the agreement creating the  
17 authority. Any such pledge or mortgage by a ~~county~~ member to the  
18 authority shall be governed by and binding under IC 5-1-14-4.

19 SECTION 17. THE FOLLOWING ARE REPEALED [EFFECTIVE  
20 JULY 1, 1998]: IC 36-7-23-3; IC 36-7-23-14.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1399, 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:

Page 3, line 14, reset in roman "(a)".

Page 3, reset in roman line 18.

Page 3, line 19, reset in roman "by a".

Page 3, line 19, before "executive" insert "**unit**".

Page 3, line 19, reset in roman "executive or".

Page 3, line 19, before "fiscal" insert "**unit**".

Page 3, line 19, reset in roman "fiscal body must be an elected official".

Page 3, line 20, reset in roman "of the".

Page 3, line 20, after "county" insert "**unit**".

Page 3, line 20, reset in roman "whose officials or representatives make the appointment.".

and when so amended that said bill do pass.

(Reference is to House Bill 1399 as introduced.)

STEVENSON, Chair

Committee Vote: yeas 9, nays 0.

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