

HOUSE BILL No. 1034

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-11-10.5-3; IC 5-11-14-1; IC 5-13-6-1; IC 36-4-7-3; IC 36-4-10-4.5; IC 36-8.

Synopsis: Local government fiscal matters. Provides for the filing of the original list of warrants or checks that are outstanding in a city or town for more than two years with a city or town fiscal body. (Current law provides for the filing with the local board of finance. However, a statute enacted during the 1997 session of the general assembly eliminated the city and town boards of finance.) Provides that a: (1) city or town fiscal body for an official from a city or town; (2) city-county council for an official from a political subdivision located in a county that contains a consolidated city; or (3) county fiscal body
(Continued next page)

Effective: July 1, 1998.

Ayres, Stevenson

January 6, 1998, read first time and referred to Committee on Local Government.



Digest Continued

for all others, sets the mileage rate allowed for officials attending a conference called by the state examiner. Requires city and town public funds to be invested in depositories approved as depositories of state funds. Provides that the fiscal officer of a third class city is not liable, in an individual capacity, for any act or omission occurring in connection with the performance of the requirements of the fiscal officer's duties, unless the act or omission constitutes gross negligence or an intentional disregard of the requirements. Provides that the compensation of each appointive officer, deputy, police department, fire department, and other employee of a city must be fixed by the municipal legislative body before August 20. (Current law requires the compensation to be fixed before August 2.) Requires investments of the pension benefits for: (1) members of police departments in certain cities and towns; and (2) members of fire departments in certain cities and towns to be made under the statute regulating public funds deposit and investment powers.



Introduced

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. 1034

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 5-11-10.5-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 3. Not later than March
3 1 of each year, the treasurer of each political subdivision shall prepare
4 or cause to be prepared a list in triplicate of all warrants or checks that
5 have been outstanding for a period of two (2) or more years as of
6 December 31 of the preceding year. The original copy of each list shall
7 be filed with the:
8 (1) board of finance of ~~the~~ a political subdivision; or
9 (2) fiscal body of a city or town.
10 The duplicate copy shall be transmitted to the disbursing officer of the
11 political subdivision. The triplicate copy of each list shall be filed in
12 the office of the treasurer of the political subdivision. If the treasurer
13 serves also as the disbursing officer of the political subdivision, only
14 two (2) copies of each list need be prepared or caused to be prepared
15 by the treasurer.

1998

IN 1034—LS 6476/DI 94+



1 SECTION 2. IC 5-11-14-1, AS AMENDED BY P.L.10-1997,
 2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 1998]: Sec. 1. (a) As used in this section, "official" includes
 4 the following:

5 (1) An elected official who is entitled to attend a conference
 6 under this section.

7 (2) An individual elected to an office who is entitled to attend a
 8 conference under this section.

9 (3) A deputy or an assistant to an elected official who is entitled
 10 to attend a conference under this section.

11 (b) The state board of accounts shall annually call a conference of
 12 each of the following:

13 (1) County auditors and auditors elect.

14 (2) County treasurers and treasurers elect.

15 (3) Circuit court clerks and circuit court clerks elect.

16 (c) Each of the conferences called under subsection (b):

17 (1) must be held at a time and place fixed by the state examiner;

18 (2) may be held statewide or by district; and

19 (3) may not continue for longer than three (3) days in any one (1)
 20 year.

21 (d) The following training must be provided at each conference
 22 called under subsection (b):

23 (1) The proper use of forms prescribed by the state board of
 24 accounts.

25 (2) The keeping of the records of the respective offices.

26 (3) At the conference for county treasurers and treasurers elect,
 27 investment training by the following:

28 (A) The treasurer of state.

29 (B) The board for depositories.

30 (C) Any other person the state examiner considers to be
 31 competent in providing investment training.

32 (4) Any other training that, in the judgment of the state examiner,
 33 will result in the better conduct of the public business.

34 (e) The state examiner may hold other conferences for:

35 (1) the officials described in subsection (b); or

36 (2) other county, city, or township officers;

37 whenever in the judgment of the state examiner conferences are
 38 necessary.

39 (f) Whenever a conference is called by the state board of accounts
 40 under this section, an elected official, at the direction of the state
 41 examiner, may require the attendance of:

42 (1) each of the elected official's appointed and acting chief



1 deputies or chief assistants; and

2 (2) if the number of deputies or assistants employed:

3 (A) does not exceed three (3), one (1) of the elected official's
4 appointed and acting deputies or assistants; or

5 (B) exceeds three (3), two (2) of the elected official's duly
6 appointed and acting deputies or assistants.

7 (g) Each official attending any conference under this section shall
8 be allowed, for each mile necessarily traveled in going to and returning
9 from the conference by the most expeditious route, a sum for mileage
10 at a rate determined by the: ~~county fiscal body~~

11 **(1) city or town fiscal body for an official of the city or town;**

12 **(2) city-county council for an official of a political subdivision**
13 **located in a county that contains a consolidated city; or**

14 **(3) county fiscal body if subdivision (1) or (2) does not apply.**

15 Each official shall also be allowed, while attending a conference called
16 under this section, an allowance for lodging for each night preceding
17 conference attendance equal to the lodging allowance provided to state
18 employees in travel status, plus subsistence for meals for each day in
19 attendance in an amount equal to the daily subsistence rate for meals
20 for state employees in travel status. However, lodging expense, in the
21 case of a one (1) day conference, shall only be allowed for persons who
22 reside fifty (50) miles or farther from the conference location.
23 Regardless of the duration of the conference, only one (1) mileage
24 reimbursement shall be allowed to the official furnishing the
25 conveyance although the official transports more than one (1) person.

26 (h) The state board of accounts shall certify the number of days of
27 attendance and the mileage for each conference to each official
28 attending any conference under this section.

29 (i) All payments of mileage and per diem shall be made by the
30 proper disbursing officer in the manner provided by law on a duly
31 verified claim or voucher to which shall be attached the certificate of
32 the state board of accounts showing the number of days attended and
33 the number of miles traveled. All payments shall be made from the
34 general fund from any money not otherwise appropriated and without
35 any previous appropriation being made therefor.

36 SECTION 3. IC 5-13-6-1, AS AMENDED BY P.L.10-1997,
37 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
38 JULY 1, 1998]: Sec. 1. (a) All public funds paid into the treasury of the
39 state or the treasuries of the respective political subdivisions shall be
40 deposited not later than the business day following the receipt of funds
41 on business days of the depository in one (1) or more depositories in
42 the name of the state or political subdivision by the officer having



1 control of the funds.

2 (b) Except as provided in subsection (d), all public funds collected
3 by state officers, other than the treasurer of state, shall be deposited
4 with the treasurer of state, or an approved depository selected by the
5 treasurer of state not later than the business day following the receipt
6 of the funds. The treasurer of state shall deposit daily on business days
7 of the depository all public funds deposited with the treasurer of state.
8 Deposits do not relieve any state officer from the duty of maintaining
9 a cashbook under IC 5-13-5-1.

10 (c) Except as provided in subsection (d), all local officers, except
11 township trustees, who collect public funds of their respective political
12 subdivisions, shall deposit funds not later than the business day
13 following the receipt of funds on business days of the depository in the
14 depository or depositories selected by the several local boards of
15 finance that have jurisdiction of the funds. The public funds collected
16 by township trustees shall be deposited in the designated depository on
17 or before the first and fifteenth day of each month. Public funds
18 deposited under this subsection shall be deposited in the same form in
19 which they were received.

20 (d) A city (other than a consolidated city) or a town shall deposit
21 funds not later than the next business day following the receipt of the
22 funds in depositories:

23 (1) selected by the city or town as provided in an ordinance
24 adopted by the city or the town; and

25 (2) **approved as depositories of state funds.**

26 (e) All local investment officers shall reconcile at least monthly the
27 balance of public funds, as disclosed by the records of the local
28 officers, with the balance statements provided by the respective
29 depositories.

30 (f) An office of:

31 (1) the department of natural resources; or

32 (2) the department of state revenue;

33 that is detached from the main office of the department is not required
34 to deposit funds on the business day following receipt if the funds on
35 hand do not exceed one hundred dollars (\$100). However, the office
36 must deposit the funds on hand not later than the business day
37 following the day that the funds exceed one hundred dollars (\$100).

38 SECTION 4. IC 36-4-7-3 IS AMENDED TO READ AS FOLLOWS
39 [EFFECTIVE JULY 1, 1998]: Sec. 3. (a) This section does not apply
40 to compensation paid by a city to members of its police and fire
41 departments.

42 (b) Subject to the approval of the city legislative body, the city



1 executive shall fix the compensation of each appointive officer, deputy,
 2 and other employee of the city. The legislative body may reduce but
 3 may not increase any compensation fixed by the executive.
 4 Compensation must be fixed under this section before:

5 (1) ~~August 2~~ **August 20** for a third class city; and

6 (2) September 30 for a second class city;

7 of each year for the ensuing budget year.

8 (c) Compensation fixed under this section may not be increased
 9 during the budget year for which it is fixed, but may be reduced by the
 10 executive.

11 (d) Notwithstanding subsection (b), the city clerk may, with the
 12 approval of the legislative body, fix the salaries of deputies and
 13 employees appointed under IC 36-4-11-4.

14 SECTION 5. IC 36-4-10-4.5 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 4.5. (a) This section
 16 applies to third class cities.

17 (b) The fiscal officer is the head of the city department of finance.
 18 The fiscal officer shall do the following:

19 (1) Receive and care for all city money and pay the money out
 20 only on order of the approving body.

21 (2) Keep accounts showing when and from what sources the fiscal
 22 officer has received city money and when and to whom the fiscal
 23 officer has paid out city money.

24 (3) Prescribe payroll and account forms for all city offices.

25 (4) Prescribe the manner in which creditors, officers, and
 26 employees shall be paid.

27 (5) Manage the finances and accounts of the city and make
 28 investments of city money.

29 (6) Prepare for the legislative body the budget estimates of
 30 miscellaneous revenue, financial statements, and the proposed tax
 31 rate.

32 (7) Issue all licenses authorized by statute and collect the fees
 33 fixed by ordinance.

34 (8) Serve as clerk of the board of public works by attending
 35 meetings, preparing agendas, and recording proceedings.

36 (9) Perform all other duties prescribed by statute.

37 **(c) A fiscal officer is not liable in an individual capacity for an**
 38 **act or omission occurring in connection with the performance of**
 39 **the duties prescribed by subsection (b), unless the act or omission**
 40 **constitutes gross negligence or an intentional disregard of the fiscal**
 41 **officer's duties.**

42 SECTION 6. IC 36-8-3-3 IS AMENDED TO READ AS FOLLOWS



1 [EFFECTIVE JULY 1, 1998]: Sec. 3. (a) Two (2) members of the
 2 safety board constitute a quorum. The board shall adopt rules
 3 concerning the time of holding regular and special meetings and of
 4 giving notice of them. The board shall elect one (1) of its members
 5 chairman, who holds the position as long as prescribed by the rules of
 6 the board. The board shall record all of its proceedings.

7 (b) The members of the safety board may act only as a board. No
 8 member may bind the board or the city except by resolution entered in
 9 the records of the board authorizing him to act in its behalf as its
 10 authorized agent.

11 (c) The safety board shall appoint:

12 (1) the members and other employees of the police department
 13 other than those in an upper level policymaking position;

14 (2) the members and other employees of the fire department other
 15 than those in an upper level policymaking position;

16 (3) a market master; and

17 (4) other officials that are necessary for public safety purposes.

18 (d) The annual compensation of all members of the police and fire
 19 departments and other appointees shall be fixed by ordinance of the
 20 legislative body before ~~August 2~~ **August 20** of each year for the
 21 ensuing budget year. The ordinance may grade the members of the
 22 departments and regulate their pay by rank as well as by length of
 23 service. If the legislative body fails to adopt an ordinance fixing the
 24 compensation of members of the police or fire department, the safety
 25 board may fix their compensation, subject to change by ordinance.

26 (e) The safety board, subject to ordinance, may also fix the number
 27 of members of the police and fire departments and the number of
 28 appointees for other purposes and may, subject to law, adopt rules for
 29 the appointment of members of the departments and for their
 30 government.

31 (f) The safety board shall divide the city into police precincts and
 32 fire districts.

33 (g) The police chief has exclusive control of the police department,
 34 and the fire chief has exclusive control of the fire department, subject
 35 to the rules and orders of the safety board. In time of emergency, the
 36 police chief and the fire chief are, for the time being, subordinate to the
 37 city executive and shall obey his orders and directions, notwithstanding
 38 any law or rule to the contrary.

39 SECTION 7. IC 36-8-6-6 IS AMENDED TO READ AS FOLLOWS
 40 [EFFECTIVE JULY 1, 1998]: Sec. 6. (a) The local board shall
 41 determine how much of the 1925 fund may be safely invested and how
 42 much should be retained for the needs of the fund. The investment shall



1 be made:

2 (1) in interest bearing bonds of the United States, the state, or an
3 Indiana municipal corporation. The bonds shall be deposited with
4 and must remain in the custody of the treasurer of the board, who
5 shall collect the interest due as it becomes due; **or**

6 **(2) under IC 5-13-9.**

7 (b) Investments under this section are subject to section 1.5 of this
8 chapter.

9 SECTION 8. IC 36-8-7-10 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 10. (a) The local board
11 shall determine how much of the 1937 fund may be safely invested and
12 how much should be retained for the needs of the fund. Investments are
13 restricted to the following:

14 (1) Interest bearing direct obligations of the United States or of
15 the state or bonds lawfully issued by an Indiana political
16 subdivision. The securities shall be deposited with and must
17 remain in the custody of the treasurer of the local board, who shall
18 collect the interest on them as it becomes due and payable.

19 (2) Savings deposits or certificates of deposit of a chartered
20 national, state, or mutual bank whose deposits are insured by a
21 federal agency. However, deposits may not be made in excess of
22 the amount of insurance protection afforded a member or investor
23 of the bank.

24 (3) Shares of a federal savings and loan association organized
25 under 12 U.S.C. ~~section~~ 1461, as amended, and having its
26 principal office in Indiana, or of a building and loan association
27 or savings and loan association organized and operating under
28 Indiana statutes whose accounts are insured by a federal agency.
29 However, shares may not be purchased in excess of the amount of
30 insurance protection afforded a member or investor of the
31 association.

32 **(4) An investment made under IC 5-13-9.**

33 (b) All securities must be kept on deposit with the unit's fiscal
34 officer, or county treasurer acting under IC 36-4-10-6, who shall collect
35 all interest due and credit it to the 1937 fund.

36 (c) The fiscal officer (or county treasurer) shall keep a separate
37 account of the 1937 fund and shall fully and accurately set forth a
38 statement of all money received and paid out by him. The officer shall,
39 on the first Monday of January and June of each year, make a report to
40 the local board of all money received and distributed by him. The
41 president of the local board shall execute the officer's bond in the sum
42 that the local board considers adequate, conditioned that he will



1 faithfully discharge the duties of his office and faithfully account for
2 and pay over to the persons authorized to receive it all money that
3 comes into his hands by virtue of his office. The bond and sureties must
4 be approved by the local board and filed with the executive of the unit.
5 The local board shall make a full and accurate report of the condition
6 of the 1937 fund to the unit's fiscal officer on the first Monday of
7 February in each year.

8 (d) All securities that were owned by and held in the name of the
9 local board on January 1, 1938, shall be held and kept for the local
10 board by the unit's fiscal officer (or county treasurer) until they mature
11 and are retired. However, if an issue of the securities is refunded, the
12 local board shall accept refunding securities in exchange for and in an
13 amount equal to the securities refunded. All money received by the
14 local board for the surrender of matured and retired securities shall be
15 paid into and constitutes a part of the 1937 fund of the unit, as provided
16 in section 8 of this chapter.

17 (e) Investments under this section are subject to section 2.5 of this
18 chapter.

