

HOUSE BILL No. 1041

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-8-3.5.

Synopsis: Police and firefighter merit systems. Requires all cities, towns, and townships that have full-time police and fire departments to use the statutory merit system or establish their own merit system for their police and fire departments not later than July 1, 2000.

Effective: July 1, 1998.

L. Lutz

January 6, 1998, read first time and referred to Committee on Public Safety.



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. 1041

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 36-8-3.5-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. (a) This chapter
3 applies to each municipality ~~or~~ **and** township that has a full-time paid
4 police or fire department. ~~A~~ **Not later than July 1, 2000, each**
5 municipality ~~may exercise the power of establishing and township~~
6 **shall establish** a merit system for ~~its~~ **their** police ~~or~~ **and** fire
7 ~~department~~ **departments** under this chapter or by ordinance adopted
8 under IC 36-1-4-14. This chapter does not affect merit systems
9 established:
10 (1) by ordinance under IC 36-1-4-14, except as provided by
11 subsection (e); or
12 (2) by a prior statute, except as provided by subsection (b).
13 (b) If a city had a merit system for its police or fire department
14 under the former IC 18-4-12, IC 19-1-7, IC 19-1-14, IC 19-1-14.2,
15 IC 19-1-14.3, IC 19-1-14.5, IC 19-1-20, IC 19-1-21, IC 19-1-29,
16 IC 19-1-29.5, IC 19-1-31, IC 19-1-31.5, or IC 19-1-37.5, it may retain
17 that system by ordinance of the city legislative body passed before

1998

IN 1041—LS 6266/DI 79+



1 January 1, 1983. The ordinance must initially incorporate all the
2 provisions of the prior statute but may be amended by the legislative
3 body after December 31, 1984. The ordinance retaining the system
4 must be amended, if necessary, to include a provision under which the
5 commission (or governing board of the merit system) has at least
6 one-third (1/3) of its members elected by the active members of the
7 department as prescribed by section 8 of this chapter. Each elected
8 commission member must:

9 (1) be a person of good moral character; and

10 (2) except for a member of a fire department having a merit
11 system established under IC 19-1-37.5, not be an active member
12 of a police or fire department or agency.

13 (c) After December 31, 1984, the legislative body also may repeal
14 the ordinance described in subsection (b), but the legislative body shall
15 in the repealing ordinance concurrently establish a new merit system
16 under section 3 of this chapter. (This subsection does not require the
17 legislative body to establish a new merit system when it exercises its
18 power to amend the ordinance under subsection (b).) After the new
19 merit system takes effect, all members of the department are entitled to
20 the same ranks and pay grades the members held under the prior
21 system, subject to changes made in accordance with this chapter.

22 (d) If a city had a merit system for its police or fire department
23 under a prior statute but fails to retain that system under subsection (b),
24 the city legislative body shall, before July 1, 1983, pass an ordinance
25 to establish a new merit system under section 3 of this chapter. If the
26 new merit system is approved as provided by section 4 of this chapter,
27 it takes effect as provided by that section. However, if the new merit
28 system is rejected under section 4 of this chapter, within thirty (30)
29 days the city legislative body shall adopt an ordinance to retain the
30 prior merit system. The prior merit system remains in effect until the
31 new merit system takes effect, after which time all members of the
32 department are entitled to the same ranks and pay grades the members
33 held under the prior system, subject to changes made in accordance
34 with this chapter.

35 (e) An ordinance adopted under IC 36-1-4-14 to establish a police
36 or fire merit system must include a provision under which the
37 commission, or governing board of the merit system, has at least
38 one-third (1/3) of its members elected by the active members of the
39 department as prescribed by section 8 of this chapter. Each elected
40 commission member must be a person of good moral character who is
41 not an active member of a police or fire department or agency. If an
42 ordinance was adopted under IC 36-1-4-14 before July 1, 1988, the



1 ordinance must be amended to include this requirement.

2 SECTION 2. IC 36-8-3.5-3 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 3. (a) **Except as**
4 **provided in section 1 of this chapter**, the legislative body of a unit
5 may, by ordinance, establish a merit system under this chapter for the
6 police or fire department of the unit. Before the merit system takes
7 effect, however, the system must be approved by a majority of the
8 active members of the department in a referendum.

9 (b) The legislative body shall specify in the adopting ordinance
10 which of the provisions of this chapter that are left to its discretion are
11 being adopted.

12 (c) If a merit system is established under this chapter for each
13 department of a unit, each department has a separate merit system.

14 SECTION 3. IC 36-8-3.5-5 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5. (a) **Except as**
16 **provided in section 1 of this chapter**, a majority of the active
17 members of the department, by referendum under section 4 of this
18 chapter, may request the unit's legislative body to establish a merit
19 system for the department. The legislative body shall vote on the
20 request within sixty (60) days after it is filed with the clerk of the
21 legislative body.

22 (b) If the legislative body votes to grant the request, the legislative
23 body shall adopt an ordinance establishing a merit system under this
24 chapter. A copy of the ordinance shall be distributed to each active
25 member of the department, and another referendum under section 4 of
26 this chapter is required before the merit system takes effect.

27 (c) If the legislative body votes to deny the request, the request
28 may not be resubmitted to the legislative body for one (1) year. Before
29 the request may be resubmitted, another referendum under section 4 of
30 this chapter must be held.

