

HOUSE BILL No. 1356

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-10-6-4.5; IC 36-5-2-4.5; IC 36-9-31-3; IC 36-9-31-24.

Synopsis: Municipal government. 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 Indianapolis board of public works to levy a tax within the service district to pay for mowing services. Eliminates the requirement that a new waste treatment facility not served with the same type energy by a public utility must first offer an energy byproduct of the waste treatment facility to the public utility before the energy byproduct may be sold by the waste treatment facility.

Effective: July 1, 1998.

Behning

January 13, 1998, read first time and referred to Committee on Elections and Apportionment.

C
O
P
Y



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. 1356



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 3-10-6-4.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 1998]: **Sec. 4.5. (a) Notwithstanding section 2 of this chapter, this**
4 **section applies to a town with a legislative body that adopts an**
5 **ordinance under IC 36-5-2-4.5.**
6 **(b) Unless a primary election is not required under section 4 of**
7 **this chapter, a primary election shall be held in a town under this**
8 **section at both of the following times:**
9 **(1) During a year that municipal elections are held under**
10 **section 5 of this chapter.**
11 **(2) At the time of the primary election held in the year stated**
12 **in an ordinance adopted under IC 36-5-2-4.5(c)(2).**
13 **(c) At a primary election held under subsection (b), a political**
14 **party with a nominee who receives at least ten percent (10%) of the**
15 **votes cast in the state for secretary of state at the most recent**
16 **election for secretary of state shall nominate candidates for the**
17 **following town offices:**

C
O
P
Y



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

3 (A) Four (4) candidates for 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 candidates are elected
7 from districts.

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

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

16 The primary election is conducted under this chapter.

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

19 (1) During a year municipal elections are held under section
20 5 of this chapter, the following town offices are elected:

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

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

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

34 The election shall be conducted under this chapter.

35 SECTION 2. IC 36-5-2-4.5 IS ADDED TO THE INDIANA CODE
36 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
37 1, 1998]: Sec. 4.5. (a) This section applies to a town if both of the
38 following apply:

39 (1) The town has a population of more than ten thousand
40 (10,000).

41 (2) The town legislative body adopts an ordinance adopting
42 the provisions of this section. A town may not adopt an

C
O
P
Y



1 ordinance under this section during a year in which municipal
2 elections are held under IC 3-10-6-5.

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

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

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

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

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

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

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

18 (B) during the year after the year described in subdivision
19 (1).

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

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

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

28 (A) Two (2) members elected under subsection (c)(1) are
29 elected to a four (4) year term and two (2) members elected
30 under subsection (c)(1) are elected to a three (3) year term.

31 (B) Two (2) members elected under subsection (c)(2) are
32 elected to a four (4) year term and one (1) member elected
33 under subsection (c)(2) is elected to a three (3) year term.

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

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

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

41 (d) An ordinance adopted under this section may provide that
42 before the first election after adoption of the ordinance, members

C
O
P
Y



1 of the town legislative body added to the legislative body by the
2 ordinance may be appointed to the legislative body by a vote of the
3 current members of the legislative body.

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

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

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

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

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

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

C
O
P
Y



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

C
O
P
Y

- 1 (20) To levy a tax within the service district to pay costs of
 2 operation in connection with waste collection, waste disposal,
 3 **mowing services**, and animal control, subject to regular budget
 4 and tax levy procedures.
- 5 (21) To levy a tax within the waste disposal district to pay costs
 6 of operation in connection with waste disposal, subject to regular
 7 budget and tax levy procedures.
- 8 (22) To borrow in anticipation of taxes.
- 9 (23) To employ staff engineers, clerks, secretaries, and other
 10 employees in accordance with an approved budget.
- 11 (24) To issue requests for proposals and requests for
 12 qualifications as provided in section 4 of this chapter.
- 13 (25) To require all persons located within the service district or
 14 waste disposal district to deposit waste at sites designated by the
 15 board.
- 16 (26) To otherwise do all things necessary for the collection and
 17 disposal of waste and the recovery of byproducts from it.
- 18 SECTION 4. IC 36-9-31-24 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 24. An energy
 20 byproduct of a facility may not be sold to a person already being served
 21 the same type of energy by a public utility subject to regulation by the
 22 utility regulatory commission. However, an energy byproduct of a
 23 facility may be sold to a person who:
- 24 (1) after the in-service date of the facility is not receiving the
 25 same type energy from the public utility; or
- 26 (2) constructs a new facility that is not served the same type
 27 energy by the public utility.
- 28 **In the case of a new facility that is not served the same type energy by**
 29 **the public utility; the energy byproduct must first be offered to the**
 30 **public utility upon the same terms and conditions agreed to in good**
 31 **faith, by the person who constructs the new facility. If the public utility**
 32 **fails to accept, in writing, the purchase of the energy byproduct upon**
 33 **those terms and conditions within forty-five (45) days after the date the**
 34 **offer is made to the public utility; then the energy byproduct may be**
 35 **sold directly to the person by the facility.**

C
O
P
Y