

SENATE BILL No. 176

DIGEST OF SB 176 (Updated January 30, 1998 11:54 am - DI 78)

Citations Affected: IC 36-7.

Synopsis: Provides that a member of the county executive body and a member of the county fiscal body in St. Joseph County are appointed to the area plan commission. Requires the board of county commissioners of all counties that do not already have a storm water drainage ordinance for the management of storm water runoff in effect to adopt such an ordinance. Applies the standards in the ordinance to all municipalities within the county unless the municipality has standards that are consistent with or exceed the requirements of the county ordinance. Requires the county and all jurisdictions in the county that are subject to local planning and zoning laws to implement the ordinance by: (1) amending the comprehensive plan; (2) amending the zoning ordinance; (3) amending the subdivision control ordinance; and (4) requiring improvement location permits to state how they will comply with the standards.

Effective: July 1, 1998.

Wheeler, Lewis

January 6, 1998, read first time and referred to Committee on Natural Resources.
January 27, 1998, amended, reported favorably — Do Pass.
January 30, 1998, read second time, amended, ordered engrossed.

SB 176—LS 6861/DI 78



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Reprinted
February 2, 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.

SENATE BILL No. 176

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 36-7-4-207, AS AMENDED BY P.L.225-1997,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS[EFFECTIVE
3 JULY 1, 1998]: Sec. 207. (a) ADVISORY. In a city having a park
4 board and a city civil engineer, the city plan commission consists of
5 nine (9) members, as follows:
6 (1) One (1) member appointed by the city legislative body from
7 its membership.
8 (2) One (1) member appointed by the park board from its
9 membership.
10 (3) One (1) member or designated representative appointed by the
11 city works board.
12 (4) The city civil engineer or a qualified assistant appointed by the
13 city civil engineer.
14 (5) Five (5) citizen members, of whom no more than three (3)
15 may be of the same political party, appointed by the city
16 executive.
17 (b) ADVISORY. If a city lacks either a park board, or a city civil

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1 engineer, or both, subsection (a) does not apply. In such a city, or in
 2 any town, the municipal plan commission consists of seven (7)
 3 members, as follows:

4 (1) The municipal legislative body shall appoint three (3) persons,
 5 who must be elected or appointed municipal officials or
 6 employees in the municipal government, as members.

7 (2) The municipal executive shall appoint four (4) citizen
 8 members, of whom no more than two (2) may be of the same
 9 political party.

10 (c) AREA. To provide equitable representation of rural and urban
 11 populations, representation on the area plan commission is determined
 12 as follows:

13 (1) Seven (7) representatives from each city having a population
 14 of more than one hundred five thousand (105,000).

15 (2) Six (6) representatives from each city having a population of
 16 not less than seventy thousand (70,000) nor more than one
 17 hundred five thousand (105,000).

18 (3) Five (5) representatives from each city having a population of
 19 not less than thirty-five thousand (35,000) but less than seventy
 20 thousand (70,000).

21 (4) Four (4) representatives from each city having a population of
 22 not less than twenty thousand (20,000) but less than thirty-five
 23 thousand (35,000).

24 (5) Three (3) representatives from each city having a population
 25 of not less than ten thousand (10,000) but less than twenty
 26 thousand (20,000).

27 (6) Two (2) representatives from each city having a population of
 28 less than ten thousand (10,000).

29 (7) One (1) representative from each town having a population of
 30 more than two thousand one hundred (2,100), and one (1)
 31 representative from each town having a population of two
 32 thousand one hundred (2,100) or less that had a representative
 33 before January 1, 1979.

34 (8) Such representatives from towns having a population of not
 35 more than two thousand one hundred (2,100) as are provided for
 36 in section 210 of this chapter.

37 (9) Six (6) county representatives if the total number of municipal
 38 representatives in the county is an odd number, or five (5) county
 39 representatives if the total number of municipal representatives is
 40 an even number. **In counties having a population of more than**
 41 **two hundred thousand (200,000) but less than three hundred**
 42 **thousand (300,000), one (1) member appointed by the county**

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1 **executive from its membership and one (1) member appointed**
 2 **by the county fiscal body from its membership shall be on the**
 3 **area plan commission in addition to any other representation**
 4 **provided for by this section.**

5 (d) METRO. The metropolitan development commission consists
 6 of eleven (11) citizen members, as follows:

7 (1) Five (5) members, of whom no more than three (3) may be of
 8 the same political party, appointed by the executive of the
 9 consolidated city.

10 (2) Three (3) members, of whom no more than two (2) may be of
 11 the same political party, appointed by the legislative body of the
 12 consolidated city.

13 (3) Two (2) members, who must be of different political parties,
 14 appointed by the board of commissioners of the county.

15 (4) One (1) member who represents the township legislative
 16 bodies. The procedure for the township legislative bodies for
 17 appointing the member shall be established by an ordinance
 18 adopted by the legislative body of the consolidated city.

19 SECTION 2. IC 36-7-4-502 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 502. A comprehensive
 21 plan must contain at least the following elements:

22 (1) A statement of objectives for the future development of the
 23 jurisdiction.

24 (2) A statement of policy for the land use development of the
 25 jurisdiction.

26 (3) A statement of policy for the development of public ways,
 27 public places, public lands, public structures, and public utilities.

28 **(4) A statement of standards for the management of storm**
 29 **water runoff that is consistent with or exceeds the**
 30 **requirements of the storm water drainage ordinance adopted**
 31 **under IC 36-7-32.**

32 SECTION 3. IC 36-7-4-601, AS AMENDED BY P.L.320-1995,
 33 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 1998]: Sec. 601. (a) The legislative body having jurisdiction
 35 over the geographic area described in the zoning ordinance has
 36 exclusive authority to adopt a zoning ordinance under the 600 series.
 37 However, no zoning ordinance may be adopted until a comprehensive
 38 plan has been approved for the jurisdiction under the 500 series of this
 39 chapter.

40 (b) When it adopts a zoning ordinance, the legislative body shall:

41 (1) designate the geographic area over which the plan commission
 42 shall exercise jurisdiction; and

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- 1 (2) incorporate by reference into the ordinance zone maps, as
 2 prepared by the plan commission under subsection (e).
- 3 (c) When it adopts a zoning ordinance, the legislative body shall act
 4 for the purposes of:
- 5 (1) securing adequate light, air, convenience of access, and safety
 6 from fire, flood, and other danger;
- 7 (2) lessening or avoiding congestion in public ways;
- 8 (3) promoting the public health, safety, comfort, morals,
 9 convenience, and general welfare; ~~and~~
- 10 **(4) implementing standards for managing storm water runoff**
 11 **in a manner that is consistent with or exceeds the**
 12 **requirements of a storm water drainage ordinance adopted**
 13 **under IC 36-7-32; and**
- 14 ~~(4)~~ **(5)** otherwise accomplishing the purposes of this chapter.
- 15 (d) For the purposes described in subsection (c), the legislative body
 16 may do the following in the zoning ordinance:
- 17 (1) Establish one (1) or more districts, which may be for
 18 agricultural, commercial, industrial, residential, special, or
 19 unrestricted uses and any subdivision or combination of these
 20 uses. A district may include geographic areas that are not
 21 contiguous. A geographic area may be subject to more than one
 22 (1) district.
- 23 (2) In each district, regulate how real property is developed,
 24 maintained, and used. This regulation may include:
- 25 (A) requirements for the area of front, rear, and side yards,
 26 courts, other open spaces, and total lot area;
- 27 (B) requirements for site conditions, signs, and nonstructural
 28 improvements, such as parking lots, ponds, fills, landscaping,
 29 and utilities;
- 30 (C) provisions for the treatment of uses, structures, or
 31 conditions that are in existence when the
 32 zoning ordinance takes effect;
- 33 (D) restrictions on development in areas prone to flooding;
- 34 (E) requirements to protect the historic and architectural
 35 heritage of the community;
- 36 (F) requirements for structures, such as location, height, area,
 37 bulk, and floor space;
- 38 (G) restrictions on the kind and intensity of uses;
- 39 (H) performance standards for the emission of noises, gases,
 40 heat, vibration, or particulate matter into the air or ground or
 41 across lot lines;
- 42 (I) standards for population density and traffic circulation; and



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(J) any other provisions that are necessary to implement the purposes of the zoning ordinance.

(3) Designate zoning districts in areas having special development problems or needs for compatibility in which a plan commission shall:

(A) approve or disapprove development plans under the 1400 series of this chapter; and

(B) ensure that a development plan approved under this subdivision is consistent with the comprehensive plan and the development requirements specified in the zoning ordinance.

(4) Provide for planned unit development through adoption and amendment of zoning ordinances, including PUD district ordinances (as defined in section 1503 of this chapter).

(5) Establish in which districts the subdivision of land may occur.

(e) When it prepares a proposal to initially adopt a zoning ordinance for a jurisdiction, the plan commission shall also prepare zone maps. The purpose of the zone maps is to indicate the districts into which the incorporated areas and unincorporated areas, if any, are divided.

SECTION 4. IC 36-7-4-702 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 702. (a) In determining whether to grant primary approval of a plat, the plan commission shall determine if the plat or subdivision qualifies for primary approval under the standards prescribed by the subdivision control ordinance.

(b) The subdivision control ordinance must specify the standards by which the commission determines whether a plat qualifies for primary approval. The ordinance must include standards for:

- (1) minimum width, depth, and area of lots in the subdivision;
 - (2) public way widths, grades, curves, and the coordination of subdivision public ways with current and planned public ways;
- and**

- (3) the extension of water, sewer, and other municipal services;
- and**

- (4) drainage that are consistent with or exceed the requirements of the storm water drainage ordinance adopted under IC 36-7-32.**

The ordinance may also include standards for the allocation of areas to be used as public ways, parks, schools, public and semipublic buildings, homes, businesses, and utilities, **and** any other standards related to the purposes of this chapter.

(c) The standards fixed in the subdivision control ordinance under subsection (b) may not be lower than the minimum standards prescribed in the zoning ordinance for a similar use.

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1 (d) As a condition of primary approval of a plat, the commission
2 may specify:

- 3 (1) the manner in which public ways shall be laid out, graded, and
4 improved;
5 (2) a provision for water, sewage, and other utility services;
6 (3) a provision for lot size, number, and location;
7 (4) a provision for drainage design; and
8 (5) a provision for other services as specified in the subdivision
9 control ordinance.

10 (e) The subdivision control ordinance may not regulate
11 condominiums regulated by IC 32-1-6.

12 SECTION 5. IC 36-7-4-801 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 801. (a) ADVISORY.
14 A structure may not be located and an improvement location permit for
15 a structure on platted or unplatted land may not be issued unless the
16 structure and its location conform to the municipal zoning ordinance.
17 However, if the land is unincorporated land that lies within a county
18 that has adopted a zoning ordinance, then the municipal zoning
19 ordinance does not apply and the structure must conform to the county
20 zoning ordinance. A municipality, having adopted a zoning ordinance,
21 may issue and control improvement location permits on unincorporated
22 lands within the jurisdiction of its municipal plan commission if the
23 lands lie within a county that has not adopted a zoning ordinance.

24 (b) AREA) METRO. A zoning ordinance, a subdivision ordinance,
25 or a separate ordinance may require the procurement of:

- 26 (1) an improvement location permit for the erection, alteration, or
27 repair of any structure on platted or unplatted land; and
28 (2) an occupancy permit for the use of any structure or land
29 regulated by a zoning ordinance, subdivision ordinance,
30 thoroughfare ordinance, or other ordinance relating to land use.

31 If such a provision is adopted, a structure may not be located and a
32 permit may not be issued unless the use, character, and location of the
33 structure is in conformity with the applicable ordinance.

34 (c) AREA. The ordinance under subsection (b) must contain a
35 schedule of fees and must provide that the unit that issues the permit
36 shall receive the fee and pay it into its general fund.

37 (d) **ADVISORY-AREA. An improvement location permit shall**
38 **not be issued unless the permit indicates how the permit holder will**
39 **comply with an ordinance adopted under IC 36-7-32.**

40 SECTION 6. IC 36-7-32 IS ADDED TO THE INDIANA CODE AS
41 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
42 1, 1998]:



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1 **Chapter 32. Management of Storm Water Runoff**

2 **Sec. 1. (a) This section applies to a county that does not have a**
 3 **storm water drainage ordinance for the management of storm**
 4 **water runoff in effect prior to July 1, 1998.**

5 **(b) Before July 1, 1999, the board of county commissioners shall**
 6 **adopt a storm water drainage ordinance for the management of**
 7 **storm water runoff. The ordinance adopted under this subsection**
 8 **may take effect any time after the adoption of the ordinance;**
 9 **however, the ordinance must be in effect after December 31, 1999.**

10 **(c) In a county that has a county plan commission, the county**
 11 **plan commission shall advise the board of county commissioners**
 12 **on the standards to include in the ordinance adopted under**
 13 **subsection (b). If any municipality within the county has its own**
 14 **plan commission, that plan commission shall also advise the board**
 15 **of county commissioners on the standards to include in the**
 16 **ordinance adopted under subsection (b).**

17 **(d) The county ordinance adopted under subsection (b) applies**
 18 **to municipalities within the county unless the municipality adopts**
 19 **or has adopted an ordinance that has standards that are consistent**
 20 **with or exceed the requirements of the county ordinance.**

21 **Sec. 2. (a) This section applies to a county that has a storm**
 22 **water drainage ordinance for the management of storm water**
 23 **runoff in effect before July 1, 1998.**

24 **(b) An ordinance adopted under subsection (a) is presumed**
 25 **valid under this chapter and applies to municipalities within the**
 26 **county unless the municipality adopts or has adopted an ordinance**
 27 **that has standards that are consistent with or exceed the**
 28 **requirements of the county ordinance.**

29 **Sec. 3. (a) This section applies to a county that is required to**
 30 **adopt an ordinance under section 1 of this chapter.**

31 **(b) The county, if it is subject to local planning and zoning laws**
 32 **under IC 36-7-4, and any jurisdiction within the county that is**
 33 **subject to local planning and zoning laws under IC 36-7-4 shall do**
 34 **the following:**

35 **(1) The governmental body that has the authority to adopt or**
 36 **amend the comprehensive plan under IC 36-7-4 shall adopt or**
 37 **amend the comprehensive plan in a manner that is consistent**
 38 **with or exceeds the standards of the storm water drainage**
 39 **ordinance as required in IC 36-7-4-502.**

40 **(2) The governmental body that has the authority to adopt or**
 41 **amend the zoning ordinance under IC 36-7-4 shall adopt or**
 42 **amend the zoning ordinance in a manner that is consistent**

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with or exceeds the standards of the storm water drainage ordinance as required in IC 36-7-4-601.

(3) The governmental body that has the authority to adopt or amend the subdivision control ordinance under IC 36-7-4 shall adopt or amend the subdivision control ordinance in a manner that is consistent with or exceeds the standards of the storm water drainage ordinance as required in IC 36-7-4-702.

(4) The governmental body that issues improvement location permits shall require compliance with IC 36-7-4-801(d).

(c) The actions required under subsection (b) must be taken not later than:

(1) six (6) months after the date the storm water ordinance takes effect; or

(2) January 1, 2000;

whichever is earlier.

Sec. 4. (a) This section applies to a county described in section 2(a) of this chapter.

(b) The county, if it is subject to local planning and zoning laws under IC 36-7-4, and any jurisdiction within the county that is subject to local planning and zoning laws under IC 36-7-4 shall do the following:

(1) The governmental body that has the authority to adopt or amend the comprehensive plan under IC 36-7-4 shall adopt or amend the comprehensive plan in a manner that is consistent with or exceeds the standards of the storm water drainage ordinance as required in IC 36-7-4-502.

(2) The governmental body that has the authority to adopt or amend the zoning ordinance under IC 36-7-4 shall adopt or amend the zoning ordinance in a manner that is consistent with or exceeds the standards of the storm water drainage ordinance as required in IC 36-7-4-601.

(3) The governmental body that has the authority to adopt or amend the subdivision control ordinance under IC 36-7-4 shall adopt or amend the subdivision control ordinance in a manner that is consistent with or exceeds the standards of the storm water drainage ordinance as required in IC 36-7-4-702.

(4) The governmental body that issues improvement location permits shall require compliance with IC 36-7-4-801(d).

(c) The actions required under subsection (b) must be taken not later than January 1, 1999.

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SENATE MOTION

Mr. President: I move that Senator Lewis be added as coauthor of Senate Bill 176.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Natural Resources, to which was referred Senate Bill 176, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to Senate Bill 176 as introduced.)

SERVER, Chairperson

Committee Vote: Yeas 7, Nays 0.

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SENATE MOTION

Mr. President: I move that Senate Bill 176 be amended to read as follows:

Page 1, line 11, delete "complies" and insert "**is consistent**".

Page 3, line 40, delete "complies with or exceeds" and insert "**are consistent with or exceed**".

Page 5, line 12, delete "county executive" and insert "**board of county commissioners**".

Page 5, line 13, delete "run" and insert "**runoff**".

Page 5, line 14, delete "off".

Page 5, line 18, delete "county executive" and insert "**board of county commissioners**".

Page 5, line 19, after "." insert "**If any municipality within the county has its own plan commission, that plan commission shall also advise the board of county commissioners on the standards to include in the ordinance adopted under subsection (b).**".

Page 5, line 22, delete "at least as" and insert "**consistent with or exceed**".

Page 5, line 23, delete "stringent as".

Page 5, line 30, delete "at least as stringent as" and insert "**consistent with or exceed**".

Page 5, line 40, delete "to reflect" and insert "**in a manner that is consistent with or exceeds**".

Page 6, line 2, delete "to reflect" and insert "**in a manner that is consistent with or exceeds**".

Page 6, line 6, delete "to" and insert "**in a manner that is consistent with or exceeds**".

Page 6, line 7, delete "reflect".

Page 6, line 25, delete "to reflect" and insert "**in a manner that is consistent with or exceeds**".

Page 6, line 29, delete "to reflect" and insert "**in a manner that is consistent with or exceeds**".

Page 6, line 33, delete "to" and insert "**in a manner that is consistent with or exceeds**".

Page 6, line 34, delete "reflect".

(Reference is to Senate Bill 176 as printed January 28, 1998.)

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SENATE MOTION

Mr. President: I move that Senate Bill 176 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 36-7-4-207, AS AMENDED BY P.L.225-1997, SECTION 1, IS AMENDED TO READ AS FOLLOWS[EFFECTIVE JULY 1, 1998]: Sec. 207. (a) ADVISORY. In a city having a park board and a city civil engineer, the city plan commission consists of nine (9) members, as follows:

- (1) One (1) member appointed by the city legislative body from its membership.
- (2) One (1) member appointed by the park board from its membership.
- (3) One (1) member or designated representative appointed by the city works board.
- (4) The city civil engineer or a qualified assistant appointed by the city civil engineer.
- (5) Five (5) citizen members, of whom no more than three (3) may be of the same political party, appointed by the city executive.

(b) ADVISORY. If a city lacks either a park board, or a city civil engineer, or both, subsection (a) does not apply. In such a city, or in any town, the municipal plan commission consists of seven (7) members, as follows:

- (1) The municipal legislative body shall appoint three (3) persons, who must be elected or appointed municipal officials or employees in the municipal government, as members.
- (2) The municipal executive shall appoint four (4) citizen members, of whom no more than two (2) may be of the same political party.

(c) AREA. To provide equitable representation of rural and urban populations, representation on the area plan commission is determined as follows:

- (1) Seven (7) representatives from each city having a population of more than one hundred five thousand (105,000).
- (2) Six (6) representatives from each city having a population of not less than seventy thousand (70,000) nor more than one hundred five thousand (105,000).
- (3) Five (5) representatives from each city having a population of not less than thirty-five thousand (35,000) but less than seventy thousand (70,000).

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(4) Four (4) representatives from each city having a population of not less than twenty thousand (20,000) but less than thirty-five thousand (35,000).

(5) Three (3) representatives from each city having a population of not less than ten thousand (10,000) but less than twenty thousand (20,000).

(6) Two (2) representatives from each city having a population of less than ten thousand (10,000).

(7) One (1) representative from each town having a population of more than two thousand one hundred (2,100), and one (1) representative from each town having a population of two thousand one hundred (2,100) or less that had a representative before January 1, 1979.

(8) Such representatives from towns having a population of not more than two thousand one hundred (2,100) as are provided for in section 210 of this chapter.

(9) Six (6) county representatives if the total number of municipal representatives in the county is an odd number, or five (5) county representatives if the total number of municipal representatives is an even number. **In counties having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), one (1) member appointed by the county executive from its membership and one (1) member appointed by the county fiscal body from its membership shall be on the area plan commission in addition to any other representation provided for by this section.**

(d) METRO. The metropolitan development commission consists of eleven (11) citizen members, as follows:

(1) Five (5) members, of whom no more than three (3) may be of the same political party, appointed by the executive of the consolidated city.

(2) Three (3) members, of whom no more than two (2) may be of the same political party, appointed by the legislative body of the consolidated city.

(3) Two (2) members, who must be of different political parties, appointed by the board of commissioners of the county.

(4) One (1) member who represents the township legislative bodies. The procedure for the township legislative bodies for appointing the member shall be established by an ordinance adopted by the legislative body of the consolidated city."

(Reference is to Senate Bill 176 as printed January 28, 1998.)

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