



February 17, 1999

# HOUSE BILL No. 1155

DIGEST OF HB 1155 (Updated February 16, 1999 3:44 pm - DI 94)

**Citations Affected:** Noncode.

**Synopsis:** Local government matters. Defines an interested party for the purpose of providing notice of zoning proposals. Requires a plan commission to provide notice of a public hearing to amend a zoning ordinance or zoning map to interested parties by certified mail. Requires a town incorporating across county lines to obtain the approval of the county executive of each county that contains a part of the proposed incorporated town. Allows proceedings for incorporation of a town across county boundaries that commenced before July 1, 1999, to proceed with only the approval of the county executive of the county that contains all or a major part of the territory sought to be incorporated. 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  
(Continued next page)

**Effective:** July 1, 1999.

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**Smith M, Stevenson**

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January 6, 1999, read first time and referred to Committee on Local Government.  
February 16, 1999, amended, reported — Do Pass.

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HB 1155—LS 6097/DI 92+



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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.

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HB 1155—LS 6097/DI 92+



February 17, 1999

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

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## HOUSE BILL No. 1155

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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 36-5-1-2 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) Proceedings to incorporate a  
3 town may be instituted by filing a petition in quadruplicate with the  
4 executive of ~~the~~ **each** county in which ~~all~~ **or a major** part of the territory  
5 sought to be incorporated is located. The petition must be signed by at  
6 least fifty (50) owners of land in the territory and must state that:  
7 (1) the territory is used or will, in the reasonably foreseeable  
8 future, be used generally for commercial, industrial, residential,  
9 or similar purposes;  
10 (2) the territory is reasonably compact and contiguous;  
11 (3) there is enough undeveloped land in the territory to permit  
12 reasonable growth of the town; and  
13 (4) incorporation is in the best interests of the citizens of the  
14 territory.  
15 (b) The signatures of the petitioners must be verified, and the

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1 verification must include a statement that the petitioners are owners of  
2 land in the territory sought to be incorporated.

3 (c) In determining the number of petitioners, not more than one (1)  
4 person having an interest in a single parcel of land may be counted, and  
5 a person owning more than one (1) parcel of land in the area may be  
6 counted only once.

7 SECTION 2. IC 36-5-1-10.1 IS AMENDED TO READ AS  
8 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10.1. (a) **Except as**  
9 **provided in subsection (g)**, if the county executive makes the findings  
10 required by section 8 of this chapter, it may adopt an ordinance  
11 incorporating the town. The ordinance must:

12 (1) provide that:

13 (A) all members of the town legislative body are to be elected  
14 at large (if the town would have a population of less than three  
15 thousand five hundred (3,500); or

16 (B) divide the town into not less than three (3) nor more than  
17 seven (7) districts; and

18 (2) direct the county election board to conduct an election in the  
19 town on the date of the next general or municipal election to be  
20 held in any precincts in the county.

21 An election conducted under this section must comply with IC 3  
22 concerning town elections. If, on the date that an ordinance was  
23 adopted under this section, absentee ballots for a general or municipal  
24 election have been delivered under IC 3-11-4-15 for voters within a  
25 precinct in the town, the election must be conducted on the date of the  
26 next general or municipal election held in any precincts in the county  
27 after the election for which absentee balloting is being conducted.  
28 However, a primary election may not be conducted before an election  
29 conducted under this section, regardless of the population of the town.

30 (b) Districts established by an ordinance adopted under this section  
31 must comply with IC 3-11-1.5.

32 (c) If any territory in the town is not included in one (1) of the  
33 districts established under this section, the territory is included in the  
34 district that:

35 (1) is contiguous to that territory; and

36 (2) contains the least population of all districts contiguous to that  
37 territory.

38 (d) If any territory in the town is included in more than one (1) of  
39 the districts established under this section, the territory is included in  
40 the district that:

41 (1) is one (1) of the districts in which the territory is described in  
42 the ordinance adopted under this section;

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1 (2) is contiguous to that territory; and  
 2 (3) contains the least population of all districts contiguous to that  
 3 territory.

4 (e) Except as provided in subsection (f), an ordinance adopted under  
 5 this section becomes effective when filed with:

6 (1) the state certifying official designated under IC 3-6-4.2-11;  
 7 and  
 8 (2) the circuit court clerk of each county in which the town is  
 9 located.

10 (f) An ordinance incorporating a town under this section may not  
 11 take effect during the year preceding a year in which a federal  
 12 decennial census is conducted. An ordinance under this section that  
 13 would otherwise take effect during the year preceding a year in which  
 14 a federal decennial census is conducted takes effect January 2 of the  
 15 year in which a federal decennial census is conducted.

16 **(g) Proceedings to incorporate a town across county boundaries**  
 17 **must have the approval of the county executive of each county that**  
 18 **contains a part of the proposed town. Each county that contains a**  
 19 **part of the proposed town must adopt identical ordinances**  
 20 **providing for the incorporation of the town.**

21 SECTION 3. IC 36-7-4-604 IS AMENDED TO READ AS  
 22 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 604. (a) As used in this  
 23 section, "interested party" means any of the following:

24 (1) An owner of real property located in the geographic area  
 25 to which a proposal under sections 606, 607, or 608 of this  
 26 chapter applies.

27 (2) An owner of real property abutting the geographic area to  
 28 which a proposal under sections 606, 607, or 608 of this  
 29 chapter applies.

30 (3) If the subject matter of the proposal abuts or includes a  
 31 county line (or a county line street or road or county line body  
 32 of water), all owners of real property to a depth of two (2)  
 33 ownerships or one-eighth (1/8) of a mile into the adjacent  
 34 county, whichever is less.

35 (4) Any other person or entity determined to be an interested  
 36 party by the plan commission.

37 ~~(a)~~ (b) Before the plan commission certifies a proposal to the  
 38 legislative body under section 605 of this chapter, the plan commission  
 39 must hold a public hearing under this section.

40 ~~(b)~~ (c) The plan commission shall give notice of the hearing by  
 41 publication under IC 5-3-1. The notice must state:

42 (1) the time and place of the hearing;

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- 1 (2) either:  
 2 (A) in the case of a proposal under section 606 or 607 of this  
 3 chapter, the geographic areas (or zoning districts in a specified  
 4 geographic area) to which the proposal applies; or  
 5 (B) in the case of a proposal under section 608 of this chapter,  
 6 the geographic area that is the subject of the zone map change;  
 7 (Subdivision (2) does not require the identification of any real  
 8 property by metes and bounds.)  
 9 (3) either:  
 10 (A) in the case of a proposal under section 606 of this chapter,  
 11 a summary (which the plan commission shall have prepared)  
 12 of the subject matter contained in the proposal (not the entire  
 13 text of the ordinance);  
 14 (B) in the case of a proposal under section 607 of this chapter,  
 15 a summary (which the plan commission shall have prepared)  
 16 of the subject matter contained in the proposal (not the entire  
 17 text) that describes any new or changed provisions; or  
 18 (C) in the case of a proposal under section 608 of this chapter,  
 19 a description of the proposed change in the zone maps;  
 20 (4) if the proposal contains or would add or amend any penalty or  
 21 forfeiture provisions, the entire text of those penalty or forfeiture  
 22 provisions;  
 23 (5) the place where a copy of the proposal is on file for  
 24 examination before the hearing;  
 25 (6) that written objections to the proposal that are filed with the  
 26 secretary of the commission before the hearing will be  
 27 considered;  
 28 (7) that oral comments concerning the proposal will be heard; and  
 29 (8) that the hearing may be continued from time to time as may be  
 30 found necessary.  
 31 ~~(c)~~ **(d)** The plan commission shall also provide for due notice to  
 32 interested parties at least ten (10) days before the date set for the  
 33 hearing. The commission shall ~~by rule determine who are interested~~  
 34 ~~parties; how notice is to be given to interested parties; and who is~~  
 35 ~~required to give that notice. However, if the subject matter of the~~  
 36 ~~proposal abuts or includes a county line (or a county line street or road~~  
 37 ~~or county line body of water); then all owners of real property to a~~  
 38 ~~depth of two (2) ownerships or one-eighth (1/8) of a mile into the~~  
 39 ~~adjacent county; whichever is less, are interested parties who must~~  
 40 ~~receive notice under this subsection. provide a copy of the notice~~  
 41 ~~described in subsection (c) to each interested party by certified~~  
 42 ~~mail. The commission shall by rule determine who are interested~~

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1 **parties that are not described in subsection (a)(1), (a)(2), or (a)(3).**

2 ~~(d)~~ **(e)** The hearing must be held by the plan commission at the  
3 place stated in the notice. The commission may also give notice and  
4 hold hearings at other places within the county where the distribution  
5 of population or diversity of interests of the people indicate that the  
6 hearings would be desirable. The commission shall adopt rules  
7 governing the conduct of hearings under this section.

8 ~~(e)~~ **(f)** A zoning ordinance may not be held invalid on the ground  
9 that the plan commission failed to comply with the requirements of this  
10 section, if the notice and hearing substantially complied with this  
11 section.

12 ~~(f)~~ **(g)** The files of the plan commission concerning proposals are  
13 public records and shall be kept available at the commission's office for  
14 inspection by any interested person.

15 ~~(g)~~ **(h)** METRO. In the case of a proposal to amend a zoning map  
16 under section 608 of this chapter or in the case of a proposed approval  
17 of a development plan required by a zoning ordinance as a condition of  
18 development, a person may not communicate before the hearing with  
19 any hearing officer, member of the historic preservation commission,  
20 or member of the plan commission with intent to influence the officer's  
21 or member's action on the proposal. Before the hearing, the staff may  
22 submit a statement of fact concerning the physical characteristics of the  
23 area involved in the proposal, along with a recital of surrounding land  
24 use and public facilities available to serve the area. The staff may  
25 include with the statement an opinion of the proposal. The statement  
26 must be made a part of the file concerning the proposal not less than six  
27 (6) days before the proposal is scheduled to be heard. The staff shall  
28 furnish copies of the statement to persons in accordance with rules  
29 adopted by the commission.

30 ~~(h)~~ **(i)** METRO. In the case of a proposal to amend a zoning map  
31 under section 608 of this chapter, this subsection applies if the proposal  
32 affects only real property within the corporate boundaries of an  
33 excluded city. Notwithstanding the other provisions of this section, the  
34 legislative body of the excluded city may decide that the legislative  
35 body rather than the plan commission should hold the public hearing  
36 prescribed by this section. Whenever the plan commission receives a  
37 proposal subject to this section, the plan commission shall refer the  
38 proposal to the legislative body of the excluded city. At the legislative  
39 body's first regular meeting after receiving a referred proposal, the  
40 legislative body shall decide whether the legislative body will hold the  
41 public hearing. Within thirty (30) days after making the decision to  
42 hold the hearing, the legislative body shall hold the hearing, acting for



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1 purposes of this section as if the legislative body is the plan  
 2 commission. The legislative body shall then make a recommendation  
 3 on the proposal to the plan commission. After receiving the excluded  
 4 city legislative body's recommendation (or at the end of the thirty (30)  
 5 day period for the public hearing if the proposal receives no  
 6 recommendation), the plan commission shall meet and decide whether  
 7 to make a favorable recommendation on the proposal. If the proposal  
 8 receives a favorable recommendation from the commission, the  
 9 proposal shall be certified to the county legislative body as provided in  
 10 section 605 of this chapter.

11 SECTION 4. IC 36-7-4-1511 IS AMENDED TO READ AS  
 12 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1511. (a) The  
 13 legislative body may, in the zoning ordinance, delegate authority to  
 14 conduct secondary review of a PUD district ordinance under section  
 15 1509(c) of this chapter.

16 (b) The legislative body may, in the zoning ordinance, delegate  
 17 authority to modify permitted uses or development requirements that  
 18 are specified in a PUD district ordinance.

19 (c) The legislative body may, in the zoning ordinance, delegate the  
 20 authority to conduct secondary reviews and grant approvals under  
 21 subsection (a) and to make modifications under subsections (b) and (i)  
 22 to any of the following:

23 (1) The plan commission.

24 (2) A hearing examiner or committee designated by the plan  
 25 commission under section 402(d) of this chapter.

26 (3) At least one (1) employee designated by the plan commission.

27 (d) If authority is delegated under subsection (c)(1), the zoning  
 28 ordinance may provide for an appeal to the legislative body of the  
 29 decision of the plan commission.

30 (e) If authority is delegated under subsection (c)(2) or (c)(3), the  
 31 zoning ordinance must provide for an appeal to the legislative body or  
 32 the plan commission of the decision of the hearing examiner,  
 33 committee, employee, or group of employees.

34 (f) If the zoning ordinance provides for an appeal under subsection  
 35 (d) or (e), the zoning ordinance must specify the appeal procedure.

36 (g) If authority to conduct secondary reviews is delegated under  
 37 subsection (a), the legislative body must establish the following in the  
 38 zoning ordinance:

39 (1) The nature of the proceedings required for conducting  
 40 secondary review.

41 (2) The type of notice, if any, that must be given.

42 (h) Except as provided in subsection (i), if authority to make

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1 modifications in permitted uses or development requirements is  
 2 delegated under subsection (b), a public hearing must be held before  
 3 a modification is made. A hearing under this subsection must be  
 4 conducted in the manner established by the legislative body in the  
 5 zoning ordinance. Notice of the hearing must be given in the same  
 6 manner as notice is given under section ~~604(b) and 604(c)~~ **and 604(d)**  
 7 of this chapter.

8 (i) The legislative body may define in the zoning ordinance minor  
 9 modifications that may be made without a public hearing under  
 10 subsection (h). The legislative body must establish in the zoning  
 11 ordinance the nature of the proceedings and any notice required for the  
 12 making of a minor modification under this subsection.

13 (j) The legislative body may, in the zoning ordinance, delegate  
 14 authority to the plan commission to establish rules governing the nature  
 15 of the proceedings and any notice required to conduct secondary  
 16 review, grant an approval, or make a modification under this section.

17 (k) A decision of the plan commission to grant or deny an approval  
 18 or a modification under this section, whether made after an original  
 19 hearing or the hearing of an appeal, is a final decision that may be  
 20 reviewed under section 1016 of this chapter.

21 SECTION 5. IC 36-7-23-1 IS AMENDED TO READ AS  
 22 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. As used in this  
 23 chapter, "authority" refers to a multiple ~~county~~ **jurisdiction**  
 24 **infrastructure** authority established **by under** this chapter.

25 SECTION 6. IC 36-7-23-3.7 IS ADDED TO THE INDIANA CODE  
 26 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 27 1, 1999]: **Sec. 3.7. This chapter applies to all units except townships.**

28 SECTION 7. IC 36-7-23-4 IS AMENDED TO READ AS  
 29 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) A multiple  
 30 ~~county~~ **jurisdiction infrastructure** authority may be established under  
 31 this chapter by:

32 (1) ordinance of the fiscal body of each ~~county~~ **unit** participating  
 33 in the authority; and

34 (2) **if a county is one (1) of the units participating in the**  
 35 **authority**, the order of the executive of ~~each that~~ county;  
 36 ~~participating in the authority.~~ **and**

37 (3) **an agreement among the participating units, executed by**  
 38 **the executive of each participating unit following the approval**  
 39 **of the legislative body of each of the participating units.**

40 (b) The authority is a public body corporate and politic. The  
 41 authority is separate from the state, but the exercise by the authority of  
 42 its powers is an essential governmental function.

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1 (c) An agreement to establish an authority must include:

2 (1) more than one (1) ~~county unit~~ as a participant; and

3 (2) a formula for distributing funds ~~from local taxes~~ contributed  
4 by a ~~county or a municipality wholly or partially located in a~~  
5 ~~county included in the agreement.~~ **the units participating in the**  
6 **authority.**

7 (d) **An authority may add additional participating units at any**  
8 **time by following the procedures set forth in subsection (a).**

9 (e) **A unit may participate in more than one (1) authority.**

10 SECTION 8. IC 36-7-23-5 IS AMENDED TO READ AS  
11 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. The purpose of the  
12 authority is to **promote cooperation among the units participating**  
13 **in the authority in order to** assist the development of the ~~incorporated~~  
14 ~~and unincorporated areas of each county units~~ included in the  
15 agreement by doing the following:

16 (1) Utilizing private and public sector resources to address  
17 development problems and opportunities.

18 (2) **Planning**, developing, rehabilitating, and otherwise managing  
19 ~~regional infrastructures and other regional services.~~  
20 **infrastructure located in the authority's jurisdiction.**

21 (3) Supplementing, but not supplanting, traditional local or state  
22 responsibilities.

23 (4) Providing financial resources to local communities to address  
24 their infrastructure needs.

25 (5) Providing revenue bonding capacity and resources for bond  
26 retirement, or lease rental capacity and resources, that can be  
27 directed to development or recapitalization of ~~the regional~~  
28 **infrastructure located in the authority's jurisdiction.**

29 (6) Providing the means to develop revenue producing  
30 infrastructure ventures, where revenue can be rechanneled back  
31 into the overall infrastructure development effort.

32 (7) Providing an overall balanced infrastructure investment  
33 strategy that addresses important ~~regional~~ needs **of the**  
34 **participating units for capital projects.**

35 (8) Providing operating involvement appropriate to each  
36 infrastructure component.

37 (9) Providing for a continuing and stable source of public funding  
38 for ~~regional~~ infrastructure development **for participating units.**

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

41 SECTION 9. IC 36-7-23-9 IS AMENDED TO READ AS  
42 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 9. The powers of the



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1 authority are vested in a board of directors. The board is comprised of  
2 the following members:

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

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

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

8 SECTION 10. IC 36-7-23-10 IS AMENDED TO READ AS  
9 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. (a) A member  
10 appointed under section 9 of this chapter by a ~~county executive or~~  
11 ~~county fiscal body~~ must be a resident of the ~~county~~ **unit** whose officials  
12 or representatives make the appointment.

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

17 SECTION 11. IC 36-7-23-11 IS AMENDED TO READ AS  
18 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11. (a) A member of  
19 the board appointed under ~~section 9(1) through 9(2)~~ **section 9** of this  
20 chapter serves a term of four (4) years.

21 (b) The agreement establishing the authority under this chapter must  
22 provide:

23 (1) that the terms of the initial members appointed under ~~section~~  
24 ~~9(1) through 9(2)~~ **section 9** of this chapter expire after one (1),  
25 two (2), three (3), or four (4) years; and

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

30 SECTION 12. IC 36-7-23-12 IS AMENDED TO READ AS  
31 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 12. The **officials**  
32 **responsible for** appointing **authority members of the board** shall fill  
33 a vacancy on the board among the members appointed under ~~section~~  
34 ~~9(1) through 9(3)~~ **section 9** of this chapter by appointment for the  
35 unexpired term.

36 SECTION 13. IC 36-7-23-13 IS AMENDED TO READ AS  
37 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13. (a) A member of  
38 the board is entitled to reimbursement for traveling expenses and other  
39 expenses actually incurred in connection with the member's duties, as  
40 provided in the state travel policies and procedures established by the  
41 department of administration and approved by the budget agency.

42 (b) **A member of the board is not entitled to either a salary or a**

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1 **per diem for services rendered in connection with the member's**  
 2 **duties.**

3 SECTION 14. IC 36-7-23-15 IS AMENDED TO READ AS  
 4 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 15. The members shall  
 5 elect:

- 6 (1) a ~~vice~~ chairman;  
 7 (2) a ~~secretary~~; **vice chairman**;  
 8 **(3) a secretary**; and  
 9 ~~(3)~~ **(4)** other officers determined to be necessary for the board to  
 10 function;

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

12 SECTION 15. IC 36-7-23-17 IS AMENDED TO READ AS  
 13 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 17. (a) A majority of  
 14 the members of the board constitutes a quorum for the transaction of  
 15 business. The affirmative vote of a majority of the board is necessary  
 16 for an action to be taken by the board.

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

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

22 SECTION 16. IC 36-7-23-32 IS AMENDED TO READ AS  
 23 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 32. (a) The board ~~shall~~  
 24 **may** appoint an executive director of the authority.

25 ~~(b) Whenever a vacancy exists in the office of~~ **If the board**  
 26 **determines to appoint an** executive director, the board shall appoint  
 27 a nominating committee composed of members of the board. The  
 28 committee must submit a recommendation to the board concerning the  
 29 individuals qualified to serve as executive director.

30 SECTION 17. IC 36-7-23-33 IS AMENDED TO READ AS  
 31 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 33. The executive  
 32 director shall:

- 33 (1) administer, manage, and direct the affairs and activities of the  
 34 authority in accordance with the policies of the board and under  
 35 the control and direction of the board;  
 36 ~~(2) preside as chairman at the meetings of the board;~~  
 37 ~~(3)~~ **(2)** maintain and be custodian of all books, documents, and  
 38 papers filed with the authority and the official seal of the  
 39 authority; and  
 40 ~~(4)~~ **(3)** perform other duties directed by the members to carry out  
 41 the purposes of this chapter.

42 SECTION 18. IC 36-7-23-52 IS AMENDED TO READ AS



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1 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 52. (a) A resolution  
 2 establishing just and reasonable fees, rates, and charges for the use of  
 3 infrastructures under this chapter may be ~~adopted~~ **adopted** by the board  
 4 after a public hearing. Notice of the hearing must be published ~~and~~  
 5 ~~posted, in each county that is a member of the authority, one (1) time,~~  
 6 **at least ten (10) days before the hearing, in one (1) newspaper**  
 7 **published in each county in which a participating unit is located** in  
 8 accordance with IC 5-3-1. The notice must provide a summary of the  
 9 resolution.

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

16 SECTION 19. IC 36-7-23-53 IS AMENDED TO READ AS  
 17 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 53. (a) An authority  
 18 may enter into a lease of any infrastructure that could be financed with  
 19 the proceeds of bonds issued under this chapter with a lessor for a term  
 20 not to exceed fifty (50) years, and the lease may provide for payments  
 21 to be made by the authority from any revenues of the authority.

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

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

35 (d) The authority may:

- 36 (1) pledge revenues to make payments under the lease; and
- 37 (2) establish a special fund to make the payments.

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

42 (f) Except as provided in this section, no approvals of any

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1 governmental body or agency are required before the authority enters  
2 into a lease under this section.

3 SECTION 20. IC 36-7-23-58 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 58. The infrastructure,  
5 or any part of ~~them~~, **the infrastructure**, to be financed under this  
6 chapter, may be financed by any one (1) or more or any combination of  
7 one (1) or more of the methods provided for in this chapter. The  
8 authority may pledge any money or mortgage or pledge property  
9 available to it under this chapter as set forth in IC 5-1-14-4 and any  
10 ~~county~~ member may pledge any money or mortgage or pledge property  
11 available to it to the authority as set forth in the agreement creating the  
12 authority. Any such pledge or mortgage by a ~~county~~ member to the  
13 authority shall be governed by and binding under IC 5-1-14-4.

14 SECTION 21. THE FOLLOWING ARE REPEALED [EFFECTIVE  
15 JULY 1, 1999]: IC 36-7-23-3; IC 36-7-23-14.

16 SECTION 22. [EFFECTIVE JULY 1, 1999] **Notwithstanding**  
17 **IC 36-5-1-2 and IC 36-5-1-10.1, both as amended by this act,**  
18 **proceedings commenced before July 1, 1999, to incorporate a town**  
19 **across county boundaries is only required to have the approval of**  
20 **the county executive of the county that contains all or a major part**  
21 **of the territory sought to be incorporated.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1155, 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 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 36-5-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) Proceedings to incorporate a town may be instituted by filing a petition in quadruplicate with the executive of ~~the~~ **each** county in which ~~all~~ **or** a **major** part of the territory sought to be incorporated is located. The petition must be signed by at least fifty (50) owners of land in the territory and must state that:

- (1) the territory is used or will, in the reasonably foreseeable future, be used generally for commercial, industrial, residential, or similar purposes;
- (2) the territory is reasonably compact and contiguous;
- (3) there is enough undeveloped land in the territory to permit reasonable growth of the town; and
- (4) incorporation is in the best interests of the citizens of the territory.

(b) The signatures of the petitioners must be verified, and the verification must include a statement that the petitioners are owners of land in the territory sought to be incorporated.

(c) In determining the number of petitioners, not more than one (1) person having an interest in a single parcel of land may be counted, and a person owning more than one (1) parcel of land in the area may be counted only once.

SECTION 2. IC 36-5-1-10.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10.1. (a) **Except as provided in subsection (g)**, if the county executive makes the findings required by section 8 of this chapter, it may adopt an ordinance incorporating the town. The ordinance must:

- (1) provide that:
  - (A) all members of the town legislative body are to be elected at large (if the town would have a population of less than three thousand five hundred (3,500)); or
  - (B) divide the town into not less than three (3) nor more than seven (7) districts; and
- (2) direct the county election board to conduct an election in the town on the date of the next general or municipal election to be

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held in any precincts in the county.

An election conducted under this section must comply with IC 3 concerning town elections. If, on the date that an ordinance was adopted under this section, absentee ballots for a general or municipal election have been delivered under IC 3-11-4-15 for voters within a precinct in the town, the election must be conducted on the date of the next general or municipal election held in any precincts in the county after the election for which absentee balloting is being conducted. However, a primary election may not be conducted before an election conducted under this section, regardless of the population of the town.

(b) Districts established by an ordinance adopted under this section must comply with IC 3-11-1.5.

(c) If any territory in the town is not included in one (1) of the districts established under this section, the territory is included in the district that:

- (1) is contiguous to that territory; and
- (2) contains the least population of all districts contiguous to that territory.

(d) If any territory in the town is included in more than one (1) of the districts established under this section, the territory is included in the district that:

- (1) is one (1) of the districts in which the territory is described in the ordinance adopted under this section;
- (2) is contiguous to that territory; and
- (3) contains the least population of all districts contiguous to that territory.

(e) Except as provided in subsection (f), an ordinance adopted under this section becomes effective when filed with:

- (1) the state certifying official designated under IC 3-6-4.2-11; and
- (2) the circuit court clerk of each county in which the town is located.

(f) An ordinance incorporating a town under this section may not take effect during the year preceding a year in which a federal decennial census is conducted. An ordinance under this section that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.

**(g) Proceedings to incorporate a town across county boundaries must have the approval of the county executive of each county that contains a part of the proposed town. Each county that contains a part of the proposed town must adopt identical ordinances**



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**providing for the incorporation of the town."**

Page 5, after line 25, begin a new paragraph and insert:

"SECTION 5. IC 36-7-23-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. As used in this chapter, "authority" refers to a multiple ~~county~~ **jurisdiction infrastructure** authority established ~~by~~ **under** this chapter.

SECTION 6. IC 36-7-23-3.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 3.7. This chapter applies to all units except townships.**

SECTION 7. IC 36-7-23-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) A multiple ~~county~~ **jurisdiction infrastructure** authority may be established under this chapter by:

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

(b) The authority is a public body corporate and politic. The authority is separate from the state, but the exercise by the authority of its powers is an essential governmental function.

(c) An agreement to establish an authority must include:

- (1) more than one (1) ~~county~~ **unit** as a participant; and
- (2) a formula for distributing funds ~~from local taxes~~ contributed by a ~~county or a municipality wholly or partially located in a county included in the agreement.~~ **the units participating in the authority.**

**(d) An authority may add additional participating units at any time by following the procedures set forth in subsection (a).**

**(e) A unit may participate in more than one (1) authority.**

SECTION 8. IC 36-7-23-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. The purpose of the authority is to **promote cooperation among the units participating in the authority in order to** assist the development of the ~~incorporated and unincorporated areas of each county~~ **units** included in the agreement by doing the following:

- (1) Utilizing private and public sector resources to address development problems and opportunities.
- (2) **Planning**, developing, rehabilitating, and otherwise managing



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~~regional infrastructures and other regional services.~~  
**infrastructure located in the authority's jurisdiction.**

(3) Supplementing, but not supplanting, traditional local or state responsibilities.

(4) Providing financial resources to local communities to address their infrastructure needs.

(5) Providing revenue bonding capacity and resources for bond retirement, or lease rental capacity and resources, that can be directed to development or recapitalization of ~~the regional~~ **infrastructure located in the authority's jurisdiction.**

(6) Providing the means to develop revenue producing infrastructure ventures, where revenue can be rechanneled back into the overall infrastructure development effort.

(7) Providing an overall balanced infrastructure investment strategy that addresses important ~~regional~~ **needs of the participating units for capital projects.**

(8) Providing operating involvement appropriate to each infrastructure component.

(9) Providing for a continuing and stable source of public funding for ~~regional~~ **infrastructure development for participating units.**

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

SECTION 9. IC 36-7-23-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 9. The powers of the authority are vested in a board of directors. The board is comprised of the following members:

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

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

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

SECTION 10. IC 36-7-23-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. (a) A member appointed under section 9 of this chapter ~~by a county executive or county fiscal body~~ must be a resident of the ~~county~~ **unit** whose officials or representatives make the appointment.

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

SECTION 11. IC 36-7-23-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11. (a) A member of



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the board appointed under ~~section 9(1) through 9(2)~~ **section 9** of this chapter serves a term of four (4) years.

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

- (1) that the terms of the initial members appointed under ~~section 9(1) through 9(2)~~ **section 9** of this chapter expire after one (1), two (2), three (3), or four (4) years; and
- (2) for approximately twenty-five percent (25%) of the terms of the initial members appointed under ~~section 9(1) through 9(2)~~ **section 9** of this chapter to expire in each of the first four (4) years that the agreement is in effect.

SECTION 12. IC 36-7-23-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 12. The **officials responsible for appointing authority members of the board** shall fill a vacancy on the board among the members appointed under ~~section 9(1) through 9(3)~~ **section 9** of this chapter by appointment for the unexpired term.

SECTION 13. IC 36-7-23-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13. (a) A member of the board is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the budget agency.

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

SECTION 14. IC 36-7-23-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 15. The members shall elect:

- (1) a ~~vice~~ chairman;
- (2) a ~~secretary~~; **vice chairman**;
- (3) a secretary**; and
- ~~(3)~~ **(4)** other officers determined to be necessary for the board to function;

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

SECTION 15. IC 36-7-23-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 17. (a) A majority of the members of the board constitutes a quorum for the transaction of business. The affirmative vote of a majority of the board is necessary for an action to be taken by the board.

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



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

SECTION 16. IC 36-7-23-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 32. (a) The board ~~shall~~ **may** appoint an executive director of the authority.

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

SECTION 17. IC 36-7-23-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 33. The executive director shall:

- (1) administer, manage, and direct the affairs and activities of the authority in accordance with the policies of the board and under the control and direction of the board;
- ~~(2) preside as chairman at the meetings of the board;~~
- ~~(3)~~ **(2)** maintain and be custodian of all books, documents, and papers filed with the authority and the official seal of the authority; and
- ~~(4)~~ **(3)** perform other duties directed by the members to carry out the purposes of this chapter.

SECTION 18. IC 36-7-23-52 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 52. (a) A resolution establishing just and reasonable fees, rates, and charges for the use of infrastructures under this chapter may be ~~adopted~~ **adopted** by the board after a public hearing. Notice of the hearing must be published ~~and posted; in each county that is a member of the authority; one (1) time,~~ **at least ten (10) days before the hearing, in one (1) newspaper published in each county in which a participating unit is located** in accordance with IC 5-3-1. The notice must provide a summary of the resolution.

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

SECTION 19. IC 36-7-23-53 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 53. (a) An authority may enter into a lease of any infrastructure that could be financed with



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the proceeds of bonds issued under this chapter with a lessor for a term not to exceed fifty (50) years, and the lease may provide for payments to be made by the authority from any revenues of the authority.

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

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

(d) The authority may:

- (1) pledge revenues to make payments under the lease; and
- (2) establish a special fund to make the payments.

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

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

SECTION 20. IC 36-7-23-58 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 58. The infrastructure, or any part of ~~them~~, **the infrastructure**, to be financed under this chapter, may be financed by any one (1) or more or any combination of one (1) or more of the methods provided for in this chapter. The authority may pledge any money or mortgage or pledge property available to it under this chapter as set forth in IC 5-1-14-4 and any ~~county~~ member may pledge any money or mortgage or pledge property available to it to the authority as set forth in the agreement creating the authority. Any such pledge or mortgage by a ~~county~~ member to the authority shall be governed by and binding under IC 5-1-14-4.

SECTION 21. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 1999]: IC 36-7-23-3; IC 36-7-23-14.

SECTION 22. [EFFECTIVE JULY 1, 1999] **Notwithstanding IC 36-5-1-2 and IC 36-5-1-10.1, both as amended by this act, proceedings commenced before July 1, 1999, to incorporate a town**



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**across county boundaries is only required to have the approval of the county executive of the county that contains all or a major part of the territory sought to be incorporated."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1155 as introduced.)

STEVENSON, Chair

Committee Vote: yeas 10, nays 0.

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