



February 9, 1999

HOUSE BILL No. 1955

DIGEST OF HB1955 (Updated February 8, 1999 1:17 pm - DI 02)

Citations Affected: IC 20-5; IC 36-7.

Synopsis: School district rezoning. Provides that a school corporation located in an area zoned by a county and annexed or incorporated by a municipality must approve a change in zoning within the school corporation district if the change in zoning is attempted by a municipality or through a municipal board of zoning appeals and the school corporation determines the change in zoning will adversely affect the school corporation population or finances.

Effective: July 1, 1999.

Bodiker

January 26, 1999, read first time and referred to Committee on Education.
February 8, 1999, reported — Do Pass.

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February 9, 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.

HOUSE BILL No. 1955

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 20-5-2-9 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 1999]: **Sec. 9. (a) This section applies only to an area that is**
4 **located in a school corporation district that was initially zoned by**
5 **a county as part of an unincorporated area, and that has**
6 **subsequently been:**
7 (1) **incorporated or annexed into a municipality; or**
8 (2) **brought within the zoning jurisdiction of a municipality.**
9 (b) **A change in zoning in an area described in subsection (a)**
10 **attempted by the municipality or through a zoning board of**
11 **appeals may not take effect until the change is approved by the**
12 **school corporation having jurisdiction over the area.**
13 (c) **A school corporation shall approve or deny a change in**
14 **zoning within the school corporation district described in**
15 **subsection (b). The school corporation may deny a change in**
16 **zoning under this section only if the school corporation determines**
17 **that the change in zoning will adversely affect the school**

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1 **corporation finances or population.**

2 SECTION 2. IC 36-7-4-602 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 602. (a) The following
4 procedure applies to a proposal to adopt an initial zoning ordinance (or
5 to adopt a replacement zoning ordinance after repealing the entire
6 zoning ordinance, including amendments and zone maps) for a
7 jurisdiction:

8 (1) The plan commission must initiate the proposal.

9 (2) The plan commission must prepare the proposal so that it is
10 consistent with section 601 of this chapter.

11 **(3) If the proposal involves a school corporation district**
12 **described in IC 20-5-2-9, the plan commission must submit**
13 **the proposal to the school corporation for approval.**

14 ~~(4)~~ (4) The plan commission and the legislative body both must
15 comply with section 603 of this chapter.

16 ~~(5)~~ (5) The plan commission must give notice and hold a public
17 hearing under section 604 of this chapter.

18 ~~(6)~~ (6) The plan commission must certify the proposal to the
19 legislative body under section 605 of this chapter.

20 ~~(7)~~ (7) The legislative body must consider the proposal under
21 section 606 of this chapter, and section 606 governs whether the
22 proposal is adopted or defeated.

23 ~~(8)~~ (8) If the proposal is adopted under section 606 of this
24 chapter, the plan commission must print (and publish, if required)
25 the ordinance under section 610 of this chapter.

26 ~~(9)~~ (9) The ordinance takes effect as described in section 610 of
27 this chapter.

28 (b) After the zoning ordinance for a jurisdiction has been adopted
29 as described in subsection (a), the following procedure applies to a
30 proposal to amend or partially repeal the text (not zone maps) of the
31 ordinance:

32 (1) The plan commission may initiate the proposal. (Under the
33 advisory planning law or the area planning law, any participating
34 legislative body also may initiate the proposal and require the
35 plan commission to prepare it.)

36 (2) The plan commission must prepare the proposal so that it is
37 consistent with section 601 of this chapter.

38 (3) The plan commission and the legislative body both must
39 comply with section 603 of this chapter.

40 (4) The plan commission must give notice and hold a public
41 hearing under section 604 of this chapter.

42 (5) The plan commission must certify the proposal to the

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1 legislative body under section 605 of this chapter.
 2 (6) The legislative body must consider the proposal under section
 3 607 of this chapter, and section 607 governs whether the proposal
 4 is adopted or defeated.
 5 (7) If the proposal is adopted under section 607 of this chapter,
 6 the plan commission must print the amendments to the zoning
 7 ordinance under section 610 of this chapter.
 8 (8) The amendments take effect as described in section 610 of this
 9 chapter.
 10 (c) After the zoning ordinance for a jurisdiction has been adopted
 11 as described in subsection (a), the following procedure applies to a
 12 proposal to change the zone maps (whether by incorporating an
 13 additional map or by amending or deleting a map) incorporated by
 14 reference into the ordinance:
 15 (1) The proposal may be initiated either:
 16 (A) by the plan commission; or
 17 (B) by a petition signed by property owners who own at least
 18 fifty percent (50%) of the land involved.
 19 (Under the advisory planning law or the area planning law, any
 20 participating legislative body also may initiate the proposal and
 21 require the plan commission to prepare it.)
 22 (2) The plan commission or petitioners must prepare the proposal
 23 so that it is consistent with section 601 of this chapter.
 24 (3) The plan commission and the legislative body both must
 25 comply with section 603 of this chapter.
 26 (4) The plan commission must give notice and hold a public
 27 hearing under section 604 of this chapter.
 28 (5) The plan commission must certify the proposal to the
 29 legislative body under section 605 of this chapter.
 30 (6) The legislative body must consider the proposal under section
 31 608 of this chapter, and section 608 governs whether the proposal
 32 is adopted or defeated.
 33 (7) If the proposal is adopted under section 608 of this chapter,
 34 the plan commission must update the zone maps that it keeps
 35 available under section 610 of this chapter.
 36 (8) The zone map changes take effect as described in section 610
 37 of this chapter.
 38 SECTION 3. IC 36-7-4-901 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 901. (a) As a part of the
 40 zoning ordinance, the legislative body shall establish a board of zoning
 41 appeals.
 42 (b) The board of zoning appeals is composed of one (1) division,

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1 unless the zoning ordinance is amended under this subsection.
 2 Whenever considered desirable, the zoning ordinance may be amended
 3 to establish an additional one (1), two (2), or three (3) divisions of the
 4 board of zoning appeals.

5 (c) After January 1, 1984, whenever any divisions of the board of
 6 zoning appeals are established or reestablished by the zoning
 7 ordinance, the ordinance must provide for each division to consist of
 8 five (5) members appointed in accordance with section 902 of this
 9 chapter.

10 (d) The board of zoning appeals shall be known as:

11 (1) the advisory board of zoning appeals (under the advisory
 12 planning law);

13 (2) the area board of zoning appeals (under the area planning
 14 law); or

15 (3) the metropolitan board of zoning appeals (under the
 16 metropolitan development law).

17 (e) Except as provided in this section, a board of zoning appeals has
 18 territorial jurisdiction over all the land subject to the zoning ordinance,
 19 and if the board has more than one (1) division, all divisions have
 20 concurrent jurisdiction within that territory.

21 (f) ADVISORY) AREA. The zoning ordinance may provide that any
 22 additional division of the board of zoning appeals, having been
 23 established under subsection (b), is to have only limited territorial
 24 jurisdiction. The zoning ordinance must describe the limits of that
 25 division's territorial jurisdiction and specify whether that division has
 26 exclusive or concurrent jurisdiction within that territory.

27 (g) METRO. Any municipal board of zoning appeals that was
 28 established by an excluded city under IC 18-7-2-61 (before its repeal
 29 on September 1, 1981) continues as the board of zoning appeals for
 30 that municipality. A board of zoning appeals for an excluded city has
 31 exclusive territorial jurisdiction within the corporate boundaries of that
 32 municipality. All divisions of the metropolitan board of zoning appeals
 33 have concurrent territorial jurisdiction throughout the remainder of the
 34 county. The legislative body of the consolidated city may adopt
 35 ordinances to regulate the time of the meetings and the voting
 36 procedures of the metropolitan board of zoning appeals.

37 (h) ADVISORY. Any board of zoning appeals that was established
 38 under IC 18-7-3-11 continues as the board of zoning appeals for that
 39 jurisdiction, until otherwise provided by the zoning ordinance.

40 (i) AREA. Any board of zoning appeals that was established under
 41 the advisory planning law and continued in existence under the area
 42 planning law continues as the board of zoning appeals for that

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1 jurisdiction, until otherwise provided by the zoning ordinance.
 2 (j) AREA. Any board of zoning appeals that was established under
 3 the area planning law as a seven (7) member board continues as the
 4 area board of zoning appeals, until otherwise provided by the zoning
 5 ordinance.
 6 (k) METRO. The zoning ordinance may provide that a historic
 7 preservation commission created under IC 36-7-11.1-3 may exercise
 8 the powers of a board of zoning appeals within a historic area or
 9 historic zoning district established under IC 36-7-11.1-6. However, this
 10 subsection does not eliminate the need for a historic preservation
 11 commission to issue a certificate of appropriateness under
 12 IC 36-7-11.1-8(e) before the approval of a variance by either:
 13 (1) a board of zoning appeals; or
 14 (2) a historic preservation commission exercising the powers of
 15 a board of zoning appeals.
 16 **(l) If a proposal involves a property within a school corporation**
 17 **district described in IC 20-5-2-9, the board of zoning appeals must**
 18 **submit the proposal to the school corporation for approval before**
 19 **the proposal may take effect.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1955, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

PORTER, Chair

Committee Vote: yeas 8, nays 5.

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