HOUSE BILL No. 1025

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-11; IC 5-13-6-1; IC 36-4; IC 36-8.

Synopsis: Local government fiscal matters. Provides for the filing of the original list of warrants or checks that are outstanding in a city or town for more than two years with a city or town fiscal body. (Current law provides for the filing with the local board of finance. However, a statute enacted during the 1997 session of the general assembly eliminated the city and town boards of finance.) Requires city and town public funds to be invested in depositories approved as depositories of state funds. Provides that the compensation of each appointive officer, deputy, police department, fire department, and other employee of a city must be fixed by the municipal legislative body before August 20. (Current law requires the compensation to be fixed before August 2.) Requires investments of the pension benefits for: (1) members of police

(Continued next page)

Effective: July 1, 1999.

Ayres, Stevenson

January 6, 1999, read first time and referred to Committee on Local Government.

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Digest Continued

departments in certain cities and towns; and (2) members of fire departments in certain cities and towns to be made under the statute regulating public funds deposit and investment powers. Adds the Vanderburgh County levee authority to the list of entities that may pay a claim without a claim voucher signed by the vendor. Provides that the mileage rate allowance for local officials attending a conference is determined by the fiscal body of the unit represented by the official. Eliminates the subsistence allowance for local officials attending a conference. Provides that a local official attending a conference receives a lodging rate in an amount equal to the single room rate. (Current law provides that a local official receives the same rate that a state employee receives for travel.) Provides that a majority of a safety board constitutes a quorum.

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Introduced

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. 1025

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:

SECTION 1. IC 5-11-10-1.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1.6. (a) As used in this section, "governmental entity" refers to any of the following:

(1) A municipality (as defined in IC 36-1-2-11).
(2) A school corporation (as defined in IC 36-1-2-17).
(3) A county.
(4) A regional water or sewer district organized under IC 13-26 or under IC 13-3-2 (before its repeal).
(5) A municipally owned utility that is subject to IC 8-1.5-3 or IC 8-1.5-4.
(6) A board of an airport authority under IC 8-22-3.
(7) A board of aviation commissioners under IC 8-22-2.
(8) A conservancy district.
(9) A public transportation corporation under IC 36-9-4.
(10) A commuter transportation district under IC 8-5-15.

(11) The state.

(12) A solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal).

(13) A levee authority established under IC 14-27-6.

(b) As used in this section, "claim" means a bill or an invoice submitted to a governmental entity for goods or services.

(c) The fiscal officer of a governmental entity may not draw a warrant or check for payment of a claim unless:

(1) there is a fully itemized invoice or bill for the claim;

(2) the invoice or bill is approved by the officer or person receiving the goods and services;

(3) the invoice or bill is filed with the governmental entity's fiscal officer;

(4) the fiscal officer audits and certifies before payment that the invoice or bill is true and correct; and

(5) payment of the claim is allowed by the governmental entity's legislative body or the board or official having jurisdiction over allowance of payment of the claim.

This subsection does not prohibit a school corporation, with prior approval of the board having jurisdiction over allowance of payment of the claim, from making payment in advance of receipt of services as allowed by guidelines developed under IC 20-10.1-25-3.

(d) The fiscal officer of a governmental entity shall issue checks or warrants for claims by the governmental entity that meet all of the requirements of this section. The fiscal officer does not incur personal liability for disbursements:

(1) processed in accordance with this section; and

(2) for which funds are appropriated and available.

(e) The certification provided for in subsection (c)(4) must be on a form prescribed by the state board of accounts.

SECTION 2. IC 5-11-10.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. Not later than March 1 of each year, the treasurer of each political subdivision shall prepare or cause to be prepared a list in triplicate of all warrants or checks that have been outstanding for a period of two (2) or more years as of December 31 of the preceding year. The original copy of each list shall be filed with the:

(1) board of finance of ~~the~~ **a** political subdivision; **or**

(2) fiscal body of a city or town.

The duplicate copy shall be transmitted to the disbursing officer of the political subdivision. The triplicate copy of each list shall be filed in the office of the treasurer of the political subdivision. If the treasurer

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serves also as the disbursing officer of the political subdivision, only two (2) copies of each list need be prepared or caused to be prepared by the treasurer.

SECTION 3. IC 5-11-14-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) As used in this section, "official" includes the following:

(1) An elected official who is entitled to attend a conference under this section.

(2) An individual elected to an office who is entitled to attend a conference under this section.

(3) A deputy or an assistant to an elected official who is entitled to attend a conference under this section.

(b) The state board of accounts shall annually call a conference of each of the following:

(1) County auditors and auditors elect.

(2) County treasurers and treasurers elect.

(3) Circuit court clerks and circuit court clerks elect.

(c) Each of the conferences called under subsection (b):

(1) must be held at a time and place fixed by the state examiner;

(2) may be held statewide or by district; and

(3) may not continue for longer than three (3) days in any one (1) year.

(d) The following training must be provided at each conference called under subsection (b):

(1) The proper use of forms prescribed by the state board of accounts.

(2) The keeping of the records of the respective offices.

(3) At the conference for county treasurers and treasurers elect, investment training by the following:

(A) The treasurer of state.

(B) The board for depositories.

(C) Any other person the state examiner considers to be competent in providing investment training.

(4) Any other training that, in the judgment of the state examiner, will result in the better conduct of the public business.

(e) The state examiner may hold other conferences for:

(1) the officials described in subsection (b); or

(2) other county, city, or township officers;

whenever in the judgment of the state examiner conferences are necessary.

(f) Whenever a conference is called by the state board of accounts under this section, an elected official, at the direction of the state

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examiner, may require the attendance of:

(1) each of the elected official's appointed and acting chief deputies or chief assistants; and

(2) if the number of deputies or assistants employed:

(A) does not exceed three (3), one (1) of the elected official's appointed and acting deputies or assistants; or

(B) exceeds three (3), two (2) of the elected official's duly appointed and acting deputies or assistants.

(g) Each official attending any conference under this section shall be allowed, for each mile necessarily traveled in going to and returning from the conference by the most expeditious route, a sum for mileage at a rate determined by the ~~county~~ fiscal body **of the unit the official represents.** Each official shall also be allowed, while attending a conference called under this section, an allowance for lodging for each night preceding conference attendance **in an amount** equal to the ~~lodging allowance provided to state employees in travel status, plus subsistence for meals for each day in attendance in an amount equal to the daily subsistence rate for meals for state employees in travel status.~~ **single room rate.** However, lodging expense, in the case of a one (1) day conference, shall only be allowed for persons who reside fifty (50) miles or farther from the conference location. Regardless of the duration of the conference, only one (1) mileage reimbursement shall be allowed to the official furnishing the conveyance although the official transports more than one (1) person.

(h) The state board of accounts shall certify the number of days of attendance and the mileage for each conference to each official attending any conference under this section.

(i) All payments of mileage and ~~per diem~~ **lodging** shall be made by the proper disbursing officer in the manner provided by law on a duly verified claim or voucher to which shall be attached the certificate of the state board of accounts showing the number of days attended and the number of miles traveled. All payments shall be made from the general fund from any money not otherwise appropriated and without any previous appropriation being made therefor.

SECTION 4. IC 5-13-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) All public funds paid into the treasury of the state or the treasuries of the respective political subdivisions shall be deposited not later than the business day following the receipt of funds on business days of the depository in one (1) or more depositories in the name of the state or political subdivision by the officer having control of the funds.

(b) Except as provided in subsection (d), all public funds collected

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by state officers, other than the treasurer of state, shall be deposited with the treasurer of state, or an approved depository selected by the treasurer of state not later than the business day following the receipt of the funds. The treasurer of state shall deposit daily on business days of the depository all public funds deposited with the treasurer of state. Deposits do not relieve any state officer from the duty of maintaining a cashbook under IC 5-13-5-1.

(c) Except as provided in subsection (d), all local officers, except township trustees, who collect public funds of their respective political subdivisions, shall deposit funds not later than the business day following the receipt of funds on business days of the depository in the depository or depositories selected by the several local boards of finance that have jurisdiction of the funds. The public funds collected by township trustees shall be deposited in the designated depository on or before the first and fifteenth day of each month. Public funds deposited under this subsection shall be deposited in the same form in which they were received.

(d) A city (other than a consolidated city) or a town shall deposit funds not later than the next business day following the receipt of the funds in depositories:

(1) selected by the city or town as provided in an ordinance adopted by the city or the town**; and**

(2) approved as depositories of state funds.

(e) All local investment officers shall reconcile at least monthly the balance of public funds, as disclosed by the records of the local officers, with the balance statements provided by the respective depositories.

(f) An office of:

(1) the department of natural resources; or

(2) the department of state revenue;

that is detached from the main office of the department is not required to deposit funds on the business day following receipt if the funds on hand do not exceed one hundred dollars ($100). However, the office must deposit the funds on hand not later than the business day following the day that the funds exceed one hundred dollars ($100).

SECTION 5. IC 36-4-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) This section does not apply to compensation paid by a city to members of its police and fire departments.

(b) Subject to the approval of the city legislative body, the city executive shall fix the compensation of each appointive officer, deputy, and other employee of the city. The legislative body may reduce but

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may not increase any compensation fixed by the executive. Compensation must be fixed under this section before:

(1) ~~August 2~~ **August 20** for a third class city; and

(2) September 30 for a second class city;

of each year for the ensuing budget year.

(c) Compensation fixed under this section may not be increased during the budget year for which it is fixed, but may be reduced by the executive.

(d) Notwithstanding subsection (b), the city clerk may, with the approval of the legislative body, fix the salaries of deputies and employees appointed under IC 36-4-11-4.

SECTION 6. IC 36-4-10-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4.5. (a) This section applies to third class cities.

(b) The fiscal officer is the head of the city department of finance. The fiscal officer shall do the following:

(1) Receive and care for all city money and pay the money out only on order of the approving body.

(2) Keep accounts showing when and from what sources the fiscal officer has received city money and when and to whom the fiscal officer has paid out city money.

(3) Prescribe payroll and account forms for all city offices.

(4) Prescribe the manner in which creditors, officers, and employees shall be paid.

(5) Manage the finances and accounts of the city and make investments of city money.

(6) Prepare for the legislative body the budget estimates of miscellaneous revenue, financial statements, and the proposed tax rate.

(7) Issue all licenses authorized by statute and collect the fees fixed by ordinance.

(8) Serve as clerk of the board of public works by attending meetings, preparing agendas, and recording proceedings.

(9) Perform all other duties prescribed by statute.

(c) A fiscal officer is not liable in an individual capacity for an act or omission occurring in connection with the performance of the duties prescribed by subsection (b), unless the act or omission constitutes gross negligence or an intentional disregard of the fiscal officer's duties.

SECTION 7. IC 36-8-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) ~~Two (2)~~ **A majority of the** members of the safety board ~~constitute~~ **constitutes** a quorum. The

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board shall adopt rules concerning the time of holding regular and special meetings and of giving notice of them. The board shall elect one (1) of its members chairman, who holds the position as long as prescribed by the rules of the board. The board shall record all of its proceedings.

(b) The members of the safety board may act only as a board. No member may bind the board or the city except by resolution entered in the records of the board authorizing him to act in its behalf as its authorized agent.

(c) The safety board shall appoint:

(1) the members and other employees of the police department other than those in an upper level policymaking position;

(2) the members and other employees of the fire department other than those in an upper level policymaking position;

(3) a market master; and

(4) other officials that are necessary for public safety purposes.

(d) The annual compensation of all members of the police and fire departments and other appointees shall be fixed by ordinance of the legislative body before ~~August 2~~ **August 20** of each year for the ensuing budget year. The ordinance may grade the members of the departments and regulate their pay by rank as well as by length of service. If the legislative body fails to adopt an ordinance fixing the compensation of members of the police or fire department, the safety board may fix their compensation, subject to change by ordinance.

(e) The safety board, subject to ordinance, may also fix the number of members of the police and fire departments and the number of appointees for other purposes and may, subject to law, adopt rules for the appointment of members of the departments and for their government.

(f) The safety board shall divide the city into police precincts and fire districts.

(g) The police chief has exclusive control of the police department, and the fire chief has exclusive control of the fire department, subject to the rules and orders of the safety board. In time of emergency, the police chief and the fire chief are, for the time being, subordinate to the city executive and shall obey his orders and directions, notwithstanding any law or rule to the contrary.

SECTION 8. IC 36-8-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) The local board shall determine how much of the 1925 fund may be safely invested and how much should be retained for the needs of the fund. The investment shall be made:

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(1) in interest bearing bonds of the United States, the state, or an Indiana municipal corporation. The bonds shall be deposited with and must remain in the custody of the treasurer of the board, who shall collect the interest due as it becomes due; **or**

(2) under IC 5-13-9.

(b) Investments under this section are subject to section 1.5 of this chapter.

SECTION 9. IC 36-8-7-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. (a) The local board shall determine how much of the 1937 fund may be safely invested and how much should be retained for the needs of the fund. Investments are restricted to the following:

(1) Interest bearing direct obligations of the United States or of the state or bonds lawfully issued by an Indiana political subdivision. The securities shall be deposited with and must remain in the custody of the treasurer of the local board, who shall collect the interest on them as it becomes due and payable.

(2) Savings deposits or certificates of deposit of a chartered national, state, or mutual bank whose deposits are insured by a federal agency. However, deposits may not be made in excess of the amount of insurance protection afforded a member or investor of the bank.

(3) Shares of a federal savings association organized under 12 U.S.C. 1461, as amended, and having its principal office in Indiana, or of a savings association organized and operating under Indiana statutes whose accounts are insured by a federal agency. However, shares may not be purchased in excess of the amount of insurance protection afforded a member or investor of the association.

(4) An investment made under IC 5-13-9.

(b) All securities must be kept on deposit with the unit's fiscal officer, or county treasurer acting under IC 36-4-10-6, who shall collect all interest due and credit it to the 1937 fund.

(c) The fiscal officer (or county treasurer) shall keep a separate account of the 1937 fund and shall fully and accurately set forth a statement of all money received and paid out by him. The officer shall, on the first Monday of January and June of each year, make a report to the local board of all money received and distributed by him. The president of the local board shall execute the officer's bond in the sum that the local board considers adequate, conditioned that he will faithfully discharge the duties of his office and faithfully account for and pay over to the persons authorized to receive it all money that

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comes into his hands by virtue of his office. The bond and sureties must be approved by the local board and filed with the executive of the unit. The local board shall make a full and accurate report of the condition of the 1937 fund to the unit's fiscal officer on the first Monday of February in each year.

(d) All securities that were owned by and held in the name of the local board on January 1, 1938, shall be held and kept for the local board by the unit's fiscal officer (or county treasurer) until they mature and are retired. However, if an issue of the securities is refunded, the local board shall accept refunding securities in exchange for and in an amount equal to the securities refunded. All money received by the local board for the surrender of matured and retired securities shall be paid into and constitutes a part of the 1937 fund of the unit, as provided in section 8 of this chapter.

(e) Investments under this section are subject to section 2.5 of this chapter.

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