



February 25, 2000

**ENGROSSED  
HOUSE BILL No. 1221**

DIGEST OF HB 1221 (Updated February 23, 2000 6:03 PM - DI 87)

**Citations Affected:** IC 36-7; IC 36-8; noncode.

**Synopsis:** Membership of advisory plan commission. Allows the board of county commissioners to appoint five citizen members to the county plan commission (instead of appointing four citizen members and one township trustee) if no eligible township trustee is willing to serve. Specifies that each member appointed to a county plan commission is entitled to be compensated at the same rate for mileage and receive the same compensation for serving on the commission as a county official who is also a member of the county plan commission. Legalizes the acts of a county plan commission that did not have a township trustee appointed to its membership on October 1, 1999.

**Effective:** September 30, 1999 (retroactive); July 1, 2000.

**Ripley, Stevenson, Cherry,  
Mellinger**

(SENATE SPONSORS — FORD, SKILLMAN, LEWIS)

January 10, 2000, read first time and referred to Committee on Local Government.  
January 24, 2000, amended, reported — Do Pass.  
February 1, 2000, read second time, amended, ordered engrossed.  
February 2, 2000, engrossed.  
February 7, 2000, read third time, passed. Yeas 92, nays 0.

SENATE ACTION

February 10, 2000, read first time and referred to Committee on Governmental and Regulatory Affairs.  
February 24, 2000, amended, reported favorably — Do Pass.

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EH 1221—LS 6880/DI 87+



February 25, 2000

Second Regular Session 111th General Assembly (2000)

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 *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1999 General Assembly.

## ENGROSSED HOUSE BILL No. 1221

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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 36-7-4-208, AS AMENDED BY P.L.216-1999,  
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2000]: Sec. 208. (a) ADVISORY. The county plan  
4 commission consists of nine (9) members, as follows:  
5 (1) One (1) member appointed by the county executive from its  
6 membership.  
7 (2) One (1) member appointed by the county fiscal body from its  
8 membership.  
9 (3) The county surveyor or a qualified deputy surveyor appointed  
10 by the surveyor.  
11 (4) The county agricultural extension educator.  
12 (5) **Five (5) members appointed under clause (A) or (B) as**  
13 **follows:**  
14 (A) **Except as provided in clause (B):**  
15 (i) four (4) citizen members, of whom no more than two (2)  
16 may be of the same political party and all four (4) of whom  
17 must be residents of unincorporated areas of the county,

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appointed by the county executive; **and**  
~~(6)~~ (ii) one (1) township trustee, ~~who must be a resident of~~  
**whose township contains some** an unincorporated area of  
the county **within the jurisdiction of the county plan**  
**commission**, appointed by the county executive. ~~upon the~~  
recommendation of the township trustees whose townships  
are within the jurisdiction of the county plan commission.

**(B) If no eligible township trustee in the county is willing**  
**to serve as a member of the commission under clause**  
**(A)(ii), five (5) citizen members appointed by the county**  
**executive:**

(i) all of whom must be residents of unincorporated  
areas of the county; and

(ii) not more than three (3) of whom may be members of  
the same political party.

**If a plan commission changes from having members described**  
**in clause (B) to having members described in clause (A), the**  
**county executive shall appoint a township trustee to replace**  
**the first citizen member whose term expires and who belongs**  
**to the same political party as the township trustee. Each**  
**member appointed to the commission is entitled to receive**  
**compensation for mileage at the same rate and the same**  
**compensation for services as a member of a county executive,**  
**a member of a county fiscal body, a county surveyor, or an**  
**appointee of a county surveyor receives for serving on the**  
**commission, as set forth in section 222.5 of this chapter.**

(b) ADVISORY. The metropolitan plan commission consists of nine  
(9) members, as follows:

(1) One (1) member appointed by the county legislative body  
from its membership.

(2) One (1) member appointed by the second class city legislative  
body from its membership.

(3) Three (3) citizen members who are residents of  
unincorporated areas of the county, of whom no more than two (2)  
may be of the same political party, appointed by the county  
legislative body. One (1) of these members must be actively  
engaged in farming.

(4) Four (4) citizen members, of whom no more than two (2) may  
be of the same political party, appointed by the second class city  
executive. One (1) of these members must be from the  
metropolitan school authority or community school corporation  
and a resident of that school district, and the other three (3)

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- 1 members must be residents of the second class city.  
 2 (c) AREA. When there are six (6) county representatives, they are:  
 3 (1) one (1) member appointed by the county executive from its  
 4 membership;  
 5 (2) one (1) member appointed by the county fiscal body from its  
 6 membership;  
 7 (3) the county superintendent of schools, or if that office does not  
 8 exist, a representative appointed by the school corporation  
 9 superintendents within the jurisdiction of the area plan  
 10 commission;  
 11 (4) the county agricultural extension educator;  
 12 (5) one (1) citizen member who is a resident of the  
 13 unincorporated area of the county, appointed by the county  
 14 executive; and  
 15 (6) one (1) citizen member who is a resident of the  
 16 unincorporated area of the county, appointed by the county fiscal  
 17 body.

18 When there are five (5) county representatives, they are the  
 19 representatives listed in subdivisions (3), (4), (5), and (6) of this  
 20 subsection and the county surveyor.

21 (d) AREA. The appointing authority may appoint an alternate  
 22 member to participate on a commission established under section 204  
 23 of this chapter in a hearing or decision if the regular member it has  
 24 appointed is unavailable. An alternate member shall have all of the  
 25 powers and duties of a regular member while participating on the  
 26 commission.

27 SECTION 2. IC 36-8-9-3 IS AMENDED TO READ AS FOLLOWS  
 28 [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) The board consists of three  
 29 (3) commissioners appointed by the town legislative body. The  
 30 commissioners must be of good moral character and legal residents of  
 31 the town. Not more than two (2) of the commissioners may be of the  
 32 same political party. All three (3) commissioners shall be appointed in  
 33 January following the ~~general or primary election at which the trustees'~~  
 34 ~~action is ratified.~~ **adoption of the enabling ordinance by the**  
 35 **legislative body of the town.** One (1) commissioner serves for one (1)  
 36 year, one (1) commissioner serves for two (2) years, and one (1)  
 37 commissioner serves for three (3) years. On January 1 of each year one  
 38 (1) commissioner shall be appointed to serve for a term of three (3)  
 39 years. Each commissioner is subject to removal by the legislative body  
 40 for any cause that the legislative body considers sufficient.

41 (b) After the initial appointment of the three (3) commissioners, the  
 42 town legislative body may, by ordinance, increase the size of the board

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1 by providing for the appointment of two (2) additional commissioners.  
 2 The commissioners must be of good moral character and legal residents  
 3 of the town. The additional commissioners may not be members of the  
 4 same political party. Each additional commissioner shall be appointed  
 5 to serve for a term of three (3) years, however the initial appointment  
 6 need not be for three (3) years if the town legislative body adopts, by  
 7 ordinance, a staggered system for the terms of the additional members.  
 8 The terms of additional members begin January 1 following the date of  
 9 their appointment. Each commissioner appointed under this subsection  
 10 is subject to removal by the legislative body for any cause that the  
 11 legislative body considers sufficient.

12 (c) Before entering upon his duties, each commissioner shall take  
 13 and subscribe an oath of office before the clerk of the county in which  
 14 the town is located. Each commissioner shall also take and subscribe  
 15 before the clerk the further oath or affirmation that, in each  
 16 appointment or removal made by the board to or from the town police  
 17 department under this chapter, he will not appoint or remove a member  
 18 because of the political affiliation of the person or for another cause or  
 19 reason other than that of the fitness of the person. The oath and  
 20 affirmation shall be recorded and placed among the records of the  
 21 court.

22 (d) Each commissioner shall give bond in the penal sum of five  
 23 thousand dollars (\$5,000), payable to the state and conditioned upon  
 24 the faithful and honest discharge of his duties. The bond must be  
 25 approved by the legislative body.

26 (e) The salary of the commissioners shall be fixed by the legislative  
 27 body and is payable monthly out of the treasury of the town.

28 SECTION 3. [EFFECTIVE SEPTEMBER 30, 1999  
 29 (RETROACTIVE)] (a) **This SECTION applies to a county plan  
 30 commission that did not have a township trustee appointed to the  
 31 plan commission as a member in accordance with  
 32 IC 36-7-4-208(a)(5) on or after October 1, 1999.**

33 (b) **The acts of the plan commission taken after September 30,  
 34 1999, and before the effective date of IC 36-7-4-208, as amended by  
 35 this act, are legalized.**

36 SECTION 4. **An emergency is declared for this act.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1221, 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 2, line 9, after "clause (A)(ii)" insert "**not later than thirty (30) days after the expiration of the term of either the township trustee member or the fifth citizen member appointed under this clause,**".

Page 2, line 20, after "trustee." insert "**Each member appointed to the commission is entitled to receive compensation for mileage at the same rate and the same compensation for services as a member of a county executive, a member of a county fiscal body, a county surveyor, or an appointee of a county surveyor receives for serving on the commission, as set forth in section 222.5 of this chapter.**".

Page 3, after line 20, begin a new paragraph and insert:

"SECTION 2. [EFFECTIVE SEPTEMBER 30, 1999 (RETROACTIVE)] **(a) This SECTION applies to a county plan commission that did not have a township trustee appointed to the plan commission as a member in accordance with IC 36-7-4-208(a)(5), as amended by this act, on or after October 1, 1999.**

**(b) The acts of the plan commission taken after September 30, 1999, and before the effective date of IC 36-7-4-208, as amended by this act, are legalized.**

SECTION 3. **An emergency is declared for this act.**"

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1221 as introduced.)

STEVENSON, Chair

Committee Vote: yeas 10, nays 0.

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## HOUSE MOTION

Mr. Speaker: I move that House Bill 1221 be amended to read as follows:

Page 3, between lines 29 and 30, begin a new paragraph and insert:

“SECTION 2. IC 36-8-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) The board consists of three (3) commissioners appointed by the town legislative body. The commissioners must be of good moral character and legal residents of the town. Not more than two (2) of the commissioners may be of the same political party. All three (3) commissioners shall be appointed in January following the ~~general or primary election at which the trustees' action is ratified.~~ **the adoption of the enabling ordinance by the legislative body of the town.** One (1) commissioner serves for one (1) year, one (1) commissioner serves for two (2) years, and one (1) commissioner serves for three (3) years. On January 1 of each year one (1) commissioner shall be appointed to serve for a term of three (3) years. Each commissioner is subject to removal by the legislative body for any cause that the legislative body considers sufficient.

(b) After the initial appointment of the three (3) commissioners, the town legislative body may, by ordinance, increase the size of the board by providing for the appointment of two (2) additional commissioners. The commissioners must be of good moral character and legal residents of the town. The additional commissioners may not be members of the same political party. Each additional commissioner shall be appointed to serve for a term of three (3) years, however the initial appointment need not be for three (3) years if the town legislative body adopts, by ordinance, a staggered system for the terms of the additional members. The terms of additional members begin January 1 following the date of their appointment. Each commissioner appointed under this subsection is subject to removal by the legislative body for any cause that the legislative body considers sufficient.

(c) Before entering upon his duties, each commissioner shall take and subscribe an oath of office before the clerk of the county in which the town is located. Each commissioner shall also take and subscribe before the clerk the further oath or affirmation that, in each appointment or removal made by the board to or from the town police department under this chapter, he will not appoint or remove a member because of the political affiliation of the person or for another cause or reason other than that of the fitness of the person. The oath and affirmation shall be recorded and placed among the records of the court.

(d) Each commissioner shall give bond in the penal sum of five

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thousand dollars (\$5,000), payable to the state and conditioned upon the faithful and honest discharge of his duties. The bond must be approved by the legislative body.

(e) The salary of the commissioners shall be fixed by the legislative body and is payable monthly out of the treasury of the town."

Renumber all SECTIONS consecutively.

(Reference is to HB1221 as printed January 25, 2000.)

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SENATE MOTION

Mr. President: I move that Senator Lewis be added as cosponsor of Engrossed House Bill 1221.

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Governmental and Regulatory Affairs, to which was referred House Bill No. 1221, 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:

Page 2, line 2, strike "who must be a resident of" and insert "**whose township contains some**".

Page 2, line 3, strike "an".

Page 2, line 3, after "county" insert "**within the jurisdiction of the county plan commission**".

Page 2, line 4, after "executive" insert ".".

Page 2, line 4, strike "upon the recommendation of the township".

Page 2, strike lines 5 through 6.

Page 2, line 7, delete "If the township trustees do not recommend a township" and insert "**If no eligible township trustee in the county is willing to serve as a member of the commission under clause (A)(ii)**".

Page 2, delete lines 8 through 12.

Page 2, line 13, delete "unwilling to serve as a member,".

Page 3, line 37, after "ratified." delete "the".

Page 4, line 35, delete ", as amended by this act,".

and when so amended that said bill do pass.

(Reference is to HB 1221 as reprinted February 2, 2000.)

MERRITT, Chairperson

Committee Vote: Yeas 9, Nays 0.

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