

Second Regular Session 113th General Assembly (2004)

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 2003 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1050

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 36-7-4-207 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 207. (a) ADVISORY. In a city having a park board and a city civil engineer, the city plan commission consists of nine (9) members, as follows:

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

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

- (1) The municipal legislative body shall appoint three (3) persons, who must be elected or appointed municipal officials or

C
O
P
Y

HEA 1050 — CC 1+



employees in the municipal government, as members.

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

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

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

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

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

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

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

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

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

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

(9) Six (6) county representatives if the total number of municipal representatives in the county is an odd number, or five (5) county representatives if the total number of municipal representatives is an even number.

(d) METRO. The metropolitan development commission consists of ~~eleven (11)~~ **nine (9)** citizen members, as follows:

(1) ~~Five (5)~~ **Four (4)** members, of whom no more than ~~three (3)~~ **two (2)** may be of the same political party, appointed by the executive of the consolidated city.

(2) Three (3) members, of whom no more than two (2) may be of

C
O
P
Y



the same political party, appointed by the legislative body of the consolidated city.

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

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

~~by an ordinance adopted by the legislative body of the consolidated city.~~

SECTION 2. IC 36-7-4-208, AS AMENDED BY P.L.173-2003, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 208. (a) ADVISORY. The county plan commission consists of nine (9) members, as follows:

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

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

(3) The county surveyor or the county surveyor's designee.

(4) The county agricultural extension educator. However, if the county does not have a county agricultural extension educator, the county extension board shall select a resident of the county who is a property owner with agricultural interest to serve on the commission under this subdivision for a period not to exceed one (1) year.

(5) Five (5) members appointed in accordance with one (1) of the following:

(A) Four (4) citizen members, of whom no more than two (2) may be of the same political party. ~~and at~~ **Each of the four (4) of whom members** must be:

residents (i) a resident of an unincorporated areas area of the county; or

(ii) a resident of the county who is also an owner of real property located in whole or in part in an unincorporated area of the county;

appointed by the county executive. **However at least two (2) of the citizen members must be residents of the unincorporated area of the county.** Also one (1) township trustee, who must be a resident of an unincorporated area of the county appointed by the county executive upon the recommendation of the township trustees whose townships are

C
O
P
Y



within the jurisdiction of the county plan commission.

(B) Five (5) citizen members, of whom not more than three (3) may be of the same political party. ~~and at~~ **Each of the five (5) of whom members** must be:

residents (i) a resident of an unincorporated areas area of the county; or

(ii) a resident of the county who is also an owner of real property located in whole or in part in an unincorporated area of the county;

appointed by the county executive. **However at least two (2) members must be residents of the unincorporated area of the county.**

If a county executive changes the plan commission 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:

(A) are residents of reside in an unincorporated areas area of the county; or

(B) reside in the county and also own real property located in whole or in part in an unincorporated area 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

C
O
P
Y



metropolitan school authority or community school corporation and a resident of that school district, and the other three (3) members must be residents of the second class city.

(c) AREA. When there are six (6) county representatives, they are as follows:

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

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

(3) The county superintendent of schools, or if that office does not exist, a representative appointed by the school corporation superintendents within the jurisdiction of the area plan commission.

(4) One (1) of the following appointed by the county executive:

(A) The county agricultural extension educator.

(B) The county surveyor or the county surveyor's designee.

(5) One (1) citizen member who is:

(A) a resident of the unincorporated area of the county; **or**

(B) a resident of the county who is also an owner of real property located in whole or in part in the unincorporated area of the county;

appointed by the county executive.

(6) One (1) citizen member who is:

(A) a resident of the unincorporated area of the county; **or**

(B) a resident of the county who is also an owner of real property located in whole or in part in the unincorporated area of the county;

appointed by the county fiscal body.

(d) AREA. When there are five (5) county representatives, they are the representatives listed or appointed under subsection (c)(3), (c)(4), (c)(5), and (c)(6) and:

(1) the county surveyor or the county surveyor's designee if the county executive appoints the county agricultural extension educator under subsection (c)(4); or

(2) the county agricultural extension educator if the county executive appoints the county surveyor under subsection (c)(4).

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

C
O
P
Y



commission.

SECTION 3. IC 36-7-4-903, AS AMENDED BY P.L.216-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 903. ADVISORY. (a) When a municipal plan commission exercises jurisdiction outside the incorporated area of the municipality as provided for in section 205 or 1208 of the advisory planning law, either:

(1) an additional division of the board of zoning appeals shall be established under section 901(b) of this chapter that will have territorial jurisdiction only in the unincorporated area and consist only of residents of the unincorporated area; or

(2) the municipal plan commission shall designate, as its appointment to the municipal board of zoning appeals under section 902(a)(3) of this chapter, one (1) of the two (2) citizen members who were appointed under section 214 of this chapter to the plan commission to represent the unincorporated area. The citizen member must reside in the unincorporated area; ~~He;~~ **The citizen** shall be appointed for a term of four (4) years. ~~He~~ **The citizen** is entitled to participate and vote in all deliberations of the municipal board of zoning appeals.

(b) Notwithstanding section 902(g) of this chapter, if the zoning ordinance provides for an additional division of the board of zoning appeals under subsection (a)(1), the ordinance may also provide for the appointment of one (1) or more members of that division by elected officials of the county or township.

SECTION 4. IC 36-7-4-608.5 IS REPEALED [EFFECTIVE JULY 1, 2004].

C
O
P
Y



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Approved: _____

Governor of the State of Indiana

C
O
P
Y

HEA 1050 — CC 1+

