April 1, 2005

ENGROSSED
SENATE BILL No. 638

DIGEST OF SB 638 (Updated March 30, 2005 6:50 pm - DI 73)

Citations Affected: Numerous provisions throughout the Indiana code.

Synopsis: Local government. Allows township governments to merge upon the adoption of identical resolutions by the township boards (presented to the township boards by the township trustees) and an ordinance by the county legislative body. Allows merged township governments to dissolve the merged government and be reestablished as separate governments upon adoption of an ordinance by the county legislative body. Provides, beginning January 1, 2007, that Marion County consists of the central township district (consisting of the area comprising the Indianapolis public school district) and the consolidated township (consisting of all area within the county that is outside of the Indianapolis public school district). Transfers all assets, property rights, equipment, records, personnel, and contracts concerning the provision of township assistance to the applicable township district on January 1, 2007. Transfers other assets, property rights, equipment, records, personnel, and contracts of a township to the consolidated city on January 1, 2006. Provides that the indebtedness of a township is

(Continued next page)

Effective: Upon passage; July 1, 2005; January 1, 2006; July 1, 2006; January 1, 2007.

Ford, Clark
(HOUSE SPONSOR — HARRIS T)

January 24, 2005, read first time and referred to Committee on Governmental Affairs and Interstate Cooperation.
February 10, 2005, amended, reported favorably — Do Pass.
February 14, 2005, read second time, ordered engrossed.
February 15, 2005, engrossed. Read third time, passed. Yeas 45, nays 3.

HOUSE ACTION

March 14, 2005, read first time and referred to Committee on Local Government.
March 31, 2005, amended, reported — Do Pass.

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Digest Continued

assumed or defeased by the consolidated city. Requires township trustees and township boards representing the township districts be elected at the 2006 general election. Provides for a transitional advisory board to make recommendations regarding reorganization of the townships. In Marion County: (1) eliminates the office of township assessor and provides that the city controller administers the dog tax and dog fund and the county assessor assumes other township assessor duties and responsibilities; (2) adjusts the membership of the county property tax assessment board of appeals; (3) limits the duties of the board of commissioners; and (4) provides that certain ordinances and resolutions are not subject to veto. Replaces the Marion County small claims court with corresponding township divisions of a small claims division of the Marion superior court. Exempts from the ad valorem property tax limits amounts imposed by a consolidated city to fund indebtedness assumed, defeased, paid, or refunded in connection with the consolidation of certain fire departments into the fire department of a consolidated city. Establishes the annual maximum increase in the permissible ad valorem property tax levy for a consolidated city related to the fire special service district. Consolidates certain fire departments into the fire department of a consolidated city. Provides that the employees of the fire departments being consolidated become employees of the consolidated fire department. Provides that the property, equipment, records, rights, contracts (including labor contracts), and indebtedness related to fire protection services of the fire departments being consolidated are transferred to or assumed by the consolidated city. Authorizes the fire special services district to levy a tax to pay the amounts required to satisfy the 1937 firefighters' pension fund obligations. Authorizes a consolidated city to issue obligations to refund obligations issued by the fire departments being consolidated into the fire department of a consolidated city. Adjusts for 2006 the maximum ad valorem property tax levy of a consolidated city to account for the consolidation of certain fire departments into the fire department of a consolidated city. Establishes the annual maximum increase in the permissible ad valorem property tax levy for a consolidated city related to the police special service district. Consolidates the law enforcement services of the consolidated city, the county, and the airport authority into the metropolitan law enforcement agency (agency). Provides that the sheriff operates the agency with oversight by a sheriff's merit board and the metropolitan police commission. Establishes a transition advisory board to integrate law enforcement functions and personnel into the agency. Provides a process for consolidating the law enforcement services of an excluded city into the agency. Establishes the qualifications to become a member of the agency. Establishes the powers and duties of agency members. Requires the sheriff to adopt a classification of ranks, grades, and positions and disciplinary rules and orders for the agency. Establishes a disciplinary administrative process for agency members. Provides for the appointment of a prison matron, a chief deputy, an agency chief, temporary administrative ranks or positions, special deputies, and police reserve officers. Continues the existing sheriff's pension trust, with the public safety pension commission as the trustee, to provide retirement benefits for county police officers appointed before January 1, 2006. Provides that new appointments to the agency become members of the 1977 fund. Provides that a police officer who is a member of the 1925, 1953, or 1977 fund and a firefighter who is a member of the 1937 or 1977 fund remains a member of the same fund after the consolidation. Provides that a police officer or firefighter whose services for an entity are consolidated into the metropolitan law enforcement agency or the fire department of a consolidated city becomes a member of the 1977 fund. Permits the sheriff of a county having a consolidated city to become a member of the 1977 fund upon the request of the executive of the consolidated city.

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April 1, 2005

First Regular Session 114th General Assembly (2005)

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 2004 Regular Session of the General Assembly.

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ENGROSSED
SENATE BILL No. 638

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 3-5-2-49.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 49.1. "Township" means the following:**

(1) A township in a county not having a consolidated city.

(2) Before January 1, 2006, a township in a county having a consolidated city.

(3) After December 31, 2005, a township district (as defined in IC 36-6-4.1-5) in a county having a consolidated city.

SECTION 2. IC 3-6-5-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 28. The:

(1) sheriff of a county, for a general election **or for a municipal election in a consolidated city;** and ~~the~~

(2) chief law enforcement officer of a municipality, for a municipal election **in a municipality other than a consolidated city;**

shall serve all processes issued by a county election board.

SECTION 3. IC 3-8-1-30 IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JANUARY 1, 2006]: Sec. 30. A candidate for the office of **small claims** judge ~~of a small claims court~~ **(as defined in IC 33-33-49-5.2)** must:

(1) be a United States citizen upon taking office;

(2) either:

(A) have resided in the township from which the candidate is elected for at least one (1) year upon taking office; or

(B) have been elected as a small claims court judge in the township before 1999;

(3) be of high moral character and reputation; and

(4) be admitted to the practice of law in Indiana upon filing a declaration of candidacy or petition of nomination or upon the filing of a certificate of candidate selection under IC 3-13-1-15 or IC 3-13-2-8.

SECTION 4. IC 3-8-1-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 31. A candidate for the office of **small claims** constable ~~of a small claims court~~ must:

(1) have resided in the township for more than one (1) year upon taking office; and

(2) be at least twenty-one (21) years old upon taking office.

SECTION 5. IC 3-8-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 5. A declaration of candidacy for:

(1) a federal office;

(2) a state office;

(3) a legislative office; or

(4) the local office of:

(A) judge of a circuit, superior, probate, **or** county ~~or small claims~~ court; or

(B) prosecuting attorney of a judicial circuit;

shall be filed with the secretary of state.

SECTION 6. IC 3-10-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 19. (a) The ballot for a primary election shall be printed in substantially the following form for all the offices for which candidates have qualified under IC 3-8:

OFFICIAL PRIMARY BALLOT

_____ Party

To vote for a person make a voting mark (X or ✓) on or in the box before the person's name in the proper column.

Vote for one only

Representative in Congress

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[] (1) AB_____
[] (2) CD_____
[] (3) EF _____
[] (4) GH_____

(b) The offices with candidates for nomination shall be placed on the primary election ballot in the following order:

(1) Federal and state offices:
(A) President of the United States.
(B) United States Senator.
(C) Governor.
(D) United States Representative.

(2) Legislative offices:
(A) State senator.
(B) State representative.

(3) Circuit offices and county judicial offices:
(A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the circuit court.
(B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the superior court.
(C) Judge of the probate court.
(D) Judge of the county court, with each division separate, as required by IC 33-30-3-3.
(E) Prosecuting attorney.
(F) Clerk of the circuit court.

(4) County offices:
(A) County auditor.
(B) County recorder.
(C) County treasurer.
(D) County sheriff.
(E) County coroner.
(F) County surveyor.
(G) County assessor.
(H) County commissioner.
(I) County council member.

(5) Township offices:
(A) Township assessor.
(B) Township trustee.
(C) Township board member.
(D) **Small claims** judge. ~~of the small claims court.~~
(E) **Small claims** constable. ~~of the small claims court.~~

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(6) City offices:
(A) Mayor.
(B) Clerk or clerk-treasurer.
(C) Judge of the city court.
(D) City-county council member or common council member.
(7) Town offices:
(A) Clerk-treasurer.
(B) Judge of the town court.
(C) Town council member.

(c) The political party offices with candidates for election shall be placed on the primary election ballot in the following order after the offices described in subsection (b):
(1) Precinct committeeman.
(2) State convention delegate.

(d) The following offices and public questions shall be placed on the primary election ballot in the following order after the offices described in subsection (c):
(1) School board offices to be elected at the primary election.
(2) Other local offices to be elected at the primary election.
(3) Local public questions.

(e) The offices and public questions described in subsection (d) shall be placed in a separate column on the ballot if voting is by paper ballot, ballot card voting system, or electronic voting system or in a separate column of ballot labels if voting is by voting machine.

(f) A public question shall be placed on the primary election ballot in the following form:

(The explanatory text for the public question,
if required by law.)
"Shall (insert public question)?"
[] YES
[] NO

SECTION 7. IC 3-10-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 13. The following public officials shall be elected at the general election before their terms of office expire and every four (4) years thereafter:
(1) Clerk of the circuit court.
(2) County auditor.
(3) County recorder.
(4) County treasurer.
(5) County sheriff.
(6) County coroner.
(7) County surveyor.

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(8) County assessor.
(9) County commissioner.
(10) County council member.
(11) Township trustee.
(12) Township board member.
(13) Township assessor.
(14) **Small claims** judge. ~~of a small claims court.~~
(15) **Small claims** constable. ~~of a small claims court.~~

SECTION 8. IC 3-11-2-12, AS AMENDED BY P.L.14-2004,SECTION 98, AND AS AMENDED BY P.L.98-2004, SECTION 37, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 12. The following offices shall be placed on the general election ballot in the following order:

(1) Federal and state offices:
(A) President and Vice President of the United States.
(B) United States Senator.
(C) Governor and lieutenant governor.
(D) Secretary of state.
(E) Auditor of state.
(F) Treasurer of state.
(G) Attorney general.
(H) Superintendent of public instruction.
~~*(I) Clerk of the supreme court.*~~
~~*(J)*~~ *(I)* United States Representative.
(2) Legislative offices:
(A) State senator.
(B) State representative.
(3) Circuit offices and county judicial offices:
(A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the circuit court.
(B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the superior court.
(C) Judge of the probate court.
(D) Judge of the county court, with each division separate, as required by IC 33-30-3-3.
(E) Prosecuting attorney.
(F) Clerk of the circuit court.
(4) County offices:
(A) County auditor.

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(B) County recorder.
(C) County treasurer.
(D) County sheriff.
(E) County coroner.
(F) County surveyor.
(G) County assessor.
(H) County commissioner.
(I) County council member.
(5) Township offices:
(A) Township assessor.
(B) Township trustee.
(C) Township board member.
(D) **Small claims** judge. ~~of the small claims court.~~
(E) **Small claims** constable. ~~of the small claims court.~~
(6) City offices:
(A) Mayor.
(B) Clerk or clerk-treasurer.
(C) Judge of the city court.
(D) City-county council member or common council member.
(7) Town offices:
(A) Clerk-treasurer.
(B) Judge of the town court.
(C) Town council member.

SECTION 9. IC 3-13-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 15. (a) A county chairman filling a candidate vacancy under section 6(a)(2) of this chapter or the chairman of a meeting filling a candidate vacancy under this chapter shall file a written certificate of candidate selection on a form prescribed by the commission stating the following information for each candidate selected:

(1) The name of each candidate as:
(A) the candidate wants the candidate's name to appear on the ballot; and
(B) the candidate's name is permitted to appear on the ballot under IC 3-5-7.
(2) The residence address of each candidate.

(b) The certificate shall be filed with:
(1) the election division for:
(A) a committee acting under section 3, 4, 5, or 6(b) of this chapter; or
(B) a committee acting under section 6(a) of this chapter to fill a candidate vacancy in the office of judge **or small claims**

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judge of a circuit, superior, probate, **or** county ~~or small claims~~ court or prosecuting attorney; or

(2) the circuit court clerk, for a committee acting under section 6(a) of this chapter to fill a candidate vacancy for a local office not described in subdivision (1).

(c) This subsection applies to a candidate vacancy resulting from a vacancy on the primary election ballot as described in section 2 of this chapter. The certificate required by subsection (a) shall be filed not later than noon July 3 before election day.

(d) This subsection applies to all candidate vacancies not described by subsection (c). The certificate required by subsection (a) shall be filed not more than three (3) days (excluding Saturdays and Sundays) after selection of the candidates.

SECTION 10. IC 3-13-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 8. (a) The chairman or chairmen filling a candidate vacancy under this chapter shall immediately file a written certificate of candidate selection on a form prescribed by the commission stating the following information for each candidate selected:

(1) The name of each candidate as:

(A) the candidate wants the candidate's name to appear on the ballot; and

(B) the candidate's name is permitted to appear on the ballot under IC 3-5-7.

(2) The residence address of each candidate.

(b) The certificate shall be filed with:

(1) the election division for:

(A) one (1) or more chairmen acting under section 2, 3, 4, or 5(b) of this chapter; or

(B) a committee acting under section 5(b) of this chapter to fill a candidate vacancy for the office of judge **or small claims judge** of a circuit, superior, probate, **or** county ~~or small claims~~ court or prosecuting attorney; or

(2) the circuit court clerk of the county in which the greatest percentage of the population of the election district is located, for a chairman acting under section 5(a) of this chapter to fill a candidate vacancy for a local office not described in subdivision (1).

(c) The certificate required by section (a) shall be filed not more than three (3) days (excluding Saturdays and Sundays) after selection of the candidate.

SECTION 11. IC 3-13-10-5 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 5. A vacancy in the office of **small claims** judge ~~of a small claims court~~ or small claims ~~court~~ constable not covered by section 1 of this chapter shall be filled by the ~~township board at a regular or special meeting. The chairman of the township board shall give notice of the meeting, which shall be held within thirty (30) days after the vacancy occurs. The notice must:~~

~~(1) be in writing,~~

~~(2) state the purpose of the meeting,~~

~~(3) state the date, time, and place of the meeting, and~~

~~(4) be sent by first class mail to each board member at least ten (10) days before the meeting.~~ **mayor of the consolidated city.**

SECTION 12. IC 4-4-6.1-2.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 2.6. (a) This section applies to records and other information, including records and information that are otherwise confidential, maintained by the following:

(1) The board.

(2) An urban enterprise association.

(3) The department of state revenue.

(4) The department of commerce.

(5) The department of local government finance.

(6) A county auditor.

(7) A controller for a consolidated city.

~~(7)~~ **(8)** A township **or county** assessor.

(b) A person listed in subsection (a) may request a second person described in subsection (a) to provide any records or other information maintained by the second person that concern an individual or business that is receiving a tax deduction, exemption, or credit related to an enterprise zone. Notwithstanding any other law, the person to whom the request is made under this section must comply with the request. A person receiving records or information under this section that are confidential must also keep the records or information confidential.

(c) A person who receives confidential records or information under this section and knowingly or intentionally discloses the records or information to an unauthorized person commits a Class A misdemeanor.

SECTION 13. IC 5-2-1-9, AS AMENDED BY P.L.62-2004, SECTION 1, AND AS AMENDED BY P.L.85-2004, SECTION 40, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The board shall adopt in accordance with IC 4-22-2 all necessary rules to carry out the provisions of this chapter. Such rules, which shall be adopted only after

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necessary and proper investigation and inquiry by the board, shall include the establishment of the following:

(1) Minimum standards of physical, educational, mental, and moral fitness which shall govern the acceptance of any person for training by any law enforcement training school or academy meeting or exceeding the minimum standards established pursuant to this chapter.

(2) Minimum standards for law enforcement training schools administered by towns, cities, counties, the northwest Indiana law enforcement training center, agencies, or departments of the state.

(3) Minimum standards for courses of study, attendance requirements, equipment, and facilities for approved town, city, county, and state law enforcement officer, police reserve officer, and conservation reserve officer training schools.

(4) Minimum standards for a course of study on cultural diversity awareness that must be required for each person accepted for training at a law enforcement training school or academy.

(5) Minimum qualifications for instructors at approved law enforcement training schools.

(6) Minimum basic training requirements which law enforcement officers appointed to probationary terms shall complete before being eligible for continued or permanent employment.

(7) Minimum basic training requirements which law enforcement officers not appointed for probationary terms but appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment.

(8) Minimum basic training requirements which law enforcement officers appointed on a permanent basis shall complete in order to be eligible for continued employment.

(9) Minimum basic training requirements for each person accepted for training at a law enforcement training school or academy that include six (6) hours of training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the law enforcement training board.

(b) Except as provided in subsection (l), a law enforcement officer appointed after July 5, 1972, and before July 1, 1993, may not enforce the laws or ordinances of the state or any political subdivision unless the officer has, within one (1) year from the date of appointment, successfully completed the minimum basic training requirements established under this chapter by the board. If a person fails to

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successfully complete the basic training requirements within one (1) year from the date of employment, the officer may not perform any of the duties of a law enforcement officer involving control or direction of members of the public or exercising the power of arrest until the officer has successfully completed the training requirements. This subsection does not apply to any law enforcement officer appointed before July 6, 1972, or after June 30, 1993.

(c) Military leave or other authorized leave of absence from law enforcement duty during the first year of employment after July 6, 1972, shall toll the running of the first year, which in such cases shall be calculated by the aggregate of the time before and after the leave, for the purposes of this chapter.

(d) Except as provided in subsections (e) and (l), a law enforcement officer appointed to a law enforcement department or agency after June 30, 1993, may not:

(1) make an arrest;

(2) conduct a search or a seizure of a person or property; or

(3) carry a firearm;

unless the law enforcement officer successfully completes, at a board certified law enforcement academy, *at the southwest Indiana law enforcement training academy under section 10.5 of this chapter,* or at the northwest Indiana law enforcement training center under section 15.2 of this chapter, the basic training requirements established by the board under this chapter.

(e) Before a law enforcement officer appointed after June 30, 1993, completes the basic training requirements, the law enforcement officer may exercise the police powers described in subsection (d) if the officer successfully completes the pre-basic course established in subsection (f). Successful completion of the pre-basic course authorizes a law enforcement officer to exercise the police powers described in subsection (d) for one (1) year after the date the law enforcement officer is appointed.

(f) The board shall adopt rules under IC 4-22-2 to establish a pre-basic course for the purpose of training:

(1) law enforcement officers;

(2) police reserve officers (as described in IC 36-8-3-20); and

(3) conservation reserve officers (as described in IC 14-9-8-27);

regarding the subjects of arrest, search and seizure, use of force, and firearm qualification. The pre-basic course must be offered on a periodic basis throughout the year at regional sites statewide. The pre-basic course must consist of forty (40) hours of course work. The board may prepare a pre-basic course on videotape that must be used

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in conjunction with live instruction. The board shall provide the course material, the instructors, and the facilities at the regional sites throughout the state that are used for the pre-basic course. In addition, the board may certify pre-basic courses that may be conducted by other public or private training entities, including colleges and universities.

(g) The board shall adopt rules under IC 4-22-2 to establish a mandatory inservice training program for police officers. After June 30, 1993, a law enforcement officer who has satisfactorily completed the basic training and has been appointed to a law enforcement department or agency on either a full-time or part-time basis is not eligible for continued employment unless the officer satisfactorily completes a minimum of sixteen (16) hours each year of inservice training in any subject area included in the law enforcement academy's basic training course or other job related subjects that are approved by the board as determined by the law enforcement department's or agency's needs. *Inservice training must include training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the law enforcement training board.* In addition, a certified academy staff may develop and make available inservice training programs on a regional or local basis. The board may approve courses offered by other public or private training entities, including colleges and universities, as necessary in order to ensure the availability of an adequate number of inservice training programs. The board may waive an officer's inservice training requirements if the board determines that the officer's reason for lacking the required amount of inservice training hours is due to any of the following:

(1) An emergency situation.

(2) The unavailability of courses.

(h) The board shall also adopt rules establishing a town marshal basic training program, subject to the following:

(1) The program must require fewer hours of instruction and class attendance and fewer courses of study than are required for the mandated basic training program.

(2) Certain parts of the course materials may be studied by a candidate at the candidate's home in order to fulfill requirements of the program.

(3) Law enforcement officers successfully completing the requirements of the program are eligible for appointment only in towns employing the town marshal system (IC 36-5-7) and having ~~no~~ **not** more than one (1) marshal and two (2) deputies.

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(4) The limitation imposed by subdivision (3) does not apply to an officer who has successfully completed the mandated basic training program.

(5) The time limitations imposed by subsections (b) and (c) for completing the training are also applicable to the town marshal basic training program.

(i) The board shall adopt rules under IC 4-22-2 to establish a police chief executive training program. The program must include training in the following areas:

(1) Liability.

(2) Media relations.

(3) Accounting and administration.

(4) Discipline.

(5) Department policy making.

(6) Firearm policies.

(7) Department programs.

(j) A police chief shall apply for admission to the police chief executive training program within two (2) months of the date the police chief initially takes office. A police chief must successfully complete the police chief executive training program within six (6) months of the date the police chief initially takes office. However, if space in the program is not available at a time that will allow the police chief to complete the program within six (6) months of the date the police chief initially takes office, the police chief must successfully complete the next available program that is offered to the police chief after the police chief initially takes office.

(k) A police chief who fails to comply with subsection (j) may not serve as the police chief until the police chief has completed the police chief executive training program. For the purposes of this subsection and subsection (j), "police chief" refers to:

(1) the police chief of any city; ~~and~~

(2) the police chief of any town having a metropolitan police department; **and**

(3) after December 31, 2005, the chief of a metropolitan law enforcement agency established under IC 36-8-10.1.

A town marshal is not considered to be a police chief for these purposes, but a town marshal may enroll in the police chief executive training program.

(l) An investigator in the arson division of the office of the state fire marshal appointed:

(1) before January 1, 1994, is not required; or

(2) after December 31, 1993, is required;

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to comply with the basic training standards established under this section.

(m) The board shall adopt rules under IC 4-22-2 to establish a program to certify handgun safety courses, including courses offered in the private sector, that meet standards approved by the board for training probation officers in handgun safety as required by IC 11-13-1-3.5(3).

SECTION 14. IC 5-2-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 5. (a) Subject to section 13 of this chapter, the following persons must register under this chapter:

(1) An offender who resides in Indiana. An offender resides in Indiana if either of the following applies:

(A) The offender spends or intends to spend at least seven (7) days (including part of a day) in Indiana during a one hundred eighty (180) day period.

(B) The offender owns real property in Indiana and returns to Indiana at any time.

(2) An offender not described in subdivision (1) who works or carries on a vocation or intends to work or carry on a vocation full-time or part-time for a period of time:

(A) exceeding fourteen (14) consecutive days; or

(B) for an aggregate period of time exceeding thirty (30) days; during any calendar year in Indiana, whether the offender is financially compensated, volunteered, or is acting for the purpose of government or educational benefit.

(3) An offender not described in subdivision (1) who is enrolled or intends to be enrolled on a full-time or part-time basis in any public or private educational institution, including any secondary school, trade, or professional institution, or institution of higher education in Indiana.

(b) Except as provided in subsection (e), an offender who resides in Indiana shall register with the sheriff of the county where the offender resides. If an offender resides in more than one (1) county, the offender shall register with the sheriff of each county in which the offender resides. ~~However, if an offender resides in a county having a consolidated city, the offender shall register with the police chief of the consolidated city.~~

(c) An offender described in subsection (a)(2) shall register with the sheriff of the county where the offender is or intends to be employed or carry on a vocation. ~~However, an offender described in subsection (a)(2) who is employed or intends to be employed or to carry on a~~

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~~vocation in a consolidated city shall register with the police chief of the consolidated city.~~ If an offender is or intends to be employed or carry on a vocation in more than one (1) county, the offender shall register with the sheriff of each county. ~~However, if an offender is employed or intends to be employed or to carry on a vocation in a county containing a consolidated city and another county, the offender shall register with the police chief of the consolidated city and the sheriff of the other county.~~

(d) An offender described in subsection (a)(3) shall register with the sheriff of the county where the offender is enrolled or intends to be enrolled as a student. ~~However, if an offender described in subsection (a)(3) is enrolled or intends to be enrolled as a student in a county containing a consolidated city, the offender shall register with the police chief of the consolidated city.~~

(e) An offender described in subsection (a)(1)(B) shall register with the sheriff in the county in which the real property is located. ~~However, if the offender owns real property in a county containing a consolidated city, the offender shall register with the police chief of the consolidated city.~~

(f) An offender shall complete a registration form. Each sheriff ~~or police chief of a consolidated city~~ shall make the registration forms available to registrants.

(g) The offender shall register not more than seven (7) days after the offender:

(1) is released from a penal facility (as defined in IC 35-41-1-21);
(2) is released from a secure private facility (as defined in IC 31-9-2-115);
(3) is released from a juvenile detention facility;
(4) is transferred to a community transition program;
(5) is placed on parole;
(6) is placed on probation;
(7) is placed on home detention; or
(8) arrives at the place where the offender is required to register under subsection (b), (c), or (d);

whichever occurs first.

(h) Whenever an offender registers with a sheriff, ~~or the police chief of a consolidated city,~~ the sheriff ~~or police chief~~ shall immediately notify the institute of the offender's registration by forwarding a copy of the registration form to the institute.

(i) The sheriff with whom an offender registers under this section shall make and publish a photograph of an offender on the Indiana sheriffs' sex offender registry web site established under

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IC 36-2-13-5.5. ~~The police chief of a consolidated city with whom an offender registers under this section shall make a photograph of the offender that complies with the requirements of IC 36-2-13-5.5 and transmit the photograph (and other identifying information required by IC 36-2-13-5.5) to the Indiana sheriffs' sex offender registry web site established under IC 36-2-13-5.5. Every time a sex offender submits a new registration form to the police chief of a consolidated city, but at least once per year, the police chief shall make a photograph of the sex offender that complies with the requirements of IC 36-2-13-5.5. The police chief of a consolidated city shall transmit the photograph and a copy of the registration form to the Indiana sheriffs' sex offender registry web site established under IC 36-2-13-5.5. The sheriff of a county containing a consolidated city shall provide the police chief of a consolidated city with all photographic and computer equipment necessary to enable the police chief of the consolidated city to transmit sex offender photographs (and other identifying information required by IC 36-2-13-5.5) to the Indiana sheriffs' sex offender registry web site established under IC 36-2-13-5.5. In addition, the sheriff of a county containing a consolidated city shall provide all funding for the county's financial obligation for the establishment and maintenance of the Indiana sheriff's sex offender registry web site established under IC 36-2-13-5.5.~~

(j) When an offender completes a new registration form, the sheriff ~~or police chief of a consolidated city~~ shall:

(1) forward a copy of the new registration form to the institute; and

(2) notify every law enforcement agency having jurisdiction in the area where the offender resides.

SECTION 15. IC 5-2-12-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 7. (a) Not more than fourteen (14) days before an Indiana offender who is required to register under this chapter is scheduled to be released from a correctional facility, transferred to a community transition or community corrections program, transferred to the jurisdiction of a sentencing court or probation office for a term of probation after being confined in a facility, released from any other penal facility (as defined in IC 35-41-1-21), released from a secure private facility (as defined in IC 31-9-2-115), or released from a juvenile detention facility, an official of the facility shall do the following:

(1) Orally inform the offender of the offender's duty to register under this chapter and require the offender to sign a written statement that the offender was orally informed or, if the offender

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refuses to sign the statement, certify that the offender was orally informed of the duty to register.

(2) Deliver a registration form advising the offender of the offender's duty to register under this chapter and require the offender to sign a written statement that the offender received the written notice or, if the offender refuses to sign the statement, certify that the offender was given the written notice of the duty to register.

(3) Obtain the address where the offender expects to reside after the offender's release.

(4) Inform in writing on a form or in the form prescribed or approved by the institute the sheriff having jurisdiction in the county ~~or the police chief having jurisdiction in the consolidated city~~ where the offender expects to reside of the offender's name, date of release or transfer, new address, and the offense or delinquent act committed by the offender.

(b) Not more than three (3) days after an offender who is required to register under this chapter is released or transferred as described in subsection (a), an official of the facility shall transmit to the state police the following:

(1) The offender's fingerprints, photograph, and identification factors.

(2) The address where the offender expects to reside after the offender's release.

(3) The complete criminal history data (as defined in IC 10-13-3-5) or, if the offender committed a delinquent act, juvenile history data (as defined in IC 10-13-4-4) of the offender.

(4) Information regarding the offender's past treatment for mental disorders.

(5) Information as to whether the offender has been determined to be a sexually violent predator.

(c) This subsection applies if an offender is placed on probation or in a community corrections program without confining the offender in a penal facility. The probation office serving the court in which the sex and violent offender is sentenced shall perform the duties required under subsections (a) and (b).

SECTION 16. IC 5-2-12-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 8. (a) If an offender who is required to register under this chapter changes:

(1) home address; or

(2) if section 5(a)(2) or 5(a)(3) of this chapter applies, the place where the offender stays in Indiana;

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the offender shall complete and submit a new registration form not more than seven (7) days after the address change to the sheriff ~~or the police chief~~ with whom the offender last registered.

(b) If the offender moves to a new county in Indiana, the sheriff ~~or the police chief~~ referred to in subsection (a) shall inform the sheriff in the new county ~~or the police chief of the consolidated city, if the county has a consolidated city,~~ in Indiana of the offender's residence by forwarding to the sheriff ~~or the police chief~~ in the new county a copy of the registration form. The sheriff ~~or the police chief~~ receiving the notice under this subsection shall verify the address of the offender under section 8.5 of this chapter within seven (7) days after receiving the notice.

(c) If an offender who is required to register under section 5(a)(2) or 5(a)(3) of this chapter changes the offender's principal place of employment, principal place of vocation, or campus or location where the offender is enrolled in school, the offender shall submit a new registration form not more than seven (7) days after the change to the sheriff ~~or the police chief of a consolidated city~~ with whom the offender last registered.

(d) If an offender moves the offender's place of employment, vocation, or enrollment to a new county in Indiana, the sheriff ~~or the police chief of a consolidated city~~ referred to in subsection (c) shall inform the sheriff in the new county in Indiana ~~or the police chief of the consolidated city, if the county has a consolidated city,~~ of the offender's new principal place of employment, vocation, or enrollment by forwarding a copy of the registration form to the sheriff ~~or the police chief of the consolidated city~~ in the new county.

(e) If an offender moves the offender's residence, place of employment, or enrollment to a new state, the sheriff ~~or the police chief of the consolidated city~~ shall inform the state police in the new state of the offender's new place of residence, employment, or enrollment.

(f) A sheriff ~~or police chief of a consolidated city~~ shall make the forms required under this section available to registrants.

(g) A sheriff ~~or police chief of a consolidated city~~ who is notified of a change under subsection (a) or (c) shall immediately notify the institute of the change by forwarding a copy of the registration form to the institute.

SECTION 17. IC 5-2-12-8.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 8.5. (a) To verify an offender's current residence, the sheriff ~~(or the police chief of a consolidated city)~~ shall do the following:

(1) Mail each offender a registration form to the offender's listed

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address at least one (1) time per year, beginning seven (7) days after the sheriff ~~(or the police chief of a consolidated city)~~ receives a notice under section 14 of this chapter or the date the offender is:

(A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;

(B) placed in a community transition program;

(C) placed in a community corrections program;

(D) placed on parole; or

(E) placed on probation;

whichever occurs first.

(2) Mail a registration form to each offender who is designated a sexually violent predator under IC 35-38-1-7.5 at least once every ninety (90) days, beginning seven (7) days after the sheriff ~~(or the police chief of a consolidated city)~~ receives a notice under section 14 of this chapter or the date the offender is:

(A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;

(B) placed in a community transition program;

(C) placed in a community corrections program;

(D) placed on parole; or

(E) placed on probation;

whichever occurs first.

(b) If an offender fails to return a signed registration form either by mail or in person, the sheriff ~~(or the police chief of a consolidated city)~~ shall immediately notify the institute and the prosecuting attorney.

SECTION 18. IC 5-2-12-8.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 8.6. (a) An offender who is required to register under this chapter may not petition for a change of name under IC 34-28-2.

(b) If an offender who is required to register under this chapter changes the offender's name due to marriage, the offender must notify the county sheriff ~~(or the police chief of a consolidated city)~~ by completing a registration form not more than thirty (30) days after the name change.

SECTION 19. IC 5-2-12-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 14. (a) The governor may enter into a compact with one (1) or more jurisdictions outside Indiana to exchange notifications concerning the release, transfer, or change of address, employment, vocation, or enrollment of

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an offender between Indiana and the other jurisdiction or the other jurisdiction and Indiana.

(b) The compact must provide for the designation of a state agency to coordinate the transfer of information.

(c) If the state agency receives information that an offender has relocated to Indiana to reside, engage in employment or a vocation, or enroll in school, the state agency shall inform in writing the sheriff of the county ~~(or the police chief of the consolidated city)~~ where the offender is required to register in Indiana of:

(1) the offender's name, date of relocation, and new address; and

(2) the sex and violent offense or delinquent act committed by the offender.

SECTION 20. IC 5-4-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 4. (a) As used in this section, "political subdivision" has the meaning set forth in IC 36-1-2-13.

(b) The copy of the oath under section 2 of this chapter shall be deposited by the person as follows:

(1) Of all officers whose oath is endorsed on or attached to the commission and whose duties are not limited to a particular county or of a justice, judge, or prosecuting attorney, in the office of the secretary of state.

(2) Of the circuit court clerk, officers of a political subdivision or school corporation, and **small claims** constables, ~~of a small claims court~~, in the circuit court clerk's office of the county containing the greatest percentage of the population of the political subdivision or school corporation.

(3) Of a deputy prosecuting attorney, in the office of the clerk of the circuit court of the county in which the deputy prosecuting attorney resides or serves.

SECTION 21. IC 5-8-3.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. (a) An officer who wants to resign shall give written notice of the officer's resignation as follows:

(1) The governor and lieutenant governor shall notify the principal clerk of the house of representatives and the principal secretary of the senate to act in accordance with Article 5, Section 10 of the Constitution of the State of Indiana. The clerk and the secretary shall file a copy of the notice with the office of the secretary of state.

(2) A member of the general assembly shall notify the following, whichever applies:

(A) A member of the senate shall notify the president pro

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tempore of the senate.

(B) A member of the house of representatives shall notify the speaker of the house of representatives.

(3) The following officers commissioned by the governor under IC 4-3-1-5 shall notify the governor:

(A) An elector or alternate elector for President and Vice President of the United States.

(B) The secretary of state, auditor of state, treasurer of state, superintendent of public instruction, or attorney general.

(C) An officer elected by the general assembly, the senate, or the house of representatives.

(D) A justice of the Indiana supreme court, judge of the Indiana court of appeals, or judge of the Indiana tax court.

(E) A judge **or small claims judge** of a circuit, city, county, probate, superior, **or** town ~~or township small claims~~ court.

(F) A prosecuting attorney.

(G) A circuit court clerk.

(H) A county auditor, county recorder, county treasurer, county sheriff, county coroner, or county surveyor.

(4) An officer of a political subdivision (as defined by IC 36-1-2-13) other than an officer listed in subdivision (3) shall notify the circuit court clerk of the county containing the largest percentage of population of the political subdivision.

(5) An officer not listed in subdivisions (1) through (4) shall notify the person or entity from whom the officer received the officer's appointment.

(b) A person or an entity that receives notice of a resignation and does not have the power to fill the vacancy created by the resignation shall, not later than seventy-two (72) hours after receipt of the notice of resignation, give notice of the vacancy to the person or entity that has the power to:

(1) fill the vacancy; or

(2) call a caucus for the purpose of filling the vacancy.

SECTION 22. IC 5-10-8-2.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2.2. (a) As used in this section, "dependent" means a natural child, stepchild, or adopted child of a public safety employee who:

(1) is less than eighteen (18) years of age;

(2) is eighteen (18) years of age or older and physically or mentally disabled (using disability guidelines established by the Social Security Administration); or

(3) is at least eighteen (18) and less than twenty-three (23) years

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of age and is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university.

(b) As used in this section, "public safety employee" means a full-time firefighter, police officer, county police officer, or sheriff.

(c) This section applies only to local unit public employers and their public safety employees.

(d) A local unit public employer may provide programs of group health insurance for its active and retired public safety employees through one (1) of the following methods:

(1) By purchasing policies of group insurance.

(2) By establishing self-insurance programs.

(3) By electing to participate in the local unit group of local units that offer the state employee health plan under section 6.6 of this chapter.

A local unit public employer may provide programs of group insurance other than group health insurance for the local unit public employer's active and retired public safety employees by purchasing policies of group insurance and by establishing self-insurance programs. However, the establishment of a self-insurance program is subject to the approval of the unit's fiscal body.

(e) A local unit public employer may pay a part of the cost of group insurance for its active and retired public safety employees. However, a local unit public employer that provides group life insurance for its active and retired public safety employees shall pay a part of the cost of that insurance.

(f) A local unit public employer may not cancel an insurance contract under this section during the policy term of the contract.

(g) After June 30, 1989, a local unit public employer that provides a group health insurance program for its active public safety employees shall also provide a group health insurance program to the following persons:

(1) Retired public safety employees.

(2) Public safety employees who are receiving disability benefits under IC 36-8-6, IC 36-8-7, IC 36-8-7.5, IC 36-8-8, ~~or~~ IC 36-8-10, **or IC 36-8-10.1.**

(3) Surviving spouses and dependents of public safety employees who die while in active service or after retirement.

(h) A retired or disabled public safety employee who is eligible for group health insurance coverage under subsection (g)(1) or (g)(2):

(1) may elect to have the person's spouse, dependents, or spouse and dependents covered under the group health insurance

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program at the time the person retires or becomes disabled;

(2) must file a written request for insurance coverage with the employer within ninety (90) days after the person retires or begins receiving disability benefits; and

(3) must pay an amount equal to the total of the employer's and the employee's premiums for the group health insurance for an active public safety employee (however, the employer may elect to pay any part of the person's premiums).

(i) Except as provided in IC 36-8-6-9.7(f), IC 36-8-6-10.1(h), IC 36-8-7-12.3(g), IC 36-8-7-12.4(j), IC 36-8-7.5-13.7(h), IC 36-8-7.5-14.1(i), IC 36-8-8-13.9(d), ~~IC 38-8-8-14.1(h), and~~ **IC 36-8-8-14.1(h),** IC 36-8-10-16.5, **and IC 36-8-10.1-44** for a surviving spouse or dependent of a public safety employee who dies in the line of duty, a surviving spouse or dependent who is eligible for group health insurance under subsection (g)(3):

(1) may elect to continue coverage under the group health insurance program after the death of the public safety employee;

(2) must file a written request for insurance coverage with the employer within ninety (90) days after the death of the public safety employee; and

(3) must pay the amount that the public safety employee would have been required to pay under this section for coverage selected by the surviving spouse or dependent (however, the employer may elect to pay any part of the surviving spouse's or dependents' premiums).

(j) A retired or disabled public safety employee's eligibility for group health insurance under this section ends on the earlier of the following:

(1) When the public safety employee becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the employer terminates the health insurance program for active public safety employees.

(k) A surviving spouse's eligibility for group health insurance under this section ends on the earliest of the following:

(1) When the surviving spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the unit providing the insurance terminates the health insurance program for active public safety employees.

(3) The date of the surviving spouse's remarriage.

(4) When health insurance becomes available to the surviving spouse through employment.

(l) A dependent's eligibility for group health insurance under this

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section ends on the earliest of the following:

(1) When the dependent becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the unit providing the insurance terminates the health insurance program for active public safety employees.

(3) When the dependent no longer meets the criteria set forth in subsection (a).

(4) When health insurance becomes available to the dependent through employment.

(m) A public safety employee who is on leave without pay is entitled to participate for ninety (90) days in any group health insurance program maintained by the local unit public employer for active public safety employees if the public safety employee pays an amount equal to the total of the employer's and the employee's premiums for the insurance. However, the employer may pay all or part of the employer's premium for the insurance.

(n) A local unit public employer may provide group health insurance for retired public safety employees or their spouses not covered by subsections (g) through (l) and may provide group health insurance that contains provisions more favorable to retired public safety employees and their spouses than required by subsections (g) through (l). A local unit public employer may provide group health insurance to a public safety employee who is on leave without pay for a longer period than required by subsection (m), and may continue to pay all or a part of the employer's premium for the insurance while the employee is on leave without pay.

SECTION 23. IC 5-10-10-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1.5. As used in this chapter, "correctional officer" includes:

(1) a county jail officer under IC 11-12-4-4;

(2) a person who has received a correctional officer training certificate under IC 11-8-2-8;

(3) a prison matron or an assistant prison matron under IC 36-8-10-5 **or IC 36-8-10.1-25;** and

(4) any other person whose duties include the daily or ongoing supervision and care of persons who are lawfully detained (as defined in IC 35-41-1-18) in a facility operated by the state or a political subdivision of the state.

SECTION 24. IC 5-10-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 4. As used in this chapter, "public safety officer" means any of the following:

(1) A state police officer.

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(2) A county sheriff.
(3) A county police officer.
(4) A correctional officer.
(5) An excise police officer.
(6) A county police reserve officer.
(7) A city police reserve officer.
(8) A conservation enforcement officer.
(9) A town marshal.
(10) A deputy town marshal.
(11) A probation officer.
(12) A state university police officer appointed under IC 20-12-3.5.
(13) An emergency medical services provider (as defined in IC 16-41-10-1) who is:
(A) employed by a political subdivision (as defined in IC 36-1-2-13); and
(B) not eligible for a special death benefit under IC 36-8-6-20, IC 36-8-7-26, IC 36-8-7.5-22, or IC 36-8-8-20.
(14) A firefighter who is employed by the fire department of a state university.
(15) A member of the metropolitan law enforcement agency (as defined in IC 36-8-10.1-8).

SECTION 25. IC 5-10-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2. As used in this chapter, "employee" means an individual who:
(1) is employed full time by the state or a political subdivision of the state as:
(A) a member of a fire department (as defined in IC 36-8-1-8);
(B) an emergency medical services provider (as defined in IC 16-41-10-1);
(C) a member of a police department (as defined in IC 36-8-1-9);
(D) a correctional officer (as defined in IC 5-10-10-1.5);
(E) a state police officer;
(F) a county police officer;
(G) a county sheriff;
(H) an excise police officer;
(I) a conservation enforcement officer;
(J) a town marshal; ~~or~~
(K) a deputy town marshal; **or**
(L) a member of the metropolitan law enforcement agency (as defined in IC 36-8-10.1-8);

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(2) in the course of the individual's employment is at high risk for occupational exposure to an exposure risk disease; and

(3) is not employed elsewhere in a similar capacity.

SECTION 26. IC 5-10.1-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 6. "Governing body" means the fiscal body of a county, city, town, ~~or~~ township, **or township district, a** trustee, the township board, board of school commissioners, library board, or any board which by law is authorized to fix a rate of taxation on property of a political subdivision, or any other board which is empowered to administer the affairs of any department of, or associated with, a political subdivision, which department receives revenue independently of, or in addition to, funds obtained from taxation.

SECTION 27. IC 5-10.1-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 7. Political Subdivision. "Political subdivision" as used in this article means a county, city, town, township, **township district**, political body corporate, political entity, local housing authority, public school corporation, public library, public utility of a county, city, town, or township whether the public utility is operated by the city or town or under the terms of a trusteeship for the benefit of the city or town, and a department of, or associated with, a county, city, town, or township, which department receives revenue independently of, or in addition to, funds obtained through taxation. A state agency or a judicial circuit may not be construed as a political subdivision.

SECTION 28. IC 6-1.1-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]:

Chapter 1.5. County Assessor Performs Township Assessor Duties

Sec. 1. In a county having a consolidated city, the county assessor has the same duties and responsibilities for the county that the township assessor in a county that does not have a consolidated city has for the township.

SECTION 29. IC 6-1.1-3-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 17. (a) On or before June 1 of each year, each township assessor of a county **not having a consolidated city** shall deliver to the county assessor a list which states by taxing district the total of the personal property assessments as shown on the personal property returns filed with the **township** assessor on or before the filing date of that year. ~~and in a county with a township assessor under IC 36-6-5-1 in every township~~

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~~the township assessor shall deliver the lists to the county auditor as prescribed in subsection (b).~~

(b) On or before July 1 of each year, each county assessor shall certify to the county auditor the assessment value of the personal property in every taxing district.

(c) The department of local government finance shall prescribe the forms required by this section.

SECTION 30. IC 6-1.1-4-13.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 13.8. (a) As used in this section, "commission" refers to a county land valuation commission established under subsection (b).

(b) A county land valuation commission is established in each county for the purpose of determining the value of commercial, industrial, and residential land (including farm homesites) in the county.

(c) The county assessor is chairperson of the commission.

(d) The following are members of the commission:

(1) The county assessor. The county assessor shall cast a vote only to break a tie.

(2) **Except in a county having a consolidated city,** each township assessor, when the respective township land values for that township assessor's township are under consideration. A township assessor serving under this subdivision shall vote on all matters relating to the land values of that township assessor's township.

(3) **Except in a county having a consolidated city,** one (1) township assessor from the county to be appointed by a majority vote of all the township assessors in the county.

(4) One (1) county resident who:

(A) holds a license under IC 25-34.1-3 as a salesperson or broker; and

(B) is appointed by:

(i) the board of commissioners (as defined in IC 36-3-3-10) for a county having a consolidated city; or

(ii) the county executive (as defined in IC 36-1-2-5) for a county not described in item (i).

(5) Four (4) individuals who:

(A) are appointed by the county executive (as defined in IC 36-1-2-5); and

(B) represent one (1) of the following four (4) kinds of land in the county:

(i) Agricultural.

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(ii) Commercial.
(iii) Industrial.
(iv) Residential.

Each of the four (4) kinds of land in the county must be represented by one (1) individual appointed under this subdivision.

(6) One (1) individual who:

(A) represents financial institutions in the county; and

(B) is appointed by:

(i) the board of commissioners (as defined in IC 36-3-3-10) for a county having a consolidated city; or

(ii) the county executive (as defined in IC 36-1-2-5) for a county not described in item (i).

(e) The term of each member of the commission begins November 1 of the year that precedes by two (2) years the year in which a general reassessment begins under IC 6-1.1-4-4, and ends January 1 of the year in which the general reassessment begins under IC 6-1.1-4-4. The appointing authority may fill a vacancy for the remainder of the vacated term.

(f) The commission shall determine the values of all classes of commercial, industrial, and residential land (including farm homesites) in the county using guidelines determined by the department of local government finance. Not later than November 1 of the year preceding the year in which a general reassessment begins, the commission determining the values of land shall submit the values, all data supporting the values, and all information required under rules of the department of local government finance relating to the determination of land values to the county property tax assessment board of appeals and the department of local government finance. Not later than January 1 of the year in which a general reassessment begins, the county property tax assessment board of appeals shall hold a public hearing in the county concerning those values. The property tax assessment board of appeals shall give notice of the hearing in accordance with IC 5-3-1 and shall hold the hearing after March 31 of the year preceding the year in which the general reassessment begins and before January 1 of the year in which the general reassessment under IC 6-1.1-4-4 begins.

(g) The county property tax assessment board of appeals shall review the values, data, and information submitted under subsection (f) and may make any modifications it considers necessary to provide uniformity and equality. The county property tax assessment board of appeals shall coordinate the valuation of property adjacent to the boundaries of the county with the county property tax assessment

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boards of appeals of the adjacent counties using the procedures adopted by rule under IC 4-22-2 by the department of local government finance. If the commission fails to submit land values under subsection (f) to the county property tax assessment board of appeals before January 1 of the year the general reassessment under IC 6-1.1-4-4 begins, the county property tax assessment board of appeals shall determine the values.

(h) The county property tax assessment board of appeals shall give notice to the county and township assessors, **if any,** of its decision on the values. The notice must be given before March 1 of the year the general reassessment under IC 6-1.1-4-4 begins. Not later than twenty (20) days after that notice, the county assessor or a township assessor, **if any,** in the county may request that the county property tax assessment board of appeals reconsider the values. The county property tax assessment board of appeals shall hold a hearing on the reconsideration in the county. The county property tax assessment board of appeals shall give notice of the hearing under IC 5-3-1.

(i) Not later than twenty (20) days after notice to the county **assessor** and township assessor, **if any,** is given under subsection (h), a taxpayer may request that the county property tax assessment board of appeals reconsider the values. The county property tax assessment board of appeals may hold a hearing on the reconsideration in the county. The county property tax assessment board of appeals shall give notice of the hearing under IC 5-3-1.

(j) A taxpayer may appeal the value determined under this section as applied to the taxpayer's land as part of an appeal filed under IC 6-1.1-15 after the taxpayer has received a notice of assessment. If a taxpayer that files an appeal under IC 6-1.1-15 requests the values, data, or information received by the county property tax assessment board of appeals under subsection (f), the county property tax assessment board of appeals shall satisfy the request. The department of local government finance may modify the taxpayer's land value and the value of any other land in the township, the county where the taxpayer's land is located, or the adjacent county if the department of local government finance determines it is necessary to provide uniformity and equality.

(k) The county assessor shall notify all township assessors, **if any,** in the county of the values as determined by the commission and as modified by the county property tax assessment board of appeals or department of local government finance under this section. Township assessors shall use the values determined under this section.

SECTION 31. IC 6-1.1-4-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 25. (a) Each

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township assessor shall keep the assessor's reassessment data and records current by securing the necessary field data and by making changes in the assessed value of real property as changes occur in the use of the real property. The township assessor's records shall at all times show the assessed value of real property in accordance with the provisions of this chapter. The township assessor shall ensure that the county assessor has full access to the assessment records maintained by the township assessor.

(b) The ~~township assessor in a county having a consolidated city, or the~~ county assessor ~~in every other county,~~ shall:

(1) maintain an electronic data file of:

(A) the parcel characteristics and parcel assessments of all parcels; and

(B) the personal property return characteristics and assessments by return;

for each township in the county as of each assessment date;

(2) maintain the file in the form required by:

(A) the legislative services agency; and

(B) the department of local government finance; and

(3) transmit the data in the file with respect to the assessment date of each year before October 1 of the year to:

(A) the legislative services agency; and

(B) the department of local government finance.

SECTION 32. IC 6-1.1-4-28.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 28.5. (a) Money assigned to a property reassessment fund under section 27.5 of this chapter may be used only to pay the costs of:

(1) the general reassessment of real property, including the computerization of assessment records;

(2) payments to county assessors, members of property tax assessment boards of appeals, or assessing officials under IC 6-1.1-35.2;

(3) the development or updating of detailed soil survey data by the United States Department of Agriculture or its successor agency;

(4) the updating of plat books; and

(5) payments for the salary of permanent staff or for the contractual services of temporary staff who are necessary to assist county assessors, members of a county property tax assessment board of appeals, and assessing officials.

(b) All counties shall use modern, detailed soil maps in the general reassessment of agricultural land.

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(c) The county treasurer of each county shall, in accordance with IC 5-13-9, invest any money accumulated in the property reassessment fund until the money is needed to pay general reassessment expenses. Any interest received from investment of the money shall be paid into the property reassessment fund.

(d) An appropriation under this section must be approved by the fiscal body of the county after the review and recommendation of the county assessor. ~~However, in a county with an elected township assessor under IC 36-6-5-1 in every township, the county assessor does not review an appropriation under this section, and only the fiscal body must approve an appropriation under this section.~~

SECTION 33. IC 6-1.1-5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 14. Not later than May 15, each assessing official **in a county not having a consolidated city** shall prepare and deliver to the county assessor a detailed list of the real property listed for taxation in the township. On or before July 1 of each year, each county assessor shall, under oath, prepare and deliver to the county auditor a detailed list of the real property listed for taxation in the county. ~~In a county with an elected township assessor under IC 36-6-5-1 in every township the township assessor shall prepare the real property list.~~ The assessing officials and the county assessor shall prepare the list in the form prescribed by the department of local government finance. The township assessor shall ensure that the county assessor has full access to the assessment records maintained by the township assessor.

SECTION 34. IC 6-1.1-5.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. (a) Before filing a conveyance document with the county auditor under IC 6-1.1-5-4, all the parties to the conveyance must complete and sign a sales disclosure form as prescribed by the department of local government finance under section 5 of this chapter. All the parties may sign one (1) form, or if all the parties do not agree on the information to be included on the completed form, each party may sign and file a separate form.

(b) ~~Except as provided in subsection (c),~~ The auditor shall forward each sales disclosure form to the county assessor. The county assessor shall retain the forms for five (5) years. The county assessor shall forward the sales disclosure form data to the department of local government finance and the legislative services agency:

(1) before January 1, 2005, in an electronic format, if possible; and

(2) after December 31, 2004, in an electronic format specified

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jointly by the department of local government finance and the legislative services agency.

The county assessor shall forward a copy of the sales disclosure forms to the township assessors in the county, **if any.** The forms may be used by the county assessing officials, the department of local government finance, and the legislative services agency for the purposes established in IC 6-1.1-4-13.6, sales ratio studies, equalization, adoption of rules under IC 6-1.1-31-3 and IC 6-1.1-31-6, and any other authorized purpose.

~~(c) In a county containing a consolidated city, the auditor shall forward the sales disclosure form to the appropriate township assessor. The township assessor shall forward the sales disclosure form to the department of local government finance and the legislative services agency:~~

~~(1) before January 1, 2005, in an electronic format, if possible, and~~

~~(2) after December 31, 2004, in an electronic format specified jointly by the department of local government finance and the legislative services agency.~~

~~The forms may be used by the county assessing officials, the department of local government finance, and the legislative services agency for the purposes established in IC 6-1.1-4-13.6, sales ratio studies, equalization, adoption of rules under IC 6-1.1-31-3 and IC 6-1.1-31-6, and any other authorized purpose.~~

~~(d)~~ **(c)** If a sales disclosure form includes the telephone number or Social Security number of a party, the telephone number or Social Security number is confidential.

SECTION 35. IC 6-1.1-5.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 12. (a) A party to a conveyance who:

(1) is required to file a sales disclosure form under this chapter; and

(2) fails to file a sales disclosure form at the time and in the manner required by this chapter;

is subject to a penalty in the amount determined under subsection (b).

(b) The amount of the penalty under subsection (a) is the greater of:

(1) one hundred dollars ($100); or

(2) twenty-five thousandths percent (0.025%) of the sale price of the real property transferred under the conveyance document.

(c) The ~~township assessor in a county containing a consolidated city, or the~~ county assessor ~~in any other county,~~ shall:

(1) determine the penalty imposed under this section;

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(2) assess the penalty to the party to a conveyance; and

(3) notify the party to the conveyance that the penalty is payable not later than thirty (30) days after notice of the assessment.

(d) The county auditor shall:

(1) collect the penalty imposed under this section;

(2) deposit penalty collections as required under section 4 of this chapter; and

(3) notify the county prosecuting attorney of delinquent payments.

(e) The county prosecuting attorney shall initiate an action to recover a delinquent penalty under this section. In a successful action against a person for a delinquent penalty, the court shall award the county prosecuting attorney reasonable attorney's fees.

SECTION 36. IC 6-1.1-8-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 24. (a) Each year a township assessor shall assess the fixed property which as of the assessment date of that year is:

(1) owned or used by a public utility company; and

(2) located in the township the township assessor serves.

(b) The township assessor shall determine the assessed value of fixed property. **Except as provided in subsection (c),** the township assessor shall certify the assessed values to the county assessor on or before April 1 of the year of assessment. ~~However,~~

(c) In a county ~~with an elected township assessor under IC 36-6-5-1 in every township the township~~ **having a consolidated city, the county** assessor shall certify the list to the department of local government finance.

(d) The county assessor shall review the assessed values and shall certify the assessed values to the department of local government finance on or before April 10 of the year of assessment.

SECTION 37. IC 6-1.1-18.5-21 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 21. (a) The ad valorem property tax levy limits imposed by this chapter do not apply to ad valorem property taxes imposed by a consolidated city to pay or fund any indebtedness assumed, defeased, paid, or refunded under IC 36-3-1-6.1, IC 36-3-1-6.3, or IC 36-6-1.1-4.**

(b) For property taxes first due and payable each year beginning in 2007, the maximum permissible ad valorem property tax levy for a consolidated city is increased each year by an amount equal to the lesser of:

(1) the difference between:

(A) the maximum permissible ad valorem property tax

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levy under section 3 of this chapter for the current year for the consolidated city's fire special service district created under IC 36-3-1-6; and

(B) the amount levied that year for the fire special service district; or

(2) ten percent (10%) of the maximum permissible ad valorem property tax levy under section 3 of this chapter for property taxes first due and payable in 2006 for the consolidated city's fire special service district created under IC 36-3-1-6.

(c) For property taxes first due and payable in each year beginning in 2007, the maximum permissible ad valorem property tax levy for a consolidated city is increased in each year by an amount equal to the lesser of:

(1) the difference between:

(A) the maximum permissible ad valorem property tax levy under section 3 of this chapter for the current year for the consolidated city's police special service district created under IC 36-3-1-6; and

(B) the amount levied that year for the police special service district; or

(2) ten percent (10%) of the maximum permissible ad valorem property tax levy under section 3 of this chapter for property taxes first due and payable in 2006 for the consolidated city's police special service district created under IC 36-3-1-6.

SECTION 38. IC 6-1.1-28-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) **This section applies to all counties except a county having a consolidated city.** Each county shall have a county property tax assessment board of appeals composed of individuals who are at least eighteen (18) years of age and knowledgeable in the valuation of property. In addition to the county assessor, only one (1) other individual who is an officer or employee of a county or township may serve on the board of appeals in the county in which the individual is an officer or employee. The fiscal body of the county shall appoint two (2) individuals to the board. At least one (1) of the members appointed by the county fiscal body must be a certified level two assessor-appraiser. The board of commissioners of the county shall appoint two (2) freehold members so that not more than three (3) of the five (5) members ~~may be~~ **are** of the same political party and so that at least three (3) of the five (5) members are residents of the county. At least one (1) of the members appointed by the board of county commissioners must be a certified level two assessor-appraiser. However, if the county assessor is a certified level

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two assessor-appraiser, the board of county commissioners may waive the requirement in this subsection that one (1) of the freehold members appointed by the board of county commissioners must be a certified level two assessor-appraiser. A person appointed to a property tax assessment board of appeals may serve on the property tax assessment board of appeals of another county at the same time. The members of the board shall elect a president. The employees of the county assessor shall provide administrative support to the property tax assessment board of appeals. The county assessor is a voting member of the property tax assessment board of appeals. The county assessor shall serve as secretary of the board. The secretary shall keep full and accurate minutes of the proceedings of the board. A majority of the board that includes at least one (1) certified level two assessor-appraiser constitutes a quorum for the transaction of business. Any question properly before the board may be decided by the agreement of a majority of the whole board.

(b) The county assessor, county fiscal body, and board of county commissioners may agree to waive the requirement in subsection (a) that not more than three (3) of the five (5) members of the county property tax assessment board of appeals may be of the same political party if it is necessary to waive the requirement due to the absence of certified level two Indiana assessor-appraisers:

(1) who are willing to serve on the board; and

(2) whose political party membership status would satisfy the requirement in subsection ~~(c)(1).~~ **(a).**

(c) If the board of county commissioners is not able to identify at least two (2) prospective freehold members of the county property tax assessment board of appeals who are:

(1) residents of the county;

(2) certified level two Indiana assessor-appraisers; and

(3) willing to serve on the county property tax assessment board of appeals;

it is not necessary that at least three (3) of the five (5) members of the county property tax assessment board of appeals be residents of the county.

SECTION 39. IC 6-1.1-28-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 1.5. (a) This section applies to a county having a consolidated city. The county property tax assessment board of appeals is established, composed of individuals who are at least eighteen (18) years of age and knowledgeable in the valuation of property. In addition to the county assessor, who**

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serves as a nonvoting member, only one (1) other individual who is an officer or employee of the county may serve on the board of appeals. The fiscal body of the county shall appoint two (2) individuals to the board. At least one (1) of the members appointed by the county fiscal body must be a certified level two Indiana assessor-appraiser. The board of commissioners of the county shall appoint three (3) freehold members so that not more than three (3) of the five (5) voting members are of the same political party and so that at least three (3) of the five (5) voting members are residents of the county. At least one (1) of the members appointed by the board of county commissioners must be a certified level two Indiana assessor-appraiser. One (1) of the members appointed by the board of county commissioners must be a representative of a neighborhood or taxpayer organization located in the county. A person appointed to a property tax assessment board of appeals may serve on the property tax assessment board of appeals of another county at the same time. The members of the board shall elect a president. The employees of the county assessor shall provide administrative support to the property tax assessment board of appeals. The county assessor shall serve as secretary of the board. The secretary shall keep full and accurate minutes of the proceedings of the board. A majority of the voting members of the board that includes at least one (1) certified level two Indiana assessor-appraiser constitutes a quorum for the transaction of business. Any question properly before the board may be decided by the agreement of a majority of the voting members of the board.

(b) The county fiscal body and board of commissioners of the county may agree to waive the requirement in subsection (a) that not more than three (3) of the five (5) members of the county property tax assessment board of appeals are of the same political party if it is necessary to waive the requirement due to the absence of certified level two Indiana assessor-appraisers:

(1) who are willing to serve on the board; and

(2) whose political party membership status would satisfy the requirement in subsection (a).

(c) If the board of county commissioners is not able to identify at least two (2) prospective freehold members of the county property tax assessment board of appeals who are:

(1) residents of the county;

(2) certified level two Indiana assessor-appraisers; and

(3) willing to serve on the county property tax assessment board of appeals;

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it is not necessary that at least three (3) of the five (5) members of the county property tax assessment board of appeals be residents of the county.

SECTION 40. IC 6-1.1-31.5-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3.5. (a) After December 31, 1998, each county shall maintain a state certified computer system that has the capacity to:

(1) process and maintain assessment records;

(2) process and maintain standardized property tax forms;

(3) process and maintain standardized property assessment notices;

(4) maintain complete and accurate assessment records for the county; and

(5) process and compute complete and accurate assessments in accordance with Indiana law.

In a county not having a consolidated city, the county assessor with the recommendation of the township assessors shall select the computer system used by township assessors and the county assessor in the county. ~~except in a county with a township assessor elected under IC 36-6-5-1 in every township.~~ In a county ~~with an elected township assessor under IC 36-6-5-1 in every township,~~ **having a consolidated city,** the ~~elected township assessors~~ **county assessor** shall select a computer system. ~~based on a majority vote of the township assessors in the county.~~

(b) All information on the computer system shall be readily accessible to:

(1) township assessors;

(2) the county assessor;

(3) the department of local government finance; and

(4) members of the county property tax assessment board of appeals.

(c) The certified system used by the counties must be compatible with the data export and transmission requirements in a standard format prescribed by the department of local government finance. The certified system must be maintained in a manner that ensures prompt and accurate transfer of data to the department.

(d) All standardized property forms and notices on the certified computer system shall be maintained by the township assessor and the county assessor in an accessible location and in a format that is easily understandable for use by persons of the county.

SECTION 41. IC 6-1.5-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5. After the

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hearing, the Indiana board shall give the petitioner, the township assessor, **if any**, the county assessor, the county auditor, and the department of local government finance:

(1) notice, by mail, of its final determination, findings of fact, and conclusions of law; and

(2) notice of the procedures the petitioner or the department of local government finance must follow in order to obtain court review of the final determination of the Indiana board.

SECTION 42. IC 6-2.5-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) A retail merchant may not make a retail transaction in Indiana, unless ~~he~~ **the retail merchant** has applied for a registered retail merchant's certificate.

(b) A retail merchant may obtain a registered retail merchant's certificate by filing an application with the department and paying a registration fee of twenty-five dollars ($25) for each place of business listed on the application. The retail merchant shall also provide such security for payment of the tax as the department may require under IC 6-2.5-6-12.

(c) The retail merchant shall list on the application the location (including the township) of each place of business where ~~he~~ **the merchant** makes retail transactions. However, if the retail merchant does not have a fixed place of business, ~~he~~ **the merchant** shall list ~~his~~ **the merchant's** residence as ~~his~~ **the merchant's** place of business. In addition, a public utility may list only its principal Indiana office as its place of business for sales of public utility commodities or service, but the utility must also list on the application the places of business where it makes retail transactions other than sales of public utility commodities or service.

(d) Upon receiving a proper application, the correct fee, and the security for payment, if required, the department shall issue to the retail merchant a separate registered retail merchant's certificate for each place of business listed on the application. Each certificate shall bear a serial number and the location of the place of business for which it is issued.

(e) If a retail merchant intends to make retail transactions during a calendar year at a new Indiana place of business, ~~he~~ **the retail merchant** must file a supplemental application and pay the fee for that place of business.

(f) A retail merchant engaged in business in Indiana as defined in IC 6-2.5-3-1(c) who makes retail transactions that are only subject to the use tax must obtain a registered retail merchant's certificate before

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making those transactions. The retail merchant may obtain the certificate by following the same procedure as a retail merchant under subsections (b) and (c), except that the retail merchant must also include on the application:

(1) the names and addresses of the retail merchant's principal employees, agents, or representatives who engage in Indiana in the solicitation or negotiation of the retail transactions;

(2) the location of all of the retail merchant's places of business in Indiana, including offices and distribution houses; and

(3) any other information that the department requests.

(g) The department may permit an out-of-state retail merchant to collect the use tax. However, before the out-of-state retail merchant may collect the tax, ~~he~~ **the retail merchant** must obtain a registered retail merchant's certificate in the manner provided by this section. Upon receiving the certificate, the out-of-state retail merchant becomes subject to the same conditions and duties as an Indiana retail merchant and must then collect the use tax due on all sales of tangible personal property that ~~he~~ **the retail merchant** knows is intended for use in Indiana.

(h) The department shall submit to the township assessor **or, in the case of a township located in a county having a consolidated city, the county assessor** before July 15 of each year:

(1) the name of each retail merchant that has newly obtained a registered retail merchant's certificate between March 2 of the preceding year and March 1 of the current year for a place of business located in the township **or county, as appropriate;** and

(2) the address of each place of business of the taxpayer in the township **or county, as appropriate.**

SECTION 43. IC 6-3.5-6-18.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 18.5. (a) This section applies to a county containing a consolidated city.

(b) Notwithstanding section 18(e) of this chapter, the distributive shares that each civil taxing unit in a county containing a consolidated city is entitled to receive during a month equals the following:

(1) For the calendar year beginning January 1, 1995, calculate the total amount of revenues that are to be distributed as distributive shares during that month multiplied by the following factor:

Center Township	.0251
Decatur Township	.00217
Franklin Township	.0023
Lawrence Township	.01177
Perry Township	.01130

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Pike Township	.01865
Warren Township	.01359
Washington Township	.01346
Wayne Township	.01307
Lawrence-City	.00858
Beech Grove	.00845
Southport	.00025
Speedway	.00722
Indianapolis/Marion County	.86409

(2) Notwithstanding subdivision (1), for the calendar year beginning January 1, 1995, the distributive shares for each civil taxing unit in a county containing a consolidated city shall be not less than the following:

Center Township	$1,898,145
Decatur Township	$164,103
Franklin Township	$173,934
Lawrence Township	$890,086
Perry Township	$854,544
Pike Township	$1,410,375
Warren Township	$1,027,721
Washington Township	$1,017,890
Wayne Township	$988,397
Lawrence-City	$648,848
Beech Grove	$639,017
Southport	$18,906
Speedway	$546,000

(3) For each year after 1995, calculate the total amount of revenues that are to be distributed as distributive shares during that month as follows:

STEP ONE: Determine the total amount of revenues that were distributed as distributive shares during that month in calendar year 1995.

STEP TWO: Determine the total amount of revenue that the department has certified as distributive shares for that month under section 17 of this chapter for the calendar year.

STEP THREE: Subtract the STEP ONE result from the STEP TWO result.

STEP FOUR: If the STEP THREE result is less than or equal to zero (0), multiply the STEP TWO result by the ratio established under subdivision (1).

STEP FIVE: Determine the ratio of:

(A) the maximum permissible property tax levy under

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IC 6-1.1-18.5 and IC 6-1.1-18.6 for each civil taxing unit for the calendar year in which the month falls, plus, for a county, an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund; divided by

(B) the sum of the maximum permissible property tax levies under IC 6-1.1-18.5 and IC 6-1.1-18.6 for all civil taxing units of the county during the calendar year in which the month falls, and an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund.

STEP SIX: If the STEP THREE result is greater than zero (0), the STEP ONE amount shall be distributed by multiplying the STEP ONE amount by the ratio established under subdivision (1).

STEP SEVEN: For each taxing unit determine the STEP FIVE ratio multiplied by the STEP TWO amount.

STEP EIGHT: For each civil taxing unit determine the difference between the STEP SEVEN amount minus the product of the STEP ONE amount multiplied by the ratio established under subdivision (1). The STEP THREE excess shall be distributed as provided in STEP NINE only to the civil taxing units that have a STEP EIGHT difference greater than or equal to zero (0).

STEP NINE: For the civil taxing units qualifying for a distribution under STEP EIGHT, each civil taxing unit's share equals the STEP THREE excess multiplied by the ratio of:

(A) the maximum permissible property tax levy under IC 6-1.1-18.5 and IC 6-1.1-18.6 for the qualifying civil taxing unit during the calendar year in which the month falls, plus, for a county, an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund; divided by

(B) the sum of the maximum permissible property tax levies under IC 6-1.1-18.5 and IC 6-1.1-18.6 for all qualifying civil taxing units of the county during the calendar year in which the month falls, and an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund.

(c) For each year after 2005:

(1) the revenues to be distributed as distributive shares during each month to Center Township are distributed as additional

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distributive shares to the central township district (as defined in IC 36-6-4.1-2) and the Center Township distributive shares are reduced to zero (0); and

(2) the revenues to be distributed as distributive shares during each month to the other townships listed in subsection (1) are distributed as additional distributive shares to Indianapolis/Marion County and the township distributive shares are reduced to zero (0).

SECTION 44. IC 6-6-5.5-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 18. (a) A taxpayer who owns, holds, possesses, or controls a commercial vehicle that:

(1) is subject to the commercial vehicle excise tax imposed under this chapter; and

(2) would have been subject to assessment as personal property on March 1, 2000, under the law in effect before January 1, 2000;

shall file an information return on or before May 15, 2000, with the assessor of each township in which the taxpayer's commercial vehicles would have been subject to assessment and taxation under IC 6-1.1.

(b) The information return ~~shall be~~ **is** filed on a form prescribed by the department of local government finance and shall require the taxpayer to provide information regarding the value, nature, and location of each commercial vehicle which the taxpayer owns, holds, possesses, or controls on March 1, 2000. If a commercial vehicle is used or operated in interstate commerce, the value reported on the information return ~~shall be~~ **is** determined under the procedure set forth in 50 IAC 4.2-10-3.

(c) The information return shall be furnished to the taxpayer by the appropriate ~~township~~ assessor **for each township** in the same manner and at the same time as the taxpayer's personal property tax return.

(d) In completing an information return under this section, a taxpayer shall make a complete disclosure of all information, required by the department of local government finance, that is related to the value, nature, or location of commercial vehicles that the taxpayer owns, holds, possesses or controls on March 1, 2000. The taxpayer shall certify to the truth of all information appearing in the information return and all data accompanying the information return.

(e) The ~~township~~ assessor **for each township** shall examine and verify the accuracy of each information return filed by a taxpayer. If appropriate, the assessor **for each township** shall compare an information return with the books of the taxpayer and with commercial vehicles owned, held, possessed, or controlled by the taxpayer.

SECTION 45. IC 6-6-5.5-19 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 19. (a) As used in this section, "assessed value" means an amount equal to the true tax value of commercial vehicles that:

(1) are subject to the commercial vehicle excise tax under this chapter; and

(2) would have been subject to assessment as personal property on March 1, 2000, under the law in effect before January 1, 2000.

(b) For calendar year 2001, a taxing unit's base revenue ~~shall be~~ **is** determined as provided in subsection (f). For calendar years that begin after December 31, 2001, a taxing unit's base revenue ~~shall be~~ **is** determined by multiplying the previous year's base revenue by one hundred five percent (105%).

(c) The amount of commercial vehicle excise tax distributed to the taxing units of Indiana from the commercial vehicle excise tax fund ~~shall be~~ **is** determined in the manner provided in this section. On or before June 1, 2000, ~~each township~~ **the** assessor ~~of a county~~ **for each township** shall deliver to the county assessor a list that states by taxing district the total assessed value as shown on the information returns filed with the assessor on or before May 15, 2000.

(d) On or before July 1, 2000, each county assessor shall certify to the county auditor the assessed value of commercial vehicles in every taxing district.

(e) On or before August 1, 2000, the county auditor shall certify the following to the department of local government finance:

(1) The total assessed value of commercial vehicles in the county.

(2) The total assessed value of commercial vehicles in each taxing district of the county.

(f) The department of local government finance shall determine each taxing unit's base revenue by applying the current tax rate for each taxing district to the certified assessed value from each taxing district. The department of local government finance shall also determine the following:

(1) The total amount of base revenue to be distributed from the commercial vehicle excise tax fund in 2001 to all taxing units in Indiana.

(2) The total amount of base revenue to be distributed from the commercial vehicle excise tax fund in 2001 to all taxing units in each county.

(3) Each county's total distribution percentage. A county's total distribution percentage ~~shall be~~ **is** determined by dividing the total amount of base revenue to be distributed in 2001 to all taxing units in the county by the total base revenue to be distributed

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statewide.

(4) Each taxing unit's distribution percentage. A taxing unit's distribution percentage ~~shall be~~ **is** determined by dividing each taxing unit's base revenue by the total amount of base revenue to be distributed in 2001 to all taxing units in the county.

(g) The department of local government finance shall certify each taxing unit's base revenue and distribution percentage for calendar year 2001 to the auditor of state on or before September 1, 2000.

(h) The auditor of state shall keep permanent records of each taxing unit's base revenue and distribution percentage for calendar year 2001 for purposes of determining the amount of money each taxing unit in Indiana is entitled to receive in calendar years that begin after December 31, 2001.

SECTION 46. IC 6-8.1-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) This subsection does not apply to the disclosure of information concerning a conviction on a tax evasion charge. Unless in accordance with a judicial order or as otherwise provided in this chapter, the department, its employees, former employees, counsel, agents, or any other person may not divulge the amount of tax paid by any taxpayer, terms of a settlement agreement executed between a taxpayer and the department, investigation records, investigation reports, or any other information disclosed by the reports filed under the provisions of the law relating to any of the listed taxes, including required information derived from a federal return, except to:

(1) members and employees of the department;

(2) the governor;

(3) the attorney general or any other legal representative of the state in any action in respect to the amount of tax due under the provisions of the law relating to any of the listed taxes; or

(4) any authorized officers of the United States;

when it is agreed that the information is to be confidential and to be used solely for official purposes.

(b) The information described in subsection (a) may be revealed upon the receipt of a certified request of any designated officer of the state tax department of any other state, district, territory, or possession of the United States when:

(1) the state, district, territory, or possession permits the exchange of like information with the taxing officials of the state; and

(2) it is agreed that the information is to be confidential and to be used solely for tax collection purposes.

(c) The information described in subsection (a) relating to a person

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on public welfare or a person who has made application for public welfare may be revealed to the director of the division of family and children, and to any county director of family and children located in Indiana, upon receipt of a written request from either director for the information. The information shall be treated as confidential by the directors. In addition, the information described in subsection (a) relating to a person who has been designated as an absent parent by the state Title IV-D agency shall be made available to the state Title IV-D agency upon request. The information shall be subject to the information safeguarding provisions of the state and federal Title IV-D programs.

(d) The name, address, Social Security number, and place of employment relating to any individual who is delinquent in paying educational loans owed to an institution of higher education may be revealed to that institution if it provides proof to the department that the individual is delinquent in paying for educational loans. This information shall be provided free of charge to approved institutions of higher learning (as defined by IC 20-12-21-3(2)). The department shall establish fees that all other institutions must pay to the department to obtain information under this subsection. However, these fees may not exceed the department's administrative costs in providing the information to the institution.

(e) The information described in subsection (a) relating to reports submitted under IC 6-6-1.1-502 concerning the number of gallons of gasoline sold by a distributor, and IC 6-6-2.5 concerning the number of gallons of special fuel sold by a supplier and the number of gallons of special fuel exported by a licensed exporter or imported by a licensed transporter may be released by the commissioner upon receipt of a written request for the information.

(f) The information described in subsection (a) may be revealed upon the receipt of a written request from the administrative head of a state agency of Indiana when:

(1) the state agency shows an official need for the information; and

(2) the administrative head of the state agency agrees that any information released will be kept confidential and will be used solely for official purposes.

(g) The name and address of retail merchants, including township, as specified in IC 6-2.5-8-1(h) may be released solely for tax collection purposes to ~~township~~ assessors **for each township**.

(h) The department shall notify the appropriate innkeepers' tax board, bureau, or commission that a taxpayer is delinquent in remitting

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innkeepers' taxes under IC 6-9.

(i) All information relating to the delinquency or evasion of the motor vehicle excise tax may be disclosed to the bureau of motor vehicles in Indiana and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.

(j) All information relating to the delinquency or evasion of commercial vehicle excise taxes payable to the bureau of motor vehicles in Indiana may be disclosed to the bureau and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

(k) All information relating to the delinquency or evasion of commercial vehicle excise taxes payable under the International Registration Plan may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

(l) This section does not apply to:

(1) the beer excise tax (IC 7.1-4-2);
(2) the liquor excise tax (IC 7.1-4-3);
(3) the wine excise tax (IC 7.1-4-4);
(4) the hard cider excise tax (IC 7.1-4-4.5);
(5) the malt excise tax (IC 7.1-4-5);
(6) the motor vehicle excise tax (IC 6-6-5);
(7) the commercial vehicle excise tax (IC 6-6-5.5); and
(8) the fees under IC 13-23.

(m) The name and business address of retail merchants within each county that sell tobacco products may be released to the division of mental health and addiction and the alcohol and tobacco commission solely for the purpose of the list prepared under ~~IC 6-2.5-6-14.~~ **IC 6-2.5-6-14.2.**

SECTION 47. IC 8-22-3-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 11.5. (a) This section applies only to an airport authority established for a county having a consolidated city.**

(b) After December 31, 2005, the fire department of the airport authority is consolidated into the fire department of the consolidated city under IC 36-3-1-6.1, and the fire department of the consolidated city shall provide fire protection services for the airport authority.

(c) Notwithstanding section 11 of this chapter, after December

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31, 2005, the law enforcement services of the airport authority are consolidated into the metropolitan law enforcement agency under IC 36-8-10.1, and the metropolitan law enforcement agency shall provide law enforcement services for the airport authority.

SECTION 48. IC 9-13-2-92 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 92. (a) "Law enforcement officer", except as provided in subsection (b), includes the following:

(1) A state police officer.
(2) A city, town, or county police officer.
(3) A sheriff.
(4) A county coroner.
(5) A conservation officer.
(6) A member of the metropolitan law enforcement agency (as defined in IC 36-8-10.1-8).

(b) "Law enforcement officer", for purposes of IC 9-30-5, IC 9-30-6, IC 9-30-7, IC 9-30-8, and IC 9-30-9, has the meaning set forth in IC 35-41-1.

SECTION 49. IC 9-22-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. The following officers may act for their respective units of government under this chapter:

(1) The sheriff, for a county **or a consolidated city**.
(2) The chief of police, for a city **other than a consolidated city**.
(3) A town marshal, for a town.
(4) A township trustee, for a township **in a county not having a consolidated city**.
(5) A state police officer, for the state.

SECTION 50. IC 10-14-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 5. (a) For purposes of this section, "member of the military or public safety officer" means an individual who is:

(1) a member of a fire department (as defined in IC 36-8-1-8);
(2) an emergency medical service provider (as defined in IC 16-41-10-1);
(3) a member of a police department (as defined in IC 36-8-1-9);
(4) a correctional officer (as defined in IC 5-10-10-1.5);
(5) a state police officer;
(6) a county police officer;
(7) a police reserve officer;
(8) a county sheriff;
(9) a deputy sheriff;

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(10) an excise police officer;
(11) a conservation enforcement officer;
(12) a town marshal;
(13) a deputy town marshal;
(14) a university policy officer appointed under IC 20-12-3.5;
(15) a probation officer;
(16) a paramedic;
(17) a volunteer firefighter (as defined in IC 36-8-12-2);
(18) an emergency medical technician or a paramedic working in a volunteer capacity;
(19) a member of the armed forces of the United States;
(20) a member of the Indiana Air National Guard; ~~or~~
(21) a member of the Indiana Army National Guard; **or**
(22) a member of the metropolitan law enforcement agency (as defined in IC 36-8-10.1-8)

(b) For purposes of this section, "dies in the line of duty" refers to a death that occurs as a direct result of personal injury or illness resulting from any action that a member of the military or public safety officer, in the member of the military's or public safety officer's official capacity, is obligated or authorized by rule, regulation, condition of employment or services, or law to perform in the course of performing the member of the military's or public safety officer's duty.

(c) If a member of the military or public safety officer dies in the line of duty, a state flag shall be presented to:
(1) the surviving spouse;
(2) the surviving children if there is no surviving spouse; or
(3) the surviving parent or parents if there is no surviving spouse and there are no surviving children.

(d) The state emergency management agency shall administer this section and may adopt rules under IC 4-22-2 to implement this section.

SECTION 51. IC 10-18-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. A township trustee **for a township in a county not having a consolidated city** may receive as public property a monument or memorial built:
(1) in the township;
(2) in honor of the township's soldiers or marines; and
(3) by the people with public donations;
if the people of the township want to give the monument or memorial to the township.

SECTION 52. IC 11-13-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 4. (a) A condition to remaining on parole is that the parolee not commit a crime during

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the period of parole.

(b) The parole board may also adopt, under IC 4-22-2, additional conditions to remaining on parole and require a parolee to satisfy one (1) or more of these conditions. These conditions must be reasonably related to the parolee's successful reintegration into the community and not unduly restrictive of a fundamental right.

(c) If a person is released on parole the parolee shall be given a written statement of the conditions of parole. Signed copies of this statement shall be:

(1) retained by the parolee;

(2) forwarded to any person charged with the parolee's supervision; and

(3) placed in the parolee's master file.

(d) The parole board may modify parole conditions if the parolee receives notice of that action and had ten (10) days after receipt of the notice to express the parolee's views on the proposed modification. This subsection does not apply to modification of parole conditions after a revocation proceeding under section 10 of this chapter.

(e) As a condition of parole, the parole board may require the parolee to reside in a particular parole area. In determining a parolee's residence requirement, the parole board shall:

(1) consider:

(A) the residence of the parolee prior to the parolee's incarceration; and

(B) the parolee's place of employment; and

(2) assign the parolee to reside in the county where the parolee resided prior to the parolee's incarceration unless assignment on this basis would be detrimental to the parolee's successful reintegration into the community.

(f) As a condition of parole, the parole board may require the parolee to:

(1) periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of tests to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9); and

(2) have the results of any test under this subsection reported to the parole board by the laboratory.

The parolee is responsible for any charges resulting from a test required under this subsection. However, a person's parole may not be revoked on the basis of the person's inability to pay for a test under this subsection.

(g) As a condition of parole, the parole board:

(1) may require a parolee who is a sex and violent offender (as

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defined in IC 5-2-12-4) to:

(A) participate in a treatment program for sex offenders approved by the parole board; and

(B) avoid contact with any person who is less than sixteen (16) years of age unless the parolee:

(i) receives the parole board's approval; or

(ii) successfully completes the treatment program referred to in clause (A); and

(2) shall:

(A) require a parolee who is an offender (as defined in IC 5-2-12-4) to register with a sheriff ~~(or the police chief of a consolidated city)~~ under IC 5-2-12-5;

(B) prohibit the offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of parole, unless the offender obtains written approval from the parole board; and

(C) prohibit a parolee who is an offender convicted of a sex offense (as defined in IC 35-38-2-2.5) from residing within one (1) mile of the victim of the offender's sex offense unless the offender obtains a waiver under IC 35-38-2-2.5.

If the parole board allows the offender to reside within one thousand (1,000) feet of school property under subdivision (2)(B), the parole board shall notify each school within one thousand (1,000) feet of the offender's residence of the order.

(h) The address of the victim of a parolee who is an offender convicted of a sex offense (as defined in IC 35-38-2-2.5) is confidential, even if the offender obtains a waiver under IC 35-38-2-2.5.

SECTION 53. IC 12-7-2-192.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 192.6. "Township" for purposes of IC 12-20 and IC 12-30-4, means a:**

(1) civil township; or

(2) township district (as defined in IC 36-6-4.1-5) for a county having a consolidated city after December 31, 2006.

SECTION 54. IC 14-21-1-13.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 13.5. (a) The division may conduct a program to survey and register in a registry of Indiana cemeteries and burial grounds that the division establishes and maintains all cemeteries and burial grounds in each county in Indiana. The division may conduct the program alone or by entering into an agreement with one (1) or more of the following entities:

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(1) The Indiana Historical Society established under IC 23-6-3.
(2) A historical society as defined in IC 20-5-17.5-1(a).
(3) The Historic Landmarks Foundation of Indiana.
(4) A professional archeologist or historian associated with a college or university.
(5) A township trustee **in a county not having a consolidated city.**
(6) Any other entity that the division selects.

(b) In conducting a program under subsection (a), the division may receive gifts and grants under terms, obligations, and liabilities that the director considers appropriate. The director shall use a gift or grant received under this subsection:
(1) to carry out subsection (a); and
(2) according to the terms of the gift or grant.

(c) At the request of the director, the auditor of state shall establish a trust fund for purposes of holding money received under subsection (b).

(d) The director shall administer a trust fund established by subsection (c). The expenses of administering the trust fund shall be paid from money in the trust fund.

(e) The treasurer of state shall invest the money in the trust fund established by subsection (c) that is not currently needed to meet the obligations of the trust fund in the same manner as other public trust funds may be invested. The treasurer of state shall deposit in the trust fund the interest that accrues from the investment of the trust fund.

(f) Money in the trust fund at the end of a state fiscal year does not revert to the state general fund.

(g) Nothing in this section may be construed to authorize violation of the confidentiality of information requirements of 16 U.S.C. 470(w) and 16 U.S.C. 470(h)(h).

(h) The division may record in each county recorder's office the location of each cemetery and burial ground located in that county.

SECTION 55. IC 15-3-4-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 0.5. (a) This section applies to a township in a county having a consolidated city.**

(b) After December 31, 2005, the duties of a township trustee under this chapter shall be transferred to the consolidated city.

SECTION 56. IC 15-3-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. (a) As used in this chapter, "detrimental plant" includes Canada thistle (cirsium arvense), Johnson grass, sorghum alumun (sorghum halrphense), bur

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cucumber (sicyos angulatus), shattercane (Sorghum bicolor [L.] Moench spp. drummondii [Steud.] deWet), and, in residential areas only, noxious weeds and rank vegetation. The term does not include agricultural crops.

(b) As used in this chapter, "person" means an individual, an incorporated or unincorporated organization or association, a trustee or legal representative, the state a political subdivision (as defined in IC 36-1-2-13), an agency of the state or a political subdivision, or a group of those persons acting in concert.

(c) As used in this chapter, "fund" means:

(1) the township fund for a township in a county not having a consolidated city; or

(2) the appropriate fund of the consolidated city for a county having a consolidated city.

(d) As used in this chapter, "township trustee" or "trustee" means:

(1) A township trustee for a township in a county not having a consolidated city; or

(2) The consolidated city for a township in a county having a consolidated city.

~~(c)~~ **(e)** A person owning or possessing real estate in Indiana shall destroy detrimental plants by cutting or mowing and, if necessary, by plowing, cultivating, or smothering, or by the use of chemicals in the bud stage of growth or earlier, to prevent those detrimental plants from maturing on any such real estate.

SECTION 57. IC 15-3-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2. (a) A township trustee who has reason to believe that detrimental plants may be on real estate may, after giving forty-eight (48) hours notice to the owner or person in possession of the property, enter the real estate to investigate.

(b) Except as provided in subsection (c), if the township trustee determines after investigating the property or by visual inspection without entering the property that a person has detrimental plants growing on real estate in ~~the~~ **a** township **that comprises all or a part of the township trustee's jurisdiction** that have not been destroyed as described in section 1 of this chapter, the ~~trustee of the township in which the real estate is located~~ **township trustee** shall notify, in writing, the owner or person in possession of the real estate to destroy the detrimental plants in a manner provided in section 1 of this chapter within five (5) days after the notice is given. If the detrimental plants are not destroyed as provided in section 1 of this chapter within five (5) days after notice is given, the trustee shall cause the detrimental plants

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to be destroyed in a manner seeming most practical to the trustee within three (3) additional days. The trustee may hire a person to destroy the detrimental plants. The trustee or the person employed to destroy the detrimental plants may enter upon the real estate where the detrimental plants are growing to destroy the detrimental plants, and are not civilly or criminally liable for damage to crops, livestock, or other property occurring while carrying out such work, except for gross negligence or willful or wanton destruction.

(c) If the county has established a county weed control board under IC 15-3-4.6 the township trustee may notify the county weed control board of the real estate containing detrimental plants, and the board shall either assume jurisdiction to control the detrimental plants or decline jurisdiction and refer the matter back to the township trustee. The county weed control board shall notify the township trustee of the board's decision.

(d) Notice required in subsection (a) or (b) may be given:

(1) by mail, using certified mail; or

(2) by personal service.

(e) Notice under subsection (d) is considered received by the owner or person in possession of the real estate:

(1) if sent by mail, on the earlier of:

(A) the date of signature of receipt of the mailing; or

(B) three (3) business days after the date of mailing; or

(2) if served personally, on the date of delivery.

SECTION 58. IC 15-3-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 3. (a) The township trustee may pay for the chemicals, work, and labor performed in cutting or destroying detrimental plants under this chapter at a rate per hour to be fixed by the township trustee commensurate with local hourly wages.

(b) In all cases in which the infestation of the land with detrimental plants is so great and widespread as in the opinion of the trustee to render such cutting or eradication by hand methods impractical, the trustee shall engage the necessary power machinery or equipment and may pay for the work at a rate per hour fixed by the township trustee commensurate with the local hourly rate.

(c) When the work has been performed, the person doing the work shall file an itemized bill for the work ~~in the office of~~ **with** the trustee ~~of the township~~, and when the bill has been approved the trustee shall pay the bill out of the ~~township~~ fund. The trustee of the township shall certify the cost or expense of the work, and the cost of the chemicals, adding to such bill twenty dollars ($20) per day for each day that the

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trustee or the trustee's agent supervises the performance of the services required under this chapter as compensation for services, with a description of the real estate on which the labor was performed.

(d) The certified statement of costs prepared under subsection (c) shall be mailed using certificate of mailing to, or personally served on, the owner or person possessing the real estate. The certified statement shall be mailed to the auditor of state for any real estate owned by the state or to the fiscal officer of another municipality (as defined in IC 5-11-1-16) for real estate owned by the municipality. The statement shall request that the person pay the cost of performing the service under subsection (c) to the township trustee.

(e) If the owner or person in possession of the property does not pay the amount set forth in the statement within ten (10) days after receiving the notice under subsection (d), the township trustee shall file a copy of the certified statement in the office of the county auditor of the county where the real estate is located **or, if the township is in a county having a consolidated city, the office of the city controller.**

(f) The auditor **or the city controller** shall place the amount claimed in the certified statement on the tax duplicate of the real estate. Except as provided in subsections (j) through (l), the amount claimed shall be collected as taxes are collected.

(g) After an amount described in subsection (f) is collected, the funds shall be deposited in the ~~trustee's township funds~~ **fund** for use at the discretion of the trustee.

(h) If there is no money available in **a** ~~the township~~ fund for that purpose, ~~the township board~~ upon finding an emergency exists:

(1) the township legislative body shall act under IC 36-6-6-14(b) or IC 36-6-6-15; **or**

(2) a consolidated city shall act under IC 36-3-4;

to borrow a sum of money sufficient to meet the emergency.

(i) The trustee, when submitting estimates to the ~~township board~~ **legislative body** for action, shall include in the estimates an item sufficient to cover those expenditures.

(j) This subsection applies to real estate owned by the state. The auditor of state shall issue a warrant to pay the amount set forth in the certified statement of costs for real estate owned by the state and shall charge the appropriate fund for the amount.

(k) This subsection applies to real estate owned by a municipality (as defined in IC 5-11-1-16) other than the township **or a consolidated city.** The fiscal officer of the municipality shall make the necessary appropriation from the appropriate fund to pay the township the amount set forth in the certified statement of costs for real estate owned

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by the municipality.

(l) This subsection applies to real estate that is exempt from property taxation. The owner of the tax exempt real estate shall pay the amount set forth in the certified statement of costs for the tax exempt real estate. If the owner of the tax exempt real estate fails to pay the amount required by this chapter, the owner is ineligible for the property tax exemption and the department of local government finance shall deny the property tax exemption for the real estate.

SECTION 59. IC 15-3-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 4. Except as provided in section 3 of this chapter, the county auditor **or, if a township is in a county having a consolidated city, the city controller**, upon receiving and filing such trustee's certificate as prescribed in this chapter, shall immediately place said amounts on the tax duplicate of the county and such amounts shall be due at the next tax paying time, and shall be collected for the proper township, ~~or~~ townships, **or consolidated city,** the same as other state, county, or township taxes are collected, including penalties, forfeitures, and sales, and when so collected shall be paid to the proper trustee and placed in the ~~township~~ fund.

SECTION 60. IC 15-3-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 5. (a) A person who:

(1) knowingly allows detrimental plants to grow and mature on land owned or possessed by the person;

(2) knowing of the existence of detrimental plants on land owned or possessed by the person, fails to cut them down or eradicate them by chemicals each year, as prescribed in this chapter;

(3) having charge of or control over any highway, knowingly allows detrimental plants to grow or mature on the right-of-way of the highway, or, knowing of the existence of the detrimental plants fails to cut them down or eradicate them by chemicals, as prescribed in this chapter;

(4) having charge of or control over the right-of-way of a railroad or interurban company, knowingly allows detrimental plants to grow and mature thereon, or knowing of the existence of the detrimental plants, fails to cut them down or eradicate them by chemicals, as prescribed in this chapter; or

(5) knowingly sells Canada thistle (cirsium arvense) seed;

commits a Class C infraction. Each day this section is violated constitutes a separate infraction.

(b) All judgments collected under this section shall be paid to the

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trustee and placed in the ~~trustee's township funds~~ **fund** for use at the discretion of the trustee **or the consolidated city.**

SECTION 61. IC 15-3-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 7. When the annual budget is prepared, a sufficient amount shall be appropriated to enable the township ~~officials~~ **trustee** to comply with this chapter.

SECTION 62. IC 15-3-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 8. (a) The Purdue University cooperative extension service shall provide technical assistance to township trustees for the control of detrimental plants.

(b) All law enforcement agencies having jurisdiction in a township **or a consolidated city** shall assist the township trustee in carrying out the duties imposed on the trustee under this chapter.

SECTION 63. IC 15-3-4.6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 3. The weed control board consists of the following members to be appointed by the authorizing body:

(1) One (1) **member appointed as follows:**

(A) In a county not having a consolidated city, a township trustee of **a township in** the county.

(B) In a county having a consolidated city, the director of the department of the consolidated city that is responsible for the destruction of detrimental plants described in this chapter or the director's designee.

(2) One (1) soil and water conservation district supervisor.

(3) A representative from the agricultural community of the county.

(4) A representative from the county highway department or an appointee of the county commissioners. ~~and~~

(5) A cooperative extension service agent from the county to serve in non-voting advisory capacity.

Each board member shall be appointed for a term of four (4) years. All vacancies in the membership of the board shall be filled for the unexpired term in the same manner as initial appointments. The board shall elect a chairman, and a secretary. The members of the board are not entitled to receive any compensation, but are entitled to such traveling and other expenses as may be necessary in the discharge of their duties. The board may appoint an executive director and employ necessary technical, professional, and other assistants and it shall fix the qualifications, duties, and salaries of these employees subject to the permission of the county council. The county highway supervisor and the soil and water conservation district supervisor or employee serving

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the county shall serve as inspectors for the board. They shall make periodic inspections and report their findings to the board and the executive director, if any.

SECTION 64. IC 15-3-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. The Indiana department of transportation, railroads, drainage districts, township boards, **except township boards of townships in a county having a consolidated city**, public utilities, and other public and quasi-public corporations shall, between July 1 and September 15, do anything possible to restrict the growth and seed production of all Johnson grass growing on lands for which they are responsible in a municipality or township of this state.

SECTION 65. IC 15-5-9-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 0.5. As used in this chapter, "assessor" means:**

(1) for a township located in a county not having a consolidated city:

(A) the township assessor elected under IC 36-6-5-1; or

(B) the township trustee who is required by law to act as the assessor for the township the trustee serves; or

(2) for a township located in a county having a consolidated city, the controller of the consolidated city or the controller's designee.

SECTION 66. IC 15-5-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) The ~~township~~ assessor shall make a diligent census as to the number of dogs owned, harbored, or kept by any person. A person owning or harboring a dog shall pay immediately to the ~~township~~ assessor a tax for each dog owned, harbored, or kept on the same premises, whether owned by that person or some other person, as follows:

(1) Except as provided in subsection (d), for each neutered dog, two dollars ($2).

(2) For each nonneutered dog, four dollars ($4).

(3) For each additional dog, six dollars ($6).

No dog under six (6) months of age is subject to any tax under this chapter. Whoever becomes the owner or harborer of a dog after the dog census by the township assessor or any owner or harborer of a dog for which for any reason the assessor failed to collect the tax, shall, within thirty (30) days after becoming the owner or harborer of a dog, apply to the assessor, or the assessor's designee pay the required fee, and procure a tag for the dog.

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(b) Dogs kept in kennels for breeding, boarding, or training purposes or for sale shall not be assessed an individual license fee, but the owner or keeper shall pay a kennel license fee according to the following schedule:

(1) For a major kennel, consisting of fifteen (15) or more dogs, a fee of thirty dollars ($30).

(2) For a minor kennel, consisting of less than fifteen (15) dogs, a fee of twenty dollars ($20).

For each individual dog tag or kennel license issued under this chapter, the ~~township~~ assessor ~~(or trustee who collects the fee)~~ shall retain from the fee described in this section, an administrative fee of fifty cents ($0.50). Administrative fees collected by ~~the~~ **an** assessor **other than a township trustee** shall be deposited in the county general fund, and administrative fees collected by ~~the~~ **a township** trustee shall be deposited in the township general fund.

(c) Upon the payment of the license fee required by subsection (b), the ~~township~~ assessor shall deliver to the owner or keeper of the kennel a proper license together with a metallic tag for each dog in such kennel. The license shall be dated and numbered and shall bear the name of the county issuing it and the name and address of the owner of the kennel licensed, and a description of the breed, number, sex, and age of the dogs kept in such kennel. Any person becoming the owner of a dog kennel shall, within thirty (30) days after becoming the owner, apply to the ~~township~~ assessor, township trustee, or assessor's designee and, upon payment of the required fee, procure a license and a metallic tag for all dogs kept in the kennel.

(d) A county council may increase the tax on neutered dogs imposed under subsection (a) from two dollars ($2) to three dollars ($3).

(e) ~~A township~~ **An** assessor ~~(or a township trustee who has the duties of a township assessor)~~ may designate one (1) or more licensed veterinarians or humane societies in the assessor's township **or county, as the case may be,** to collect the dog taxes and kennel license fees and issue the licenses under this chapter. A designee may retain seventy-five cents ($0.75) as a fee for that service and remit the balance of the money collected to the ~~township trustee~~ **assessor who designated the designee** by the tenth day of each month. As used in this subsection, "humane society" includes an animal shelter, animal control center, or other animal impounding facility that has as its purpose the humane treatment of animals.

SECTION 67. IC 15-5-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 2. (a) The ~~township~~ assessor shall give to each person a receipt for the money

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paid the assessor, which ~~shall be~~ **is** designated for dog tax. The receipt shall show the person's name who owns, harbors, or keeps the dog, the amount paid, and the number, description, and kind of dogs paid for, whether male or female, and the number of each. The receipt relieves the person owning, keeping, or harboring dogs for the current year, extending one (1) year from its date. The assessor shall keep a record of persons owning dogs subject to taxation and a record of the dogs paid for. The assessor shall keep a stub record or copy of the receipts given for money paid as dog tax. The stub record shall show the amount paid, the number of dogs, both male and female, paid for, and the person's name owning the dogs paid for. At the time when the receipt is issued to the person, the assessor shall give to the person a tag, which shall be attached to the collar worn by the dog.

(b) Before July 1 each year, the ~~township~~ assessor**, except an assessor in a county having a consolidated city,** shall turn over to the township trustee all the records kept by the assessor relating to the collecting and payment of dog taxes and kennel license fees, and a copy of all receipts given by the assessor to persons having paid dog taxes and kennel license fees, and all money received by the assessor as dog taxes, and all tags left in the assessor's possession. The assessor shall assess against each person who failed to pay to the assessor the amount of any license fee owed by the person, and the amount of the license fees shall be placed upon the tax duplicate by the county auditor and collected as taxes are collected.

(c) From July 1 each year until March 1 of the next year, the ~~township trustee~~ **assessor** shall receive any license fees subject to be paid under this chapter and issue any licenses under this chapter that may be received or issued by the ~~township~~ assessor under this chapter.

SECTION 68. IC 15-5-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. **This section does not apply to a township in a county having a consolidated city or to a consolidated city.** The ~~township~~ assessor shall, before July 1 each year, report the amount collected as dog tax and kennel license fees to the county auditor. The dog taxes and kennel license fees collected by ~~the~~ **a township** assessor shall be turned over by the **township** assessor to the township trustee of the **township** assessor's township. The county auditor shall make a record of the same, and charge the amount stated in the report against the township trustee as receipts from the county dog fund.

SECTION 69. IC 15-5-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4. (a) Each ~~township~~ assessor shall perform the duties imposed by this chapter. If

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a dog owner has failed to turn in a dog for taxation purposes, the assessor shall notify the owner that the assessor is listing the unpaid taxes within a period of ten (10) days, at which time the person will be assessed double the amount of taxes provided by this chapter unless the person owning the dog appears voluntarily within the ten (10) days and:

(1) proves to the satisfaction of the assessor that the person owned no such dog at the time the census was made; or

(2) makes an affidavit to be kept on file by the assessor to the effect that the failure to report a dog for taxation was not intentional and was not purposely omitted for the purpose of avoiding payment of taxes.

(b) Each assessor shall keep a complete list of all dogs subject to the tax under this chapter together with the names of their owners on record in the assessor's office at all times and available to the public. If any person shall acquire, own, harbor, or keep any dog after the assessor has completed the census, the person shall report the dog to and pay to the assessor the amount of dog tax as provided in this chapter and receive a receipt and tag for the payment. The receipt and tag exempts the person from further payment of dog tax on dogs described in the receipt for one (1) year from the date of the receipt.

SECTION 70. IC 15-5-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5. ~~A township~~ **An** assessor **or** assessor's designee ~~or township trustee~~ who:

(1) fails to perform the duties imposed by this chapter; or

(2) fails to make a complete report within the time specified in this chapter;

commits a Class C infraction.

SECTION 71. IC 15-5-9-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 6. Every person liable to taxation in any township and residing in the township when listed for taxation shall make and subscribe to an oath to the ~~township~~ assessor in which the person states the number of dogs neutered or unneutered over the age of six (6) months and owned or harbored by the person.

SECTION 72. IC 15-5-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 8. (a) All money derived by the taxing of dogs under this chapter shall constitute a fund known as the township dog fund **or, in the case of a township located in a county having a consolidated city, the county dog fund** that the township trustee **or, in the case of a township located in a county having a consolidated city, the controller of the consolidated city,**

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shall use in the manner provided in this chapter for the payment of the following:

(1) Damages, less insurance proceeds, sustained by owners of the following stock, fowl, or game killed, maimed, or damaged by dogs:

(A) Sheep.
(B) Cattle.
(C) Horses.
(D) Swine.
(E) Goats.
(F) Mules.
(G) Chickens.
(H) Geese.
(I) Turkeys.
(J) Ducks.
(K) Guineas.
(L) Tame rabbits.
(M) Game birds and game animals held in captivity under authority of a game breeder's license issued by the department of natural resources.
(N) Bison.
(O) Farm raised cervidae.
(P) Ratitae.

(2) The expense of taking the Pasteur treatment for hydrophobia incurred by any person bitten by or exposed to a dog known to have hydrophobia. ~~within any township of Indiana.~~

(b) Any person requiring the treatment described in subsection (a)(2) may select the person's own physician.

(c) No damages shall be assessed or paid under this chapter on sheep except where individual damage exists or is shown.

(d) This subsection applies to a county whose legislative body has acted under this subsection. A county legislative body may designate by ordinance one (1) humane society located in that county to receive fifty cents ($0.50) from each dog tax payment collected under this chapter.

(e) A humane society designated under subsection (d) shall use the funds disbursed to the society to maintain an animal shelter.

(f) If a county does not designate a humane society to receive payments under subsection (d), those amounts remain in the township dog fund **or, in the case of a county having a consolidated city, the county dog fund.**

SECTION 73. IC 15-5-9-9.1 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 9.1. (a) ~~In order~~ To qualify for payment for damages by a township trustee **or, in the case of a township located in a county having a consolidated city, the controller of the consolidated city** under this chapter, the owner of stock, fowl, or game listed in section 8(a)(1) of this chapter killed, maimed, or damaged by dogs shall do the following:

(1) Not more than seventy-two (72) hours after the time of the loss, notify one (1) of the following having jurisdiction in the location where the loss occurred:

(A) A law enforcement officer.

(B) An officer of a county or municipal animal control center, shelter, or similar impounding facility.

(2) Within twenty (20) days from the time of the loss, report the loss to the trustee ~~of his township~~ **of the owner's township or, in a township located in a county having a consolidated city, to the controller of the consolidated city** as follows:

(A) Under oath, the owner shall state:

(i) the number, age, and value of the stock, fowl, or game; and

(ii) the damages, less any insurance proceeds, sustained.

(B) In an affidavit, the owner must be joined by two (2) disinterested and reputable freeholders residing in the township in which the stock, fowl, or game were killed, maimed, or damaged. The affidavit must state that the freeholders are:

(i) disinterested; and

(ii) not related by blood or marriage to the claimant.

(C) No appraisement may exceed the actual cash value of the stock, fowl, or game. As it applies to ratitae, cash value is no more than the slaughter value.

(D) The owner shall provide verification of the loss by an officer under subdivision (1).

(E) No loss shall be paid for property owned by a claimant on the last property tax assessment date if the property was not reported by the owner for assessment purposes at that time.

(b) An officer who receives notice under subsection (a)(1) shall visit the scene of the loss, verify the loss in writing, and mark the animal so that the animal can support only one (1) claim under this chapter.

SECTION 74. IC 15-5-9-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 10. (a) The ~~trustees~~ **township trustee or the controller of the consolidated city** shall register and pay damages for all losses in the order in which the

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losses are reported.

(b) A person may not receive payment from the trustee **or the controller of the consolidated city** for stock, fowl, or game listed in section 8(a)(1) of this chapter:

(1) that are killed, maimed, or damaged by any dog or dogs owned or harbored by that person;

(2) for which the person received from another person an amount equal to the actual damages; or

(3) for which the owner has not complied with section 9.1 of this chapter.

(c) When rabies shall develop in any stock, fowl, or game listed in section 8(a)(1) of this chapter, however contracted, and when the existence of such disease ~~shall be~~ **is** proven by:

(1) laboratory diagnosis, made in the laboratory of the state department of health, or some other laboratory maintained by state, county, or municipal funds; or

(2) affidavit of an attending legally qualified graduate veterinarian;

the owner of such animal with rabies ~~shall be~~ **is** entitled to recover in the same amount and manner as provided in sections 8 and 9.1 of this chapter.

(d) Whenever any dog not accompanied by the dog's owner or owner's agent is suspected of having rabies and found roaming at large, and the dog dies or is destroyed on said account, the **township** trustee **or controller of the consolidated city** shall do the following:

(1) Remove or have removed the head of the dog.

(2) Pay from the township dog fund **or, in the case of a township located in a county having a consolidated city, the county dog fund,** the following:

(A) A reasonable fee for the removal of the dog's head.

(B) All charges for transporting the head to a laboratory maintained by state, county, or municipal funds. If no money is available in the **appropriate** dog fund, ~~of the township,~~ then such necessary fees ~~shall be~~ **are** paid out of the township **general** fund **or, in the case of a township located in a county having a consolidated city, the county general fund,** without appropriations having been made.

(e) On the first Monday of March of each year, the township shall transfer the following to the county treasurer:

(1) Any funds in a township dog fund designated for a humane society under section 8 of this chapter.

(2) Any amount in a township dog fund exceeding three hundred

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dollars ($300) over and above orders drawn on the fund.

(f) The funds transferred to the county treasurer under subsection (e) ~~shall be~~ **are** deposited in the county dog fund. On the second Monday in March of each year, the money in the county dog fund ~~shall be~~ **is** distributed as follows:

(1) **Except for a township located in a county having a consolidated city,** among the townships of the county in which the orders drawn against the dog fund exceed the money on hand.

(2) To a humane society designated under section 8 of this chapter.

(g) If the funds in the county dog fund, after any distribution to a designated humane society, are insufficient to pay for all stock, fowl, or game listed in section 8(a)(1) of this chapter that are killed, maimed, or damaged by dogs ~~of all the townships~~ in the county, the distribution ~~shall be~~ **is** made**, except in a township located in a county having a consolidated city,** in the ratio of the orders drawn against the dog fund of the townships and unpaid and unprovided for. The ratio ~~shall be~~ **is** obtained from the report of the trustees of the townships made to the auditor of the county.

(h) The report under subsection (g) ~~shall be~~ **is** made by each township trustee of the county upon the first Monday of March of each year and must show the following:

(1) All receipts into the dog fund of the township.

(2) All orders drawn against the township fund in the order in which the orders were drawn.

(i) If the funds in the dog fund of any township and the share of the county dog fund distributed to such township during any year **or, in the case of a township located in a county having a consolidated city, the county dog fund,** are insufficient to pay for all stock, fowl, and game listed in section 8(a)(1) of this chapter that are killed, maimed, or damaged by dogs in such township **or county, as the case may be,** during such year, any such losses registered and any orders drawn which are unpaid and unprovided for ~~shall be~~ **are** paid out of the state dog account.

(j) If upon the first Monday in May of any year there is a surplus left of the county dog fund after provisions have been made for the payment of all stock, fowl, and game listed in section 8(a)(1) of this chapter that are killed, maimed, or damaged by dogs of all the townships of the county and the distribution to any designated humane society, the surplus ~~shall be:~~ **is:**

(1) paid to the auditor of state; and

(2) placed in a separate account of the general fund of the state

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treasury known as the state dog account.

SECTION 75. IC 15-5-9-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 11. On or before the first day of May of each year, the trustee of each township shall make a report in writing, to the county auditor, of the amount of all claims in ~~his~~ **the trustee's** township for livestock, fowls, or game which have been destroyed or damaged by dogs, and which claims have been filed before March 9, 1937, or which may be filed thereafter but have not been paid for lack of funds. On or before the second Monday in May of each year, the auditor of each county, **or in a county having a consolidated city, the controller of the consolidated city,** shall make a report, in writing, to the auditor of state, in such form as the auditor of state shall prescribe, of the amount of all such claims in ~~his~~ **the** county which have been filed and which have not been paid for lack of funds, and on or before the second Monday in July, the auditor of state shall issue ~~his~~ **the auditor's** warrant, payable to the auditor of each such county **or, in a county having a consolidated city, the controller of the consolidated city,** for the amount of the unpaid claims. The warrant ~~shall be~~ **is** drawn on the state dog account. Upon the receipt of the money, the auditor of the county **or, in a county having a consolidated city, the controller of the consolidated city,** shall distribute the funds to the respective townships of ~~his~~ **the** county entitled thereto **or, in the case of a county having a consolidated city, to the appropriate fund of the consolidated city**, and the trustee of the township **or controller of a consolidated city** shall pay all unpaid claims of ~~his~~ **the** township **or county** in the order in which the claims were filed. If in any year there is not sufficient money in the state dog account to pay all of the claims, the auditor of state shall make such distribution, as near as practicable, in proportion to the aggregate value of livestock, fowls, or game for the destruction of which or the damage to which claims have been filed in the respective counties, and the county auditor**, except in a county having a consolidated city,** shall distribute the money so received to the several townships in the same proportion. All money in excess of fifty thousand dollars ($50,000) remaining in the state dog account, after such annual distribution shall have been made as hereinbefore provided, ~~shall be~~ **is** distributed by the auditor of state in the manner following:

~~(a)~~ **(1)** One-half (1/2) of such excess or one hundred thousand dollars ($100,000) of such excess, whichever sum is the lesser, ~~shall be~~ **is** distributed to Purdue University for the School of Veterinary Science and Medicine to be used solely for canine

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disease research.

~~(b)~~ **(2)** The balance remaining of such excess, after the distribution to Purdue University is made as hereinbefore provided, ~~shall be~~ **is** distributed to the general fund of each county in direct proportion to the total amount of money paid into the dog account on the second Monday in May by the county prior to the distribution.

Of the funds returned to the respective counties the county may, with the approval of the county commissioners and the county council, construct dog pounds within said counties.

SECTION 76. IC 15-5-9-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 12. (a) At the time when the dog kennel license fee is paid to the ~~township~~ assessor, the assessor, at the time when the assessor issues a receipt, shall likewise furnish to the person a metal tag. The metal tag furnished shall be attached securely to the collar of the dog for which the license fee has been paid and the collar, with the tag attached, shall be worn continuously by the dog.

(b) All license tags shall be of uniform design or color for any one (1) year, but the same color or shape shall not be used for any two (2) consecutive years. All tags shall be designed by the auditor of state, shall be paid for out of the state dog account, and shall be manufactured at the state prison in the same manner as motor vehicle registration plates. Each tag shall have a distinct number and the number of the tag shall appear on the receipt issued to the owner of the dog.

(c) If any dog tag is lost, it shall be replaced without cost by the assessor upon application by the owner of the dog and upon the production of the receipt and a sworn statement of the facts regarding the loss of the tag. No license tag is transferable to another dog.

SECTION 77. IC 23-14-33-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 7.5. "Cemetery fund" means the:**

(1) township fund for a township in a county not having a consolidated city; or

(2) cemetery fund of the consolidated city for a township in a county having a consolidated city.

SECTION 78. IC 23-14-33-32.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 32.5. "Township" means:**

(1) a township in a county not having a consolidated city; or

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(2) the consolidated city for a township in a county having a consolidated city.

SECTION 79. IC 23-14-33-32.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 32.6. "Township trustee" or "trustee" means:**

(1) a township trustee for a township in a county not having a consolidated city; or

(2) the consolidated city for a township in a county having a consolidated city.

SECTION 80. IC 23-14-64-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 4. All expenses incurred by the trustee in administering this chapter shall be paid out of the ~~township~~ **cemetery** fund of the township.

SECTION 81. IC 23-14-68-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 4. (a) The township shall appropriate enough money to provide for the care, repair, and maintenance of each cemetery described in section 1(a) of this chapter that is located within the township. Funds shall be appropriated under this subsection in the same manner as other ~~township~~ appropriations.

(b) The township may levy a ~~township~~ cemetery tax to create a fund for maintenance of cemeteries under this chapter. If a fund has not been provided for maintenance of cemeteries under this chapter, part of the township fund **or other funds of the township** may be used.

SECTION 82. IC 23-14-69-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 5. (a) If:

(1) no land suitable for a public cemetery is donated to a township; and

(2) ~~if~~ the township legislative body adopts a resolution approving the purchase;

the township ~~executive~~ may purchase land for the purpose of establishing a public cemetery.

(b) When land is purchased and conveyed to the township under subsection (a), the land must be set apart, kept in repair, and used as provided in section 6 of this chapter.

SECTION 83. IC 23-14-69-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 9. All expenses incurred by the township trustee for administering this chapter shall be paid out of the ~~township~~ **cemetery** fund of the township.

SECTION 84. IC 27-10-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 12. (a) If a

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defendant does not appear as provided in the bond:

(1) the court shall:

(A) issue a warrant for the defendant's arrest; and

(B) order the bail agent and the surety to surrender the defendant to the court immediately;

(2) the clerk shall mail notice of the order to both:

(A) the bail agent; and

(B) the surety;

at each of the addresses indicated in the bonds; and

(3) if the defendant later is arrested or otherwise appears:

(A) the court shall order that the surety be released from the bond; and

(B) after the court issues an order under clause (A), the surety's original undertaking shall be reinstated if the surety files a written request for the reinstatement of the undertaking with the court.

This subsection may not be construed to prevent a court from revoking or resetting bail.

(b) The bail agent or surety must:

(1) produce the defendant; or

(2) prove within three hundred sixty-five (365) days:

(A) that the appearance of the defendant was prevented:

(i) by the defendant's illness or death;

(ii) because the defendant was at the scheduled time of appearance or currently is in the custody of the United States, a state, or a political subdivision of the United States or a state; or

(iii) because the required notice was not given; and

(B) the defendant's absence was not with the consent or connivance of the sureties.

(c) If the bail agent or surety does not comply with the terms of subsection (b) within one hundred twenty (120) days after the mailing of the notice required under subsection (a)(2), a late surrender fee shall be assessed against the bail agent or surety as follows:

(1) If compliance occurs more than one hundred twenty (120) days but not more than one hundred eighty (180) days after the mailing of notice, the late surrender fee is twenty percent (20%) of the face value of the bond.

(2) If compliance occurs more than one hundred eighty (180) days but not more than two hundred ten (210) days after the mailing of notice, the late surrender fee is thirty percent (30%) of the face value of the bond.

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(3) If compliance occurs more than two hundred ten (210) days but not more than two hundred forty (240) days after the mailing of notice, the late surrender fee is fifty percent (50%) of the face value of the bond.

(4) If compliance occurs more than two hundred forty (240) days but not more than three hundred sixty-five (365) days after the mailing of notice, the late surrender fee is eighty percent (80%) of the face value of the bond.

(5) If the bail agent or surety does not comply with the terms of subsection (b) within three hundred sixty-five (365) days of the mailing of notice required under subsection (a)(2), the late surrender fee is eighty percent (80%) of the face value of the bond.

All late surrender fees are due as of the date of compliance with subsection (b) or three hundred sixty-five (365) days after the mailing of notice required under subsection (a)(2), whichever is earlier, and shall be paid by the surety when due. If the surety fails to pay, then the late surrender fees shall be paid by the commissioner as provided in subsection (f).

(d) If the bail agent or surety does not comply with the terms of subsection (b) within three hundred sixty-five (365) days of the mailing of notice required by subsection (a)(2), the court shall declare forfeited an amount equal to twenty percent (20%) of the face value of the bond. The court shall immediately enter judgment on the forfeiture, without pleadings and without change of judge or change of venue, and assess against the bail agent or surety all actual costs resulting from the defendant's failure to appear. These costs include jury fees, witness fees, and any other documented costs incurred by the court.

(e) Proceedings relative to the bond, forfeiture of a bond, judgment on the forfeiture, execution of judgment, or stay of proceedings shall be in the court in which the bond was posted. Costs and late surrender fee assessed against a bail agent or surety under subsection (c) shall be satisfied without further order of the court as provided in subsection (f). The court may waive the late surrender fee or extend the period for payment beyond the statutorily permitted period, or both, if the following conditions are met:

(1) A written request is filed with the court and the prosecutor.

(2) The surety or bail agent provides evidence satisfactory to the court that diligent efforts were made to locate the defendant.

(f) In the case of an insurer, if the fees, costs, or judgment is not paid, then the clerk shall mail the notice to the commissioner. The commissioner shall:

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(1) within ten (10) days of receipt of the notice forward a copy by certified mail to the insurer;

(2) forty-five (45) days after receipt of the notice from the clerk, if the commissioner has not been notified by the clerk that the fees or judgment or both have been paid, pay the late surrender fee assessment, costs, and any judgment of forfeiture ordered by the court from funds the insurer has on deposit with the department of insurance;

(3) upon paying the assessment, costs, and judgment, if any, from funds on deposit, immediately revoke the license of the insurer, if the satisfaction causes the deposit remaining to be less than the amount required by this article; and

(4) within ten (10) days after revoking a license, notify the insurer and the insurer's agents and the clerk of each county in Indiana of the revocation and the insurer shall be prohibited from conducting a bail bond business in Indiana until the deposit has been replenished.

(g) The notice mailed by the clerk to the commissioner pursuant to the terms of subsection (f) shall include:

(1) the date on which the defendant originally failed to appear as provided in the bond;

(2) the date of compliance with subsection (b), if compliance was achieved within three hundred sixty-five (365) days after the mailing of the notice required by subsection (a)(2);

(3) the amount of the bond;

(4) the dollar amount of the late surrender fee due;

(5) the amount of costs resulting from the defendant's failure to appear; and

(6) if applicable, the dollar amount of the judgment of forfeiture entered by the court.

(h) Any surety on a bond may appeal to the court of appeals as in other civil cases without moving for a new trial, and on the appeal the evidence, if any, shall be reviewed.

(i) Fifty percent (50%) of the late surrender fees collected under this chapter shall be deposited in the police pension trust fund ~~established~~ under IC 36-8-10-12 **or IC 36-8-10.1-37** and the remaining fifty percent (50%) shall be deposited in the county extradition fund established under IC 35-33-14.

SECTION 85. IC 31-37-19-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 5. (a) This section applies if a child is a delinquent child under IC 31-37-1.

(b) The juvenile court may, in addition to an order under section 6

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of this chapter, enter at least one (1) of the following dispositional decrees:

(1) Order supervision of the child by:

(A) the probation department; or

(B) the county office of family and children.

As a condition of probation under this subdivision, the juvenile court shall after a determination under IC 5-2-12-4 require a child who is adjudicated a delinquent child for an act that would be an offense described in IC 5-2-12-4 if committed by an adult to register with the sheriff ~~(or the police chief of a consolidated city)~~ under IC 5-2-12.

(2) Order the child to receive outpatient treatment:

(A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or

(B) from an individual practitioner.

(3) Order the child to surrender the child's driver's license to the court for a specified period of time.

(4) Order the child to pay restitution if the victim provides reasonable evidence of the victim's loss, which the child may challenge at the dispositional hearing.

(5) Partially or completely emancipate the child under section 27 of this chapter.

(6) Order the child to attend an alcohol and drug services program established under IC 12-23-14.

(7) Order the child to perform community restitution or service for a specified period of time.

(8) Order wardship of the child as provided in section 9 of this chapter.

SECTION 86. IC 32-21-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 13. (a) If the auditor of the county or the ~~township~~ assessor **for a township** under IC 6-1.1-5-9 and IC 6-1.1-5-9.1 determines it necessary, an instrument transferring fee simple title to less than the whole of a tract that will result in the division of the tract into at least two (2) parcels for property tax purposes may not be recorded unless the auditor or township assessor is furnished a drawing or other reliable evidence of the following:

(1) The number of acres in each new tax parcel being created.

(2) The existence or absence of improvements on each new tax parcel being created.

(3) The location within the original tract of each new tax parcel being created.

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(b) Any instrument that is accepted for recording and placed of record that bears the endorsement required by IC 36-2-11-14 is presumed to comply with this section.

SECTION 87. IC 32-26-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2. (a) The trustee of each township, the county highway superintendent, the Indiana department of transportation, or other officer in control of the maintenance of a highway shall between January 1 and April 1 of each year, examine all hedges, live fences, natural growths along highways, and other obstructions described in section 1 of this chapter in their respective jurisdictions. **However, in a county having a consolidated city, the duties and obligations of a township trustee under this chapter are the responsibility of the consolidated city.** If there are hedges, live fences, other growths, or obstructions along the highways that have not been cut, trimmed down, and maintained in accordance with this chapter, the owner shall be given written notice to cut or trim the hedge or live fence and to burn the brush trimmed from the hedge or live fence and remove any other obstructions or growths.

(b) The notice required under subsection (a) must be served by reading the notice to the owner or by leaving a copy of the notice at the owner's usual place of residence.

(c) If the owner is not a resident of the township, county, or state where the hedge, live fence, or other obstructions or growth is located, the notice shall be served upon the owner's agent or tenant residing in the township, **county, or state.** If an agent or a tenant of the owner does not reside in the township, the notice shall be served by mailing a copy of the notice to the owner, directed to the owner's last known post office address.

(d) If the owner, agents, or tenants do not proceed to cut and trim the fences and burn the brush trimmed from the fences or remove any obstructions or growths within ten (10) days after notice is served, the township trustee, **consolidated city,** county highway superintendent, or Indiana department of transportation shall immediately:

(1) cause the fences to be cut and trimmed or obstructions or growths removed in accordance with this chapter; and

(2) burn the brush trimmed from the fences.

All expenses incurred under this subsection shall be assessed against and become a lien upon the land in the same manner as road taxes.

(e) The township trustee, **consolidated city,** county highway superintendent, or Indiana department of transportation having charge of the work performed under subsection (d) shall prepare an itemized statement of the total cost of the work of removing the obstructions or

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growths and shall sign and certify the statement to the county auditor of the county in which the land is located. The county auditor shall place the statement on the tax duplicates. The county treasurer shall collect the costs entered on the duplicates at the same time and in the same manner as road taxes are collected. The treasurer may not issue a receipt for road taxes unless the costs entered on the duplicates are paid in full at the same time the road taxes are paid. If the costs are not paid when due, the costs shall become delinquent, bear the same interest, be subject to the same penalties, and be collected at the same time and in the same manner as other unpaid and delinquent taxes.

SECTION 88. IC 32-26-9-0.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 0.6. As used in this chapter, "township" means:**

(1) a township in a county not having a consolidated city; or

(2) the consolidated city for a township located in a county having a consolidated city.

SECTION 89. IC 32-26-9-0.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 0.7. As used in this chapter, "township trustee" or "trustee" means:**

(1) a township trustee for a township in a county not having a consolidated city; or

(2) the consolidated city for a township in a county having a consolidated city.

SECTION 90. IC 32-26-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 3. (a) A partition fence shall be built, rebuilt, and kept in repair at the cost of the property owners whose properties are enclosed or separated by the fences proportionately according to the number of rods or proportion of the fence the property owner owns along the line of the fence, whether the property owner's title is a fee simple or a life estate.

(b) If a property owner fails or refuses to compensate for building, rebuilding, or repairing the property owner's portion of a partition fence, another property owner who is interested in the fence, after having built, rebuilt, or repaired the property owner's portion of the fence, shall give to the defaulting property owner or the defaulting property owner's agent or tenant twenty (20) days notice to build, rebuild, or repair the defaulting property owner's portion of the fence. If the defaulting property owner or the defaulting property owner's agent or tenant fails to build, rebuild, or repair the fence within twenty (20) days, the complaining property owner shall notify the township

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trustee of the township in which the properties are located of the default.

(c) This subsection applies if the fence sought to be established, rebuilt, or repaired is on a township line. Unless disqualified under subsection (h), the complaining property owner shall notify the trustee of the township in which the property of the complaining property owner is located of the default under subsection (b), and the trustee has jurisdiction in the matter.

(d) The township trustee who receives a complaint under this section shall:

(1) estimate the costs for building, rebuilding, or repairing the partition fence; and

(2) within a reasonable time after receiving the complaint, make out a statement and notify the defaulting property owner of the probable cost of building, rebuilding, or repairing the fence.

If twenty (20) days after receiving a notice under this subsection the defaulting property owner has not built, rebuilt, or repaired the fence, the trustee shall build or repair the fence. The trustee may use only the materials for the fences that are most commonly used by the farmers of the community.

(e) If the trustee ~~of a township~~ is disqualified to act under subsection (h), the trustee of an adjoining township who resides nearest to where the fence is located shall act on the complaint upon receiving a notice by a property owner who is interested in the fence.

(f) A lawful partition fence is any one (1) of the following that is sufficiently tight and strong to hold cattle, hogs, horses, mules, and sheep:

(1) A straight board and wire fence, a straight wire fence, a straight board fence, or a picket fence four (4) feet high.

(2) A straight rail fence four and one-half (4 1/2) feet high.

(3) A worm rail fence five (5) feet high.

(g) This subsection applies if a ditch or creek crosses the division line between two (2) property owners, causing additional expense in the maintenance of the part over the stream. If the property owners cannot agree upon the proportionate share of each property owner, the township trustee shall appoint three (3) disinterested citizens who shall apportion the partition fence to be built by each property owner.

(h) If a township trustee is:

(1) related to any of the interested property owners; or

(2) an interested property owner;

the ~~trustee of any other township who resides nearest to where the fence is located shall~~ **township shall appoint another official to** act

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under this chapter.

(i) This subsection applies if a ditch or creek forms, covers, or marks the dividing line or a part of the dividing line between the properties of separate and different property owners so that partition fences required under this chapter cannot be built and maintained on the dividing line. The partition fences shall be built and maintained under this chapter as near to the boundary line as is practical, and each property owner shall build a separate partition fence on the property owner's property and maintain the fence at the property owner's cost.

(j) This subsection applies where a partition fence required under this chapter crosses a ditch or creek and it is impracticable to construct or maintain that portion of the fence that crosses the ditch or creek as a stationary fence. Instead of the portion of the fence that would cross the ditch or creek, there shall be constructed, as a part of the partition fence, floodgates or other similar structures that are sufficiently high, tight, and strong to turn hogs, sheep, cattle, mules, and horses or other domestic animals. The floodgates or other similar structures shall be constructed to swing up in times of high water and to connect continuously with the partition fences.

(k) This subsection applies if the building and maintenance of the floodgates or other similar structure required under subsection (j) causes additional expenses and the property owners cannot agree upon the character of floodgates or other similar structure, or upon the proportionate share of the cost to be borne by each property owner. The township trustee, upon notice in writing from either property owner of a disagreement and the nature of the disagreement, shall appoint three (3) disinterested citizens of the township who shall determine the kind of structure and apportion the cost of the floodgate or other structure between the property owners, taking into consideration the parts of the fence being maintained by each property owner.

(l) The determination of a majority of the arbitrators of any matter or matters submitted to them under this section is final and binding on each property owner. The compensation of the arbitrators is two dollars ($2) each, which shall be paid by the property owners in the proportion each property owner is ordered to bear the expense of a gate or structure.

(m) This subsection applies if either or both of the property owners fail to construct or compensate for constructing the structure determined upon by the arbitrators in the proportion determined within thirty (30) days after the determination. The township trustee shall proceed at once to construct the gate or structure and collect the cost of the gate or structure, including the compensation of the arbitrators,

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from the defaulting property owner in the same manner as is provided for ordinary partition fences. The floodgate or other structure shall be repaired, rebuilt, or replaced according to the determination of the arbitrators.

SECTION 91. IC 32-28-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) A contractor, a subcontractor, a mechanic, a lessor leasing construction and other equipment and tools, whether or not an operator is also provided by the lessor, a journeyman, a laborer, or any other person performing labor or furnishing materials or machinery, including the leasing of equipment or tools, for:

(1) the erection, alteration, repair, or removal of:

(A) a house, mill, manufactory, or other building; or

(B) a bridge, reservoir, system of waterworks, or other structure;

(2) the construction, alteration, repair, or removal of a walk or sidewalk located on the land or bordering the land, a stile, a well, a drain, a drainage ditch, a sewer, or a cistern; or

(3) any other earth moving operation;

may have a lien as set forth in this section.

(b) A person described in subsection (a) may have a lien separately or jointly upon the:

(1) house, mill, manufactory, or other building, bridge, reservoir, system of waterworks, or other structure, sidewalk, walk, stile, well, drain, drainage ditch, sewer, cistern, or earth:

(A) that the person erected, altered, repaired, moved, or removed; or

(B) for which the person furnished materials or machinery of any description; and

(2) on the interest of the owner of the lot or parcel of land:

(A) on which the structure or improvement stands; or

(B) with which the structure or improvement is connected;

to the extent of the value of any labor done or the material furnished, or both, including any use of the leased equipment and tools.

(c) All claims for wages of mechanics and laborers employed in or about a shop, mill, wareroom, storeroom, manufactory or structure, bridge, reservoir, system of waterworks or other structure, sidewalk, walk, stile, well, drain, drainage ditch, cistern, or any other earth moving operation ~~shall be~~ **are** a lien on all the:

(1) machinery;

(2) tools;

(3) stock;

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(4) material; or
(5) finished or unfinished work;
located in or about the shop, mill, wareroom, storeroom, manufactory or other building, bridge, reservoir, system of waterworks, or other structure, sidewalk, walk, stile, well, drain, drainage ditch, sewer, cistern, or earth used in a business.

(d) If the person, firm, limited liability company, or corporation described in subsection (a) is in failing circumstances, the claims described in this section ~~shall be~~ **are** preferred debts whether a claim or notice of lien has been filed.

(e) Subject to subsection (f), a contract:
(1) for the construction, alteration, or repair of a Class 2 structure (as defined in IC 22-12-1-5);
(2) for the construction, alteration, or repair of an improvement on the same real estate auxiliary to a Class 2 structure (as defined in IC 22-12-1-5);
(3) for the construction, alteration, or repair of property that is:
(A) owned, operated, managed, or controlled by a:
(i) public utility (as defined in IC 8-1-2-1);
(ii) municipally owned utility (as defined in IC 8-1-2-1);
(iii) joint agency (as defined in IC 8-1-2.2-2);
(iv) rural electric membership corporation formed under IC 8-1-13-4;
(v) rural telephone cooperative corporation formed under IC 8-1-17; or
(vi) not-for-profit utility (as defined in IC 8-1-2-125);
regulated under IC 8; and
(B) intended to be used and useful for the production, transmission, delivery, or furnishing of heat, light, water, telecommunications services, or power to the public; or
(4) to prepare property for Class 2 residential construction;
may include a provision or stipulation in the contract of the owner and principal contractor that a lien may not attach to the real estate, building, structure, or any other improvement of the owner.

(f) A contract containing a provision or stipulation described in subsection (e) must meet the requirements of this subsection to be valid against subcontractors, mechanics, journeymen, laborers, or persons performing labor upon or furnishing materials or machinery for the property or improvement of the owner. The contract must:
(1) be in writing;
(2) contain specific reference by legal description of the real estate to be improved;

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(3) be acknowledged as provided in the case of deeds; and

(4) be filed and recorded in the recorder's office of the county in which the real estate, building, structure, or other improvement is situated not more than five (5) days after the date of execution of the contract.

A contract containing a provision or stipulation described in subsection (e) does not affect a lien for labor, material, or machinery supplied before the filing of the contract with the recorder.

(g) Upon the filing of a contract under subsection (f), the recorder shall:

(1) record the contract at length in the order of the time it was received in books provided by the recorder for that purpose;

(2) index the contract in the name of the:

(A) contractor; and

(B) owner;

in books kept for that purpose; and

(3) collect a fee for recording the contract as is provided for the recording of deeds and mortgages.

(h) A person, firm, partnership, limited liability company, or corporation that sells or furnishes on credit any material, labor, or machinery for the alteration or repair of an owner occupied single or double family dwelling or the appurtenances or additions to the dwelling to:

(1) a contractor, subcontractor, mechanic; or

(2) anyone other than the occupying owner or the owner's legal representative;

must furnish to the occupying owner of the parcel of land where the material, labor, or machinery is delivered a written notice of the delivery or work and of the existence of lien rights not later than thirty (30) days after the date of first delivery or labor performed. The furnishing of the notice is a condition precedent to the right of acquiring a lien upon the lot or parcel of land or the improvement on the lot or parcel of land.

(i) A person, firm, partnership, limited liability company, or corporation that sells or furnishes on credit material, labor, or machinery for the original construction of a single or double family dwelling for the intended occupancy of the owner upon whose real estate the construction takes place to a contractor, subcontractor, mechanic, or anyone other than the owner or the owner's legal representatives must:

(1) furnish the owner of the real estate:

(A) as named in the latest entry in the transfer books described

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in IC 6-1.1-5-4 of the county auditor; or

(B) if IC 6-1.1-5-9 applies, as named in the transfer books of the ~~township~~ assessor **for the township;**

with a written notice of the delivery or labor and the existence of lien rights not later than sixty (60) days after the date of the first delivery or labor performed; and

(2) file a copy of the written notice in the recorder's office of the county not later than sixty (60) days after the date of the first delivery or labor performed.

The furnishing and filing of the notice is a condition precedent to the right of acquiring a lien upon the real estate or upon the improvement constructed on the real estate.

(j) A lien for material or labor in original construction does not attach to real estate purchased by an innocent purchaser for value without notice of a single or double family dwelling for occupancy by the purchaser unless notice of intention to hold the lien is recorded under section 3 of this chapter before recording the deed by which the purchaser takes title.

SECTION 92. IC 32-28-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. (a) Except as provided in subsection (b), a person who wishes to acquire a lien upon property, whether the claim is due or not, must file in duplicate a sworn statement and notice of the person's intention to hold a lien upon the property for the amount of the claim:

(1) in the recorder's office of the county; and

(2) not later than ninety (90) days after performing labor or furnishing materials or machinery described in section 1 of this chapter.

The statement and notice of intention to hold a lien may be verified and filed on behalf of a client by an attorney registered with the clerk of the supreme court as an attorney in good standing under the requirements of the supreme court.

(b) This subsection applies to a person that performs labor or furnishes materials or machinery described in section 1 of this chapter related to a Class 2 structure (as defined in IC 22-12-1-5) or an improvement on the same real estate auxiliary to a Class 2 structure (as defined in IC 22-12-1-5). A person who wishes to acquire a lien upon property, whether the claim is due or not, must file in duplicate a sworn statement and notice of the person's intention to hold a lien upon the property for the amount of the claim:

(1) in the recorder's office of the county; and

(2) not later than sixty (60) days after performing labor or

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furnishing materials or machinery described in section 1 of this chapter.

The statement and notice of intention to hold a lien may be verified and filed on behalf of a client by an attorney registered with the clerk of the supreme court as an attorney in good standing under the requirements of the supreme court.

(c) A statement and notice of intention to hold a lien filed under this section must specifically set forth:

(1) the amount claimed;

(2) the name and address of the claimant;

(3) the owner's:

(A) name; and

(B) latest address as shown on the property tax records of the county; and

(4) the:

(A) legal description; and

(B) street and number, if any;

of the lot or land on which the house, mill, manufactory or other buildings, bridge, reservoir, system of waterworks, or other structure may stand or be connected with or to which it may be removed.

The name of the owner and legal description of the lot or land will be sufficient if they are substantially as set forth in the latest entry in the transfer books described in IC 6-1.1-5-4 of the county auditor or, if IC 6-1.1-5-9 applies, the transfer books of the ~~township~~ assessor **for the township** at the time of filing of the notice of intention to hold a lien.

(d) The recorder shall:

(1) mail, first class, one (1) of the duplicates of the statement and notice of intention to hold a lien to the owner named in the statement and notice not later than three (3) business days after recordation;

(2) post records as to the date of the mailing; and

(3) collect a fee of two dollars ($2) from the lien claimant for each statement and notice that is mailed.

The statement and notice shall be addressed to the latest address of the owner as specifically set out in the sworn statement and notice of the person intending to hold a lien upon the property.

SECTION 93. IC 32-31-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) The following courts have original and concurrent jurisdiction in cases arising under this chapter:

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(1) A circuit court.
(2) A superior court.
(3) A county court.
(4) A municipal court.
~~(5) A small claims court.~~

(b) A case arising under this chapter may be filed on the small claims docket of a court that has jurisdiction.

SECTION 94. IC 33-23-11-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 7. (a) As used in this chapter, "judge" means a judge of the court of appeals, the tax court, ~~or~~ a circuit, superior, county, ~~small claims,~~ or probate court, **or a small claims judge (as defined in IC 33-33-49-5.2).**

(b) The term includes a judge pro tempore, commissioner, or hearing officer if the judge pro tempore, commissioner, or hearing officer sits more than twenty (20) days other than Saturdays, Sundays, or holidays in one (1) calendar year as a judge, commissioner, or hearing officer in any court.

SECTION 95. IC 33-23-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2. (a) As used in this chapter, "court employee" means a person employed by any of the following:

(1) The supreme court.
(2) The court of appeals.
(3) The tax court.
(4) A circuit court.
(5) A superior court.
(6) A juvenile court.
(7) A probate court.
(8) A county court.
(9) A municipal court.
(10) A city or town court.
~~(11) A small claims court.~~

(b) The term does not include a judge **or small claims judge (as defined in IC 33-33-49-5.2)** of any of the courts listed in subsection (a)(1) through ~~(a)(11).~~ **(a)(10).**

SECTION 96. IC 33-24-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2. The sheriff of the supreme court, ~~or~~ a county police officer, **or an officer of a metropolitan law enforcement agency** shall:

(1) attend the court in term time;
(2) execute the orders of the court;
(3) preserve order within the court; and

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(4) execute all process issued out of the court.

SECTION 97. IC 33-30-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. A county court is established in each county, except in a county for which:

(1) IC 33-33 provides a small claims docket of the circuit court; **or**

(2) IC 33-33 provides a small claims docket of the superior court. ~~or~~

~~(3) IC 33-34 provides a small claims court.~~

SECTION 98. IC 33-33-49-5.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 5.1. (a) As used in this chapter, "judge" means a person elected under section 13 of this chapter.**

(b) The term does not include a small claims judge.

SECTION 99. IC 33-33-49-5.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 5.2. As used in this chapter, "small claims judge" means a person elected under:**

(1) section 13.1 of this chapter; or

(2) IC 33-34-2-1 (before its repeal).

SECTION 100. IC 33-33-49-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 6. (a) There is established a superior court in Marion County. The court consists of **the following:**

(1) Thirty-two (32) judges.

(2) Nine (9) small claims judges.

(b) To be qualified to serve as a judge of the court, a person must be, at the time a declaration of candidacy or a petition of nomination under IC 3-8-6 is filed:

(1) a resident of Marion County; and

(2) an attorney who has been admitted to the bar of Indiana for at least five (5) years.

(c) To be qualified to serve as a small claims judge, a person must meet the qualifications described in IC 3-8-1-30.

~~(c)~~ **(d)** During the term of office:

(1) a judge of the court must remain a resident of Marion County; **and**

(2) a small claims judge must remain a resident of:

(A) Marion County; and

(B) the township from which the small claims judge was elected.

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SECTION 101. IC 33-33-49-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 9. **(a) Except as provided in subsection (b),** the court has the following jurisdiction:

(1) Concurrent and coextensive jurisdiction with the Marion circuit court in all cases and upon all subject matters, including civil, criminal, juvenile, probate, and statutory cases and matters, whether original or appellate.

(2) Original and exclusive jurisdiction in all matters pertaining to the following:

(A) The probate and settlement of decedents' estates, trusts, and guardianships.

(B) The probate of wills.

(C) Proceedings to resist the probate of wills.

(D) Proceedings to contest wills.

(E) The appointment of guardians, assignees, executors, administrators, and trustees.

(F) The administration and settlement of:

(i) estates of protected persons (as defined in IC 29-3-1-13) and deceased persons;

(ii) trusts, assignments, adoptions, and surviving partnerships; and

(iii) all other probate matters.

(3) Original jurisdiction of all violations of Indiana law. Whenever jurisdiction is by law conferred on a small claims court, the court has the appellate jurisdiction provided by law.

(4) Original and exclusive juvenile jurisdiction.

(b) The small claims division of the court established in section 14(c)(5) of this chapter has the following jurisdiction:

(1) The small claims division of the court has original and concurrent jurisdiction with the court and the Marion circuit court in all civil cases founded on contract or tort in which the debt or damage claimed does not exceed six thousand dollars ($6,000), not including interest or attorney's fees.

(2) The small claims division of the court has original and concurrent jurisdiction with the court and the Marion circuit court in possessory actions between landlord and tenant in which the past due rent at the time of filing does not exceed six thousand dollars ($6,000), not including interest or attorney's fees.

(3) The small claims division of the court has original and concurrent jurisdiction with the court and the Marion circuit court in actions for the possession of property where the value

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of the property sought to be recovered does not exceed six thousand dollars ($6,000), not including interest and attorney's fees.

(4) The small claims division of the court has original and concurrent jurisdiction with the court and the Marion circuit court in emergency possessory actions between a landlord and tenant under IC 32-31-6.

(5) The small claims division of the court does not have jurisdiction in the following:

(A) Actions seeking injunctive relief or involving partition of real estate.

(B) Actions to declare or enforce a lien, except as provided in section 20.5 of this chapter.

(C) Actions in which the appointment of a receiver is asked.

(D) Suits for dissolution or annulment of marriage.

SECTION 102. IC 33-33-49-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 10. **(a) Except as provided in subsection (b),** the court is a court of record. The court's judgments, decrees, orders, and proceedings have the same effect and shall be enforced in the same manner as those of the circuit court.

(b) The small claims division of the court is not a court of record.

SECTION 103. IC 33-33-49-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 11. (a) The court may adopt rules for conducting the business of the court. Except as provided in subsection (b), in all matters action of the court may only be taken by a vote of a majority of the judges sitting at the time the vote is taken.

(b) Action of the court to remove the presiding judge or either associate presiding judge may only be taken by a vote of two-thirds (2/3) of the judges sitting at the time the vote is taken.

(c) The court has all the powers incident to a court of record in relation to the attendance of witnesses, punishment of contempts, and enforcement of the court's orders. The judges **and small claims judges** may administer oaths, solemnize marriages, take and certify acknowledgments of deeds and all legal instruments, and ~~to~~ give all necessary certificates for the authentication of the records and proceedings in the court.

SECTION 104. IC 33-33-49-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 12. **A judge of** the court may do the following:

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(1) Grant restraining orders and injunctions.
(2) Issue writs of habeas corpus.
(3) Appoint receivers, masters, and commissioners to:
(A) convey real property;
(B) grant commissions for the examination of witnesses; and
(C) appoint other officers necessary to transact the business of the court.

SECTION 105. IC 33-33-49-13.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 13.1. (a) A small claims judge shall be elected for a term of four (4) years that begins January 1 after the year of the small claims judge's election and continues through December 31 in the fourth year. The small claims judge shall hold office for the four (4) year term or until the small claims judge's successor is elected and qualified.**

(b) A small claims judge shall be elected at the general election every four (4) years by the registered voters residing within the township in which the small claims division of the court is located.

SECTION 106. IC 33-33-49-13.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 13.2. (a) A small claims judge serving part time may participate in other gainful employment if the employment does not:**

(1) interfere with the exercise of the small claims judge's judicial office; or
(2) involve any conflict of interest in the performance of the small claims judge's judicial duties.

(b) A small claims judge serving full time may practice law if the practice does not conflict in any way with the small claims judge's official duties and does not:

(1) cause the small claims judge to be unduly absent from the court; or
(2) interfere with the ready and prompt disposal of the small claims judge's judicial duties.

(c) A small claims judge and the employees of the small claims division of the court may be eligible to participate in the public employees' retirement fund as provided in IC 5-10.3, but a small claims judge is not eligible to participate as a member in the judges' retirement fund under IC 33-38.

(d) A vacation of one (1) month per year shall be provided for a full-time small claims judge. The executive committee may authorize the appointment of a small claims judge pro tempore to

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handle the judicial business of the vacationing small claims judge if the executive committee considers it necessary.

SECTION 107. IC 33-33-49-13.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 13.3. A small claims judge shall:**

(1) furnish a bond in a sum required by the circuit court judge to provide for the:

(A) faithful discharge of the duties of the office; and

(B) payment or delivery to the proper persons of whatever money or other property may come into the small claims judge's hands when acting as small claims judge; and

(2) file the bond with the county recorder.

The bond must also extend to cover a person that is appointed to act as a small claims judge under IC 33-33-49-13.4.

SECTION 108. IC 33-33-49-13.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 13.4. (a) If a small claims judge is unable to preside over the small claims judge's division of the small claims court during any number of days, the small claims judge may appoint in writing a person qualified to be a small claims judge under section 6(c) of this chapter to preside in place of the small claims judge.**

(b) The written appointment shall be entered on the order book or record of the superior court. The appointee shall, after taking the oath prescribed for the small claims judges, conduct the business of the division subject to the same rules and regulations as small claims judges and has the same authority during the continuance of the appointee's appointment.

(c) The appointee is entitled to the same compensation from the county auditor as accruable to the small claims judge in whose place the appointee is serving.

SECTION 109. IC 33-33-49-13.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 13.5. (a) A small claims judge absent from the bench for more than thirty (30) days shall deposit the dockets, books, and papers of the office with:**

(1) the small claims judge of another township division; or

(2) the executive committee of the court;

as directed by the presiding judge.

(b) A:

(1) small claims judge with whom the docket of another small

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claims judge is deposited during a vacancy or an absence; and
(2) successor of any small claims judge who has the dockets of the successor's predecessor in the successor's possession;
may perform all duties that the small claims judge might do legally in relation to the small claims judge's own dockets.

(c) Process shall be returned to the small claims judge or judge who has the legal custody of the docket at the day of return.

SECTION 110. IC 33-33-49-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 14. (a) Not more than thirty (30) days after taking the oath of office, the judges shall meet and designate three (3) of the judges as the executive committee for administrative purposes. The executive committee shall be selected by a vote of two-thirds (2/3) of the judges sitting at the time the vote is taken. If all vacancies cannot be filled by a two-thirds (2/3) vote, vacancies may be filled by such other method as provided by court rule. The executive committee is responsible for the operation and conduct of the court. A member of the executive committee shall serve in the capacity provided by rules adopted by the court under section 11 of this chapter. A member of the executive committee serves for a term of two (2) years beginning on the date of the member's election. Any or all of the members elected to the executive committee may be reelected. Of the three (3) judges elected to the executive committee, not more than two (2) may be members of the same political party.

(b) One (1) of the three (3) judges elected to the executive committee shall be elected as presiding judge and two (2) of the three (3) judges elected to the executive committee shall be elected as associate presiding judges. Each judge who is a member of the executive committee has an equal vote in all matters pertaining to the business of the court when an action requires a majority vote. Any action taken by the executive committee may be overruled by a vote of two-thirds (2/3) of all the judges sitting at the time the vote is taken. The physical reassignment of a judge to a different courtroom requires a unanimous vote of the executive committee. The executive committee shall assign cases, offices, and courtrooms for trial judges or reassignment of newly filed cases in the interests of the speedy, economical, and uniform disposition of cases. All matters of trial dates, continuances, and subpoenas used for trial shall be determined by the trial judge in accordance with rules of the superior court. The executive committee shall perform other duties as determined by rules of the court.

(c) The court shall, by rules of the court, divide the work of the court into various divisions, including but not limited to the following:

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(1) Civil.
(2) Criminal.
(3) Probate.
(4) Juvenile.
(5) Small claims.

(d) The work of each division shall be allocated by the rules of the court, **except to the extent that the work of the small claims division is otherwise provided by law. The judges shall extend aid and assistance to the small claims judges in the conduct of the small claims division of the court.**

(e) The judges shall be assigned to various divisions or rooms as provided by rules of the court. Whenever possible, an incumbent judge shall be allowed the option of remaining in a particular room or division. Whenever any action of the court is required, the judges of the court shall act in concert, by a vote under section 11 of this chapter. The court shall keep appropriate records of rules, orders, and assignments of the court.

(f) The executive committee of the court, assisted by the small claims judges, shall make and adopt uniform rules for conducting the business of the small claims division of the court:

(1) according to a simplified procedure; and
(2) in the spirit of sections 20.1 and 20.3 of this chapter.

(g) The executive committee of the court, assisted by the small claims judges, may establish a regular hourly schedule for the performance of duties by full-time and part-time small claims judges. A small claims judge shall maintain the schedule. If the executive committee of the court does not establish a regular hourly schedule, the small claims judge shall perform the small claims judge's duties at regular, reasonable hours. Regardless of whether a regular hourly schedule has been established under this subsection, a small claims judge shall hold sessions in addition to the small claims judge's regular schedule when the business of the small claims judge's court requires.

SECTION 111. IC 33-33-49-14.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 14.1. The small claims division of the court is composed of township divisions. The name of each township division shall be the "_____ Township of Marion County Small Claims Division".**

SECTION 112. IC 33-33-49-14.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 14.2. (a) The voters of each**

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township having a small claims division of the court shall elect a small claims constable at the general election every four (4) years for a term of office of four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified. The ballot must state the:

(1) name of the candidate; and

(2) division of the court for which the candidate is to serve.

(b) Each township small claims division of the court shall have a constable who:

(1) acts as the bailiff;

(2) serves the division's personal service of process;

(3) has police powers to:

(A) make arrests;

(B) keep the peace; and

(C) carry out the orders of the court;

(4) meets the qualifications prescribed by IC 3-8-1-31;

(5) is compensated for each process that is delivered to effect personal service when serving as the bailiff;

(6) is responsible for:

(A) the preparation and mailing of all registered or certified service and is compensated for each process served by mail; and

(B) all the official acts of the deputies;

(7) is compensated solely from the service of process fees collected under IC 33-37-4-6.5; and

(8) may require a deputy to give a bond for the proper discharge of the deputy's duties for an amount fixed by the constable.

(c) The elected constable may appoint full-time and part-time deputies for assistance in the performance of official duties who:

(1) perform all the official duties required to be performed by the constable;

(2) possess the same statutory and common law powers and authority as the constable;

(3) must take the same oath required of the constable;

(4) are compensated solely from the service of process fees collected under IC 33-37-4-6.5; and

(5) serve at the pleasure of the constable and may be dismissed at any time with or without cause.

(d) If there is an:

(1) emergency; or

(2) inability of a constable to carry out the constable's duties;

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the small claims judge may appoint a special constable to carry out the duties of the constable during the emergency or inability.

SECTION 113. IC 33-33-49-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 15. (a) The executive committee, with the approval of two-thirds (2/3) of the judges, shall determine the number of hearing judges, commissioners, referees, bail commissioners, court reporters, probation officers, and other personnel required to efficiently serve the court. The salaries of the personnel shall be fixed and paid as provided by law.

(b) The administrative officers shall perform the duties prescribed by the executive committee and shall operate under the jurisdiction of the executive committee and serve at the pleasure of the executive committee.

(c) The executive committee shall see that the court at all times is amply provided with supplies and sufficient clerical and other help, including extra reporters or bailiffs, when needed. Each judge shall appoint the judge's court reporters, bailiffs, secretary, commissioners, and clerks. **Personnel of the small claims division of the court shall be appointed under rules of the court.** In addition to the specified duties of this subsection, the executive committee shall exercise any other powers and duties that may be assigned to the executive committee by an order book entry signed by a two-thirds (2/3) majority of the judges. At least once each month, a general term conference of all superior division judges must be held, at which the presiding judge shall preside. A special order book must be kept for the court in which shall be entered all special rules, proceedings, and similar matters. During an absence or a vacation of a judge who is a member of the executive committee, the senior superior court judge shall act for the absent member, if necessary.

SECTION 114. IC 33-33-49-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 17. (a) **Except as provided in subsection (b),** the court shall hold sessions in:

(1) the city-county building in Indianapolis; and

(2) other places in Marion County as the court determines.

(b) The city-county council shall:

(1) provide and maintain in the building and at other places in Marion County as the court may determine suitable and convenient courtrooms for the holding of the court, suitable and convenient jury rooms, and offices for the judges, other court officers and personnel, and other facilities as are necessary; ~~and~~

(2) provide all necessary furniture and equipment for rooms and offices of the court;

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(3) determine whether each of the township divisions of the small claims division of the court shall be a full-time or part-time division;

(4) determine where each of the township divisions of the small claims division of the court shall hold sessions; and

(5) in making the determination required by subdivision (4), consider any recommendations of the transitional advisory board established in IC 36-6-1.1.

SECTION 115. IC 33-33-49-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 19. The court shall maintain a single order book for each division or room of the court that may be signed on behalf of the court by the judge **or small claims judge** of that division or room of the court. The signature of the judge **or small claims judge** authenticates the actions of the court.

SECTION 116. IC 33-33-49-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 20. **Except as otherwise provided in this chapter concerning the small claims division of the court,** all laws of Indiana and rules adopted by the supreme court governing the circuit court in matters of pleadings, practice, the issuing and service of process, the giving of notice, the appointing of judges pro tempore and special judges, changes of venue from the judge and from the county, adjournments by the court and by the clerk in the absence of the judge, and the selection of jurors for the court apply to and govern the court.

SECTION 117. IC 33-33-49-20.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 20.1. A simplified procedure applies to and governs the small claims division of the court. The simplified procedure shall be established by rule to enable any person, including the state, to:**

(1) file the necessary papers; and

(2) present the person's case in court;

either to seek or to defend against a small claim without consulting or being represented by an attorney.

SECTION 118. IC 33-33-49-20.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 20.2. (a) Upon the filing of a complaint in the small claims division of the court, service of original process shall be attempted by personal service of the summons and complaint on the defendant, which may include leaving a copy of the service at the last known place of residence of the party if the process server properly describes on the return the**

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residence, noting any of its unique features, and mailing by first class a copy of the service without charge to the party at the same last known place of residence.

(b) If service cannot be made in this manner, service of process shall be made in an alternate manner as provided by the Indiana Rules of Civil Procedure.

(c) Subsequent service of process, other than that originally served upon filing of the complaint, may be made by registered or certified mail or another manner authorized by the Indiana Rules of Civil Procedure.

SECTION 119. IC 33-33-49-20.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 20.3. (a) A trial in the small claims division of the court:**

(1) must be informal, with the sole objective of dispensing speedy justice between the parties according to the rules of substantive law; and

(2) may not be bound by the statutory provisions or rules of practice, procedure, pleadings, or evidence, except the provisions relating to privileged communications and offers of compromise.

(b) There may not be a trial by jury in the small claims division of the court.

(c) A filing of a civil claim in the small claims division of the court constitutes a waiver of trial by jury by the plaintiff.

(d) A defendant in a small claims case waives the right to trial by jury unless the defendant requests a jury trial at least three (3) calendar days before the trial date that appears on the complaint. Upon the filing of a jury trial request, the small claims division of the court shall transfer the claim out of the small claims division to the general jurisdiction of the court. The defendant shall pay all costs necessary for filing the claim in the general jurisdiction of the court as if the cause had been filed initially in the general jurisdiction of the court.

(e) A notice of claim filed in the small claims division of the court must include a statement that reflects the provisions of subsection (d).

SECTION 120. IC 33-33-49-20.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 20.4. (a) Except for a claim between landlord and tenant, a case within the jurisdiction of a township small claims division may be:**

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(1) venued;
(2) commenced; and
(3) decided;
in any township small claims division within the county. However, upon a motion for change of venue filed by the defendant within ten (10) days of service of the summons, the township small claims division in which the motion was filed shall determine in accordance with subsection (b) whether required venue lies with it or with another township small claims division in the county in which the small claims action was filed.

(b) The venue determination to be made under subsection (a) must be made in the following order:

(1) In an action upon a debt or an account, venue is in the township where any defendant has consented to venue in a writing signed by the defendant.

(2) Venue is in the township where a transaction or occurrence giving rise to any part of the claim took place.

(3) Venue is in the township (in a county of the small claims division) where the greater percentage of individual defendants included in the complaint resides or, if there is not a greater percentage, the place where any individual named as a defendant:

(A) resides;
(B) owns real estate; or
(C) rents an apartment or real estate or where the principal office or place of business of any defendant is located.

(4) Venue is in the township where the claim was filed if there is no other township in the county in which the small claims division sits in which required venue lies.

(c) Venue of any claim between landlord and tenant must be in the township where the real estate is located.

(d) If a written motion challenging venue is received by the township small claims division, the township small claims division shall rule whether required venue lies in the township of filing.

SECTION 121. IC 33-33-49-20.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 20.5. (a) If the small claims judgment or order is against the defendant, the defendant shall pay the judgment at any time and upon terms and conditions as the small claims judge orders.**

(b) If the small claims judge orders that the judgment be paid

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in specified installments, the small claims judge may stay the issuance of execution and other supplementary process during the period of compliance with the order.

(c) A stay ordered under subsection (b) may be modified or vacated by the small claims division of the court.

(d) All small claims judgments rendered in civil actions may be recorded in the judgment docket book of the proper township small claims division of the court.

(e) A judgment entered by a small claims judge is a lien on real estate when entered in the circuit court judgment docket in the same manner as a judgment in a court of general jurisdiction becomes a lien on real estate under IC 34-55-9.

(f) The judgments of the small claims division of the court shall be entered and properly indexed in the name of the judgment defendant as judgments of the general jurisdiction of the court are entered and indexed.

SECTION 122. IC 33-33-49-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 22. **(a)** A party may appeal an order or a judgment of the court in any case where an appeal may be had from a similar order or judgment of the circuit court.

(b) All appeals from judgments of the small claims division of the court shall be taken to the general jurisdiction of the court and tried de novo. The rules of procedure for appeals must be in accordance with the rules established by the court. The appellant shall pay all costs necessary for the filing of the case in the general jurisdiction of the court as if the appeal were a case that had been filed initially in the general jurisdiction of the court.

SECTION 123. IC 33-33-49-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 24. **(a)** The judge of the Marion circuit court may, with the consent of the court acting through the superior court presiding judge under rules adopted by the court, transfer any action, cause, or proceeding filed and docketed in the circuit court to the court by transferring all original papers and instruments filed in that action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with the court.

(b) The superior court presiding judge may not consent to a transfer to the small claims division of the court unless:

(1) the small claims division of the court has jurisdiction of the cause concurrent with the circuit court; and

(2) the small claims judge consents to the transfer.

SECTION 124. IC 33-33-49-25.1 IS ADDED TO THE INDIANA

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CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 25.1. (a) A judge of the court may order a cause filed in the general jurisdiction of the court to be transferred to the small claims division of the court if:**

(1) the small claims division of the court has jurisdiction of the cause concurrent with the general jurisdiction of the court; and

(2) the small claims judge consents to the transfer.

(b) The presiding judge may transfer cases from one (1) township small claims division of the court to another as necessary.

SECTION 125. IC 33-33-49-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 26. The judge of the Marion circuit court may sit as a judge **or small claims judge** of the court, with the court's permission, in all matters pending before the court, without limitation and without any further order, in the same manner as a judge of the court with all the rights and powers of an elected judge **or small claims judge** of the court.

SECTION 126. IC 33-33-49-26.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 26.1. (a) A judge of the court may sit as a special small claims judge in the small claims division of the court.**

(b) Except for mileage and travel expenses, a judge serving as a special small claims judge under this section may not receive compensation in addition to the salary provided under this article.

(c) A small claims judge may sit in place of another small claims judge and perform the other small claims judge's duties:

(1) at the direction of or with the approval of the presiding judge; and

(2) with the consent of the respective judges.

SECTION 127. IC 33-33-49-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 27. Each judge **and small claims judge,** before entering upon the duties of office, shall take and subscribe the following oath or affirmation:

"I solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Indiana and that I will faithfully discharge the duties of (judge **or small claims judge)** of the superior court of Marion County to the best of my ability.".

The oath shall be filed with the clerk of the county.

SECTION 128. IC 33-33-49-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 30. (a) A judge

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remains qualified to hold office as long as the judge:

(1) remains fair and impartial in judicial functions;

(2) maintains a high standard of morality in dealings, public and private;

(3) remains physically and mentally capable of performing all the functions and duties of the office of judge; and

(4) continues to reside in Marion County.

(b) A small claims judge remains qualified to hold office as long as the small claims judge meets the requirements of subsection (a) and:

(1) continues to reside in the township from which the small claims judge was elected; or

(2) was elected as a small claims judge in the township before January 1, 1999.

~~(b)~~ **(c)** Complaints against a judge **or small claims judge** must be forwarded to the commission on judicial qualifications as provided in IC 33-38-13 by any judge **or small claims judge** of the superior court.

~~(c)~~ **(d)** A judge of the court must retire upon becoming seventy-five (75) years of age. If the judge wishes to retire before the judge's term has ended or upon reaching the mandatory retirement age, the judge shall provide written notice to the presiding judge of the court. The judge shall continue to hold office until a successor has been appointed and qualified.

~~(d)~~ **(e)** When a vacancy occurs ~~in the court~~ **among the:**

(1) judges of the court by death, removal, retirement, or for any other reason, the governor shall appoint a successor judge who:

(A) serves the balance of the term of the vacating judge; ~~The successor judge must be~~ **and**

(B) is a member of the same political party as the judge who is to be succeeded; **and**

(2) small claims judges of the court by death, removal, retirement, or for any other reason, the vacancy shall be filled under IC 3-13-10.

SECTION 129. IC 33-33-49-34 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 34. (a) The clerk of the superior court shall furnish the following:

(1) All blanks, forms, and papers required for use in all criminal cases and in all civil actions involving actions by a city or town for violations of municipal penal ordinances.

(2) All books, papers, stationery, furniture, and other equipment and supplies necessary for keeping the records of the proceedings in all rooms **and divisions** of the superior court and for the

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transaction of all business of the court.

(3) Necessary computerization of court records.

(b) The materials required under this section shall be furnished at the expense of the county.

(c) The presiding judge of the court, by an order entered on the court records signed by the presiding judge, shall determine and prescribe the forms of the following:

(1) All summonses, notices, subpoenas, warrants, affidavits, complaints, writs, and all other papers and anything else required to be used in the cases relating to violations of criminal statutes or municipal ordinances.

(2) All other books, records, papers, and documents to be used by the court and by the officers of the court and the prosecutors.

In the absence of an order under this subsection, those charged with the duty of prosecuting cases involving either criminal offenses or the violation of municipal ordinances may adopt, change, order, and use all necessary forms and instruments as conform substantially to the practice and procedure applicable.

SECTION 130. IC 33-37-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 6. **(a) Except as provided in subsection (b),** court costs fees under this chapter include service of process by certified mail, unless service by the sheriff is requested by the person who institutes the action.

(b) Court costs fees under this chapter do not include service of process fees collected under IC 33-37-4-6.5.

SECTION 131. IC 33-37-4-4, AS AMENDED BY P.L.85-2004, SECTION 19, AND AS AMENDED BY P.L.95-2004, SECTION 7, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 4. (a) The clerk shall collect a civil costs fee of one hundred dollars ($100) from a party filing a civil action. This subsection does not apply to the following civil actions:

(1) Proceedings to enforce a statute defining an infraction under IC 34-28-5 (or IC 34-4-32 before its repeal).

(2) Proceedings to enforce an ordinance under IC 34-28-5 (or IC 34-4-32 before its repeal).

(3) Proceedings in juvenile court under IC 31-34 or IC 31-37.

(4) Proceedings in paternity under IC 31-14.

~~(5) Proceedings in small claims court under IC 33-34.~~

~~(6)~~ **(5)** Proceedings in actions described in section 7 of this chapter.

(b) In addition to the civil costs fee collected under this section, the clerk shall collect the following fees, if they are required under

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IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A support and maintenance fee (IC 33-37-5-6).

(3) A document storage fee (IC 33-37-5-20).

(4) An automated record keeping fee (IC 33-37-5-21).

(5) A judicial administration fee ~~under~~ (IC 33-37-5-21.2).

~~(5)~~ **(6)** *A judicial insurance adjustment fee ~~under~~ (IC 33-37-5-25).*

SECTION 132. IC 33-37-4-6, AS AMENDED BY P.L.85-2004, SECTION 21, AND AS AMENDED BY P.L.95-2004, SECTION 9, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 6. (a) **Except as provided in section 6.5 of this chapter,** for each small claims action, the clerk shall collect from the party filing the action both of the following fees:

(1) A small claims costs fee of thirty-five dollars ($35).

(2) A small claims service fee of five dollars ($5) for each defendant named or added in the small claims action.

However, a clerk may not collect a small claims costs fee or small claims service fee for a small claims action filed by or on behalf of the attorney general.

(b) In addition to a small claims costs fee and small claims service fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A document storage fee (IC 33-37-5-20).

(3) An automated record keeping fee (IC 33-37-5-21).

(4) A judicial administration fee ~~under~~ (IC 33-37-5-21.2).

~~(4)~~ **(5)** *A judicial insurance adjustment fee ~~under~~ (IC 33-37-5-25).*

(c) This section applies after June 30, 2005.

SECTION 133. IC 33-37-4-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 6.5. (a) For each small claims action filed under the jurisdiction of IC 33-33-49-9(b), the clerk shall collect from the party filing the action the following fees:**

(1) A township docket fee of five dollars ($5) plus forty-five percent (45%) of the infraction or ordinance violation costs fee under IC 33-37-4-2.

(2) The bailiff's service of process by registered or certified mail fee of thirteen dollars ($13) for each service.

(3) The cost for the personal service of process by the bailiff

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or other process server of thirteen dollars ($13) for each service.

(4) Witness fees, if any, in the amount provided by IC 33-37-10-3 to be taxed and charged in the circuit court.

(5) A redocketing fee, if any, of five dollars ($5).

(6) A document storage fee under IC 33-37-5-20.

(7) An automated record keeping fee under IC 33-37-5-21.

(8) A late fee, if any, under IC 33-37-5-22.

(9) A judicial administration fee under IC 33-37-5-21.2.

The docket fee and the cost for the initial service of process shall be paid at the institution of a case. The cost of service after the initial service shall be assessed and paid after service has been made. The cost of witness fees shall be paid before the witnesses are called.

(b) If the amount of the township docket fee computed under subsection (a)(1) is not equal to a whole number, the amount shall be rounded to the next highest whole number.

SECTION 134. IC 33-37-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 15. (a) The sheriff shall collect from the person who filed the civil action a service of process fee of forty dollars ($40), in addition to any other fee for service of process, if:

(1) a person files a civil action outside Indiana; and

(2) a sheriff in Indiana is requested to perform a service of process associated with the civil action in Indiana.

(b) A sheriff shall transfer fees collected under this section to the county auditor of the county in which the sheriff has jurisdiction.

(c) The county auditor shall deposit fees collected under this section:

(1) in the pension trust ~~established by the county~~ under IC 36-8-10-12 **or IC 36-8-10.1-37;** or

(2) if the county has not established a pension trust under IC 36-8-10-12, in the county general fund.

SECTION 135. IC 33-37-5-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 22. (a) Except as provided in subsection (e), this section applies to an action if all the following apply:

(1) The defendant is found, in a court that has a local court rule imposing a late payment fee under this section, to have:

(A) committed a crime;

(B) violated a statute defining an infraction;

(C) violated an ordinance of a municipal corporation; or

(D) committed a delinquent act.

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(2) The defendant is required to pay:
(A) court costs, including fees;
(B) a fine; or
(C) a civil penalty.
(3) The defendant is not determined by the court imposing the court costs, fine, or civil penalty to be indigent.
(4) The defendant fails to pay to the clerk the costs, fine, or civil penalty in full before the later of the following:
(A) The end of the business day on which the court enters the conviction or judgment.
(B) The end of the period specified in a payment schedule set for the payment of court costs, fines, and civil penalties under rules adopted for the operation of the court.

(b) A court may adopt a local rule to impose a late payment fee under this section on defendants described in subsection (a).

(c) Subject to subsection (d), the clerk of a court that adopts a local rule imposing a late payment fee under this section shall collect a late payment fee of twenty-five dollars ($25) from a defendant described in subsection (a).

(d) Notwithstanding IC 33-37-2-2, a court may suspend a late payment fee if the court finds that the defendant has demonstrated good cause for failure to make a timely payment of court costs, a fine, or a civil penalty.

(e) A plaintiff or defendant in ~~an~~ **a small claims** action under ~~IC 33-34~~ **IC 33-33-49** shall pay a late fee of twenty-five dollars ($25) if the plaintiff or defendant:
(1) is required to pay court fees or costs under ~~IC 33-34-8-1,~~ **IC 33-37-4-6.5;**
(2) is not determined by the court imposing the court costs to be indigent; and
(3) fails to pay the costs in full before the later of the following:
(A) The end of the business day on which the court enters the judgment.
(B) The end of the period specified in a payment schedule set for the payment of court costs under rules adopted for the operation of the court.

A court may suspend a late payment fee if the court finds that the plaintiff or defendant has demonstrated good cause for failure to make timely payment of the fee.

SECTION 136. IC 33-37-7-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 4.5. The clerk of a circuit**

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court in a county having a consolidated city shall forward to the controller of the consolidated city one hundred percent (100%) of the fees collected under the following:

(1) IC 33-37-4-6.5(a)(1) (township docket fees).

(2) IC 33-37-4-6.5(a)(2) (bailiff's service of process fees).

(3) IC 33-37-4-6.5(a)(3) (service of process costs).

(4) IC 33-37-4-6.5(a)(4) (witness fees).

(5) IC 33-37-4-6.5(a)(5) (redocketing fees).

The clerk shall forward the fees in accordance with section 12 of this chapter.

SECTION 137. IC 33-37-7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 11. (a) This section applies to a county in which there is ~~established~~ a pension trust under IC 36-8-10-12 **or IC 36-8-10.1-37.**

(b) For each service of a writ, an order, a process, a notice, a tax warrant, or other paper completed by the sheriff of a county described in subsection (a), the sheriff shall submit to the county fiscal body a verified claim of service.

(c) From the county share distributed under section 3 or 4 of this chapter and deposited into the county general fund, the county fiscal body shall appropriate twelve dollars ($12) for each verified claim submitted by the sheriff under subsection (b). Amounts appropriated under this subsection shall be deposited by the county auditor into the pension trust ~~established~~ under IC 36-8-10-12 **or IC 36-8-10.1-37.**

SECTION 138. IC 33-38-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 6. (a) The total annual salary of each full-time judge of a circuit, superior, municipal, county, or probate court is:

(1) ninety thousand dollars ($90,000), paid by the state; and

(2) any additional salary provided by the county under IC 36-2-5-14 or IC 36-3-6-3(c).

The state shall deposit quarterly the money received from the counties under subsection (c) for additional salary in the state general fund.

(b) Before November 2 of each year, the county auditor of each county shall certify to the division of state court administration the amounts, if any, to be provided by the county during the ensuing calendar year for judges' salaries under IC 36-2-5-14 or IC 36-3-6-3(c).

(c) When making each payment under subsection (a), the county shall determine for each judge whether the total of:

(1) the payment made on behalf of that judge;

(2) previous payments made on behalf of that judge in the same calendar year; and

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(3) the state share of the judge's salary under subsection (a);

exceeds the Social Security wage base established by the federal government for that year. If the total does not exceed the Social Security wage base, the payment on behalf of that judge must also be accompanied by an amount equal to the employer's share of Social Security taxes and Medicare taxes. If the total exceeds the Social Security wage base, the part of the payment on behalf of the judge that is below the Social Security wage base must be accompanied by an amount equal to the employer's share of Social Security taxes and Medicare taxes, and the part of the payment on behalf of the judge that exceeds the Social Security wage base must be accompanied by an amount equal to the employer's share of Medicare taxes. Payments made under this subsection shall be deposited in the state general fund under subsection (a).

(d) For purposes of determining the amount of life insurance premiums to be paid by a judge who participates in a life insurance program that:

(1) is established by the state;

(2) applies to a judge who is covered by this section; and

(3) bases the amount of premiums to be paid by the judge on the amount of the judge's salary;

the judge's salary does not include any amounts paid to the state by a county under subsection (a).

(e) This section does not apply to a small claims judge (as defined in IC 33-33-49-5.2).

SECTION 139. IC 33-38-5-6.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 6.1. (a) This section applies to a small claims judge (as defined in IC 33-33-49-5.2).**

(b) The salary of a small claims judge who serves full time must be in an amount determined by the auditor of the county and approved by the city-county council.

(c) The salary of each small claims judge who serves part time must be in an amount determined by the auditor of the county and approved by the city-county council.

(d) The salary of a small claims judge may not be reduced during the small claims judge's term of office. At any other time, the salary of any full-time or part-time small claims judge may be increased or decreased by the auditor with the approval of the city-county council.

(e) The annual salary of a small claims judge shall be paid in twelve (12) equal monthly installments by the county.

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(f) A small claims judge may not receive remuneration other than a salary set under this section for the performance of the small claims judge's official duties except payments for performing marriage ceremonies.

SECTION 140. IC 33-38-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 7. **(a)** As used in this chapter, "judge" means a person who serves or has served as a regular judge or justice of one (1) or more of the following courts:

(1) Supreme court.
(2) Court of appeals.
(3) Indiana tax court.
(4) Circuit court of a judicial circuit.
(5) Superior court of a county.
(6) Criminal court of a county having a separate criminal court.
(7) Probate court of a county having a separate probate court.
(8) Juvenile court of a county having a separate juvenile court.
(9) Municipal court of a county.
(10) County court of a county.

(b) The term does not include a small claims judge (as defined in IC 33-33-49-5.2).

SECTION 141. IC 33-38-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 3. As used in this chapter, "judge" means an individual who holds or formerly held one (1) of the following offices or appointments:

(1) Justice of the supreme court.
(2) Judge of the court of appeals.
(3) Judge of the tax court.
(4) Judge of a circuit court.
(5) Judge of a superior court.
(6) Judge of a probate court.
(7) Judge of a municipal court.
(8) Judge of a county court.
(9) Judge of a city court.
(10) Judge of a town court.
(11) **Small claims** judge. ~~of a small claims court.~~
(12) A judge pro tempore, senior judge, temporary judge, or any other individual serving as judge in an action or a proceeding in an Indiana court.
(13) Bail commissioner.
(14) Magistrate.
(15) Master commissioner.
(16) Probate commissioner.

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(17) Referee.

SECTION 142. IC 33-38-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 4. As used in this chapter, "judge" means a:

(1) judge of a superior or probate court; **and**

(2) small claims judge (as defined in IC 33-33-49-5.2).

SECTION 143. IC 33-41-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 7. (a) This section applies to the small claims ~~court~~ **division** established under ~~IC 33-34.~~ **IC 33-33-49-14(c)(5).**

(b) The person who is designated by a **small claims** judge of the court to prepare transcripts may collect a fee of not more than five dollars ($5) for each transcript from a person who requests the preparation of a transcript.

SECTION 144. IC 34-30-2-58 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 58. IC 15-3-4-2 (Concerning township trustees, **a consolidated city,** or persons hired by them for the removal of detrimental plants upon another person's real property).

SECTION 145. IC 35-33.5-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. (a) A prosecuting attorney may submit an application for a warrant or an extension to a circuit or superior court where:

(1) the county that the prosecuting attorney represents is located; and

(2) the communication subject to the warrant is anticipated to be sent or received.

The prosecuting attorney may not delegate the responsibility of applying for a warrant or an extension to a deputy prosecuting attorney.

(b) One (1) of the following persons must serve as a coapplicant for a warrant or an extension under subsection (a):

(1) The superintendent of the state police department.

~~(2) The police chief of a consolidated city where the communication subject to the warrant is anticipated to be sent or received.~~

~~(3)~~ **(2)** The sheriff of the county containing a consolidated city where the communication subject to the warrant is anticipated to be sent or received.

(c) Only the state police department may install, operate, or monitor any equipment, device, or instrument for the purpose of intercepting a telephonic or telegraphic communication under this chapter.

SECTION 146. IC 35-38-1-7.5 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 7.5. (a) As used in this section, "sexually violent predator" has the meaning set forth in IC 5-2-12-4.5.

(b) This section applies whenever a court sentences a person for a sex offense listed in IC 5-2-12-4(a)(1) through IC 5-2-12-4(a)(10) for which the person is required to register with the sheriff ~~(or the police chief of a consolidated city)~~ under IC 5-2-12-5.

(c) At the sentencing hearing, the court shall determine whether the person is a sexually violent predator. Before making a determination under this section, the court shall consult with a board of experts consisting of two (2) board certified psychologists or psychiatrists who have expertise in criminal behavioral disorders.

(d) If the court finds that a person is a sexually violent predator:

(1) the person is required to register with the sheriff ~~(or the police chief of a consolidated city)~~ as provided in IC 5-2-12-13(b); and

(2) the court shall send notice of its finding under this subsection to the criminal justice institute.

(e) A person who is found by a court to be a sexually violent predator under subsection (c) may petition the court to consider whether the person is no longer a sexually violent predator. The person may file a petition under this subsection not earlier than ten (10) years after the sentencing court makes its finding under subsection (c). A person may file a petition under this subsection not more than one (1) time per year. If a court finds that the person is no longer a sexually violent predator, the court shall send notice to the Indiana criminal justice institute that the person is no longer considered a sexually violent predator.

SECTION 147. IC 35-38-2-2.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2.2. As a condition of probation for an offender (as defined in IC 5-2-12-4), the court shall:

(1) require the offender to register with the sheriff ~~(or the police chief of a consolidated city)~~ under IC 5-2-12-5; and

(2) prohibit the offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of probation, unless the offender obtains written approval from the court.

If the court allows the offender to reside within one thousand (1,000) feet of school property under subdivision (2), the court shall notify each school within one thousand (1,000) feet of the offender's residence of the order.

SECTION 148. IC 35-47-4.5-3 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 3. As used in this chapter, "public safety officer" means:

(1) a state police officer;
(2) a county sheriff;
(3) a county police officer;
(4) a correctional officer;
(5) an excise police officer;
(6) a county police reserve officer;
(7) a city police officer;
(8) a city police reserve officer;
(9) a conservation enforcement officer;
(10) a town marshal;
(11) a deputy town marshal;
(12) a state university police officer appointed under IC 20-12-3.5;
(13) a probation officer;
(14) a firefighter (as defined in IC 9-18-34-1);
(15) an emergency medical technician; ~~or~~
(16) a paramedic; **or**
(17) a member of the metropolitan law enforcement agency.

SECTION 149. IC 36-1-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 7. "Fiscal officer" means:

(1) auditor, for a county **not having a consolidated city;**
(2) controller, for a:
(A) consolidated city;
(B) county having a consolidated city; or
(C) second class city;
(3) clerk-treasurer, for a third class city;
(4) clerk-treasurer, for a town; or
(5) trustee, for a township.

SECTION 150. IC 36-1-2-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 22. **(a)** "Township", ~~refers to~~ **except as provided in subsection (b), means:**

(1) a civil township, unless the reference is to a congressional township or school township; **or**
(2) after December 31, 2006, and except as provided in IC 36-6-1.1, IC 36-6-4.1, and IC 36-6-6.1, a township district for a county having a consolidated city, unless the reference is to a congressional township or school township or the context requires otherwise.

(b) "Township" means only a civil township for purposes of the

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following:

(1) IC 36-7-4.

(2) IC 36-9-27.

SECTION 151. IC 36-2-13-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2.5. (a) The sheriff, the executive, and the fiscal body may enter into a salary contract for the sheriff.

(b) A sheriff's salary contract must contain the following provisions:

(1) A fixed amount of compensation for the sheriff in place of fee compensation.

(2) Payment of the full amount of the sheriff's compensation from the county general fund in the manner that salaries of other county officials are paid.

(3) Deposit by the sheriff of the sheriff's tax warrant collection fees (as described in IC 6-8.1-8-3) in the county general fund for use for any general fund purpose.

(4) A procedure for financing prisoners' meals that uses one (1) of the following methods:

(A) The county fiscal body shall make an appropriation in the usual manner from the county general fund to the sheriff for feeding prisoners. The sheriff or the sheriff's officers, deputies, or employees may not make a profit from the appropriation. The sheriff shall deposit all meal allowances received under IC 36-8-10-7, **or under IC 36-8-10.1-47 with respect to a county having a consolidated city,** in the county general fund for use for any general fund purpose.

(B) The sheriff shall pay for feeding prisoners from meal allowances received under IC 36-8-10-7 **or under IC 36-8-10.1-47 with respect to a county having a consolidated city.** The sheriff or the sheriff's officers, deputies, or employees may not make a profit from the meal allowances. After the expenses of feeding prisoners are paid, the sheriff shall deposit any unspent meal allowance money in the county general fund for use for any general fund purpose.

(5) A requirement that the sheriff shall file an accounting of expenditures for feeding prisoners with the county auditor on the first Monday of January and the first Monday of July of each year.

(6) An expiration date that is not later than the date that the term of the sheriff expires.

(7) Other provisions concerning the sheriff's compensation to which the sheriff, the county executive, and the fiscal body agree.

(c) A salary contract is entered under this section when a written

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document containing the provisions of the contract is:

(1) approved by resolution of both the executive and the fiscal body; and

(2) signed by the sheriff.

SECTION 152. IC 36-2-13-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 5.5. (a) The sheriffs shall jointly establish and maintain a sex offender web site, known as the Indiana sheriffs' sex offender registry, to inform the general public about the identity, location, and appearance of every sex offender residing within Indiana. The web site must provide information regarding each sex offender, organized by county of residence. The web site shall be updated at least every seven (7) days.

(b) The sex offender web site must include the following information:

(1) A recent photograph of every sex offender who has registered with a sheriff after the effective date of this chapter.

(2) The home address of every sex offender.

(3) The information required to be included in the sex offender directory (IC 5-2-12-6).

(c) Every time a sex offender submits a new registration form to the sheriff, but at least once per year, the sheriff shall photograph the sex offender. The sheriff shall place this photograph on the sex offender web site.

(d) The photograph of a sex offender described in subsection (c) must meet the following requirements:

(1) The photograph must be full face, front view, with a plain white or off-white background.

(2) The image of the offender's face, measured from the bottom of the chin to the top of the head, must fill at least seventy-five percent (75%) of the photograph.

(3) The photograph must be in color.

(4) The photograph must show the offender dressed in normal street attire, without a hat or headgear that obscures the hair or hairline.

(5) If the offender normally and consistently wears prescription glasses, a hearing device, wig, or a similar article, the photograph must show the offender wearing those items. A photograph may not include dark glasses or nonprescription glasses with tinted lenses unless the offender can provide a medical certificate demonstrating that tinted lenses are required for medical reasons.

(6) The photograph must have sufficient resolution to permit the offender to be easily identified by a person accessing the sex

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offender web site.

(e) The sex offender web site may be funded from:

(1) the jail commissary fund (IC 36-8-10-21 **or IC 36-8-10.1-48);**

(2) a grant from the criminal justice institute; and

(3) any other source, subject to the approval of the county fiscal body.

SECTION 153. IC 36-2-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5. (a) The county assessor shall perform the functions assigned by statute to the county assessor, including the following:

(1) Countywide equalization.

(2) Selection and maintenance of a countywide computer system.

(3) Certification of gross assessments to the county auditor.

(4) Discovery of omitted property.

(b) The county assessor shall perform the functions of an assessing official under IC 36-6-5-2 in a township with a township assessor-trustee if the township assessor-trustee:

(1) fails to make a report that is required by law;

(2) fails to deliver a property tax record to the appropriate officer or board;

(3) fails to deliver an assessment to the county assessor; or

(4) fails to perform any other assessing duty as required by statute or rule of the department of local government finance;

within the time period prescribed by statute or rule of the department or within a later time that is necessitated by reason of another official failing to perform the official's functions in a timely manner.

(c) A township with a township trustee-assessor may, with the consent of the township board, enter into an agreement with:

(1) the county assessor; or

(2) another township assessor in the county;

to perform any of the functions of an assessing official. A township trustee-assessor may not contract for the performance of any function for a period of time that extends beyond the completion of the township trustee-assessor's term of office.

(d) In a county having a consolidated city:

(1) the county assessor shall perform the functions of an assessing official and other duties of an assessing official prescribed by statute in each township in the county, including assessment duties prescribed by IC 6-1.1; and

(2) the controller of the consolidated city or the controller's designee shall administer the dog tax and township dog fund as prescribed by IC 15-5-9.

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SECTION 154. IC 36-3-1-6.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 6.1. (a) Except as provided in section 6.3 of this chapter, after December 31, 2005, the fire departments of the following are consolidated into the fire department of a consolidated city (referred to as "the consolidated fire department" in this chapter):**

(1) A township located in a county having a consolidated city.

(2) A fire protection territory established under IC 36-8-19 that is located in a county having a consolidated city.

(3) The territory in which an airport authority established for a consolidated city under IC 8-22-3 may provide fire protection services.

(b) Except as provided by section 6.3 of this chapter, after December 31, 2005, the consolidated fire department shall provide fire protection services for the entire county.

(c) All the property, equipment, records, rights, and contracts of the departments and territories listed in subsection (a) are:

(1) transferred to; or

(2) assumed by;

the consolidated city.

(d) The employees of the departments and territories listed in subsection (a) cease employment with those departments and territories and become employees of the consolidated fire department after December 31, 2005. These employees are not hired or rehired for purposes of IC 36-8-3.2 or IC 36-8-10.5 upon becoming employees of the consolidated fire department. The consolidated city shall assume all agreements with labor organizations that:

(1) are in effect after December 31, 2005; and

(2) apply to employees of the departments and territories listed in subsection (a) who become employees of the consolidated fire department.

(e) Except as provided in subsection (g), the consolidated city shall assume, defease, pay, or refund all indebtedness related to fire protection services incurred before January 1, 2006, by:

(1) a township;

(2) an airport authority;

(3) a fire protection territory; or

(4) a building, holding, or leasing corporation on behalf of a township, an airport authority, or a fire protection territory;

whose fire department is consolidated into the consolidated fire

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department under subsection (a).

(f) Notwithstanding any other law, to assume, defease, pay, or refund all or a part of the indebtedness described in subsection (e) the consolidated city is not required to comply with any other statutory procedures or approvals that apply when a unit incurs indebtedness.

(g) Notwithstanding subsections (e) and (f), the consolidated city may not assume all or a part of the indebtedness described in subsection (e) that will exceed the limitations on the amount of indebtedness that the consolidated city may incur.

(h) The rights of the trustee and the bondholders with respect to any:

(1) indebtedness or bonds; or

(2) bond resolution, trust agreement or indenture, security agreement, purchase agreement, or other undertaking described in subsection (e);

remain the same, although the powers, duties, and liabilities of the departments listed in subsection (a) have been transferred to the consolidated city, and the consolidated city shall be considered to have assumed all those powers, duties, agreements, and liabilities.

(i) To provide for the payment of the expenses for the operation of the consolidated fire department, the consolidated city may levy property taxes on taxable property located within the area served by the consolidated fire department.

(j) The fire special service district established under IC 36-3-1-6 may levy property taxes to provide for the payment of expenses for the operation of the consolidated fire department:

(1) within; or

(2) that directly benefit;

the territory of the fire special service district. These amounts are in addition to the amounts levied by the fire special service district to fund pension obligations under IC 36-8-7-14.

(k) The local boards for the 1937 firefighters' pension fund and the 1977 police officers' and firefighters' pension and disability fund for a fire department in a township located in a county having a consolidated city are dissolved, and their services are terminated not later than the effective date of the consolidation. The duties performed by the township's local boards under IC 36-8-7 and IC 36-8-8, respectively, are assumed by the public safety pension commission established under IC 36-8-7.6.

(l) After December 31, 2005, the merit board and the merit system of each fire department listed in subdivision (a) is dissolved,

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and the duties of the merit boards are transferred to and assumed by the merit board for the consolidated fire department.

SECTION 155. IC 36-3-1-6.2 IS ADDED TO INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 6.2. After December 31, 2005, the consolidated city, through the consolidated fire department, shall establish, operate, and maintain emergency ambulance services (as defined in IC 16-18-2-107) in the county.**

SECTION 156. IC 36-3-1-6.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 6.3. (a) The consolidated fire department may not provide fire protection services for:**

(1) an excluded city; or

(2) a fire protection territory for which an excluded city is a provider unit (as defined in IC 36-8-19-3);

unless the fire protection services are provided pursuant to an interlocal agreement under IC 36-1-7 or the conditions in subsection (b) are met.

(b) For the consolidated fire department to provide fire protection services to an excluded city other than under an interlocal agreement under IC 36-1-7, all the following must occur:

(1) The legislative body of the excluded city and the city-county legislative body must adopt substantially similar ordinances authorizing the consolidation of the fire department of the excluded city into the consolidated fire department.

(2) The ordinances described in subdivision (1) must:

(A) specify the effective date of the consolidation; and

(B) set forth the conditions of the consolidation.

(c) After the effective date of the consolidation described in subsection (b), the consolidated fire department shall provide fire protection services within the territory of the excluded city.

(d) After the effective date of the consolidation described in subsection (b), all the property, equipment, records, rights, and contracts of the fire department of the excluded city are transferred to and assumed by the consolidated city.

(e) After the effective date of the consolidation described in subsection (b), the employees of the fire department of the excluded city cease employment with the excluded city and become employees of the consolidated fire department. These employees are not hired or rehired for purposes of IC 36-8-3.2 or IC 36-8-10.5 upon becoming employees of the consolidated fire department. The

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consolidated city shall assume all agreements with labor organizations that:

(1) are in effect after the effective date of the consolidation described in subsection (b); and

(2) apply to employees of the fire department of the excluded city who become employees of the consolidated fire department.

(f) Except as provided in subsection (h), the consolidated city shall assume, defease, pay, or refund all indebtedness related to fire protection services incurred before the effective date of the consolidation described in subsection (b) by:

(1) an excluded city; or

(2) a building, holding, or leasing corporation on behalf of an excluded city;

whose fire department is consolidated into the consolidated fire department under subsection (b).

(g) Notwithstanding any other law, to assume, defease, pay, or refund all or a part of the indebtedness described in subsection (f) the consolidated city is not required to comply with any other statutory procedures or approvals that apply when a unit incurs indebtedness.

(h) Notwithstanding subsections (f) and (g), the consolidated city may not assume all or a part of the indebtedness described in subsection (f) that will exceed the limitations on the amount of indebtedness that the consolidated city may incur.

(i) The rights of the trustee and the bondholders with respect to any:

(1) indebtedness or bonds; or

(2) bond resolution, trust agreement or indenture, security agreement, purchase agreement, or other undertaking described in subsection (f);

remain the same, although the powers, duties, and liabilities of the departments listed in subsection (a) have been transferred to the consolidated city, and the consolidated city shall be considered to have assumed all those powers, duties, agreements, and liabilities.

(j) Whenever an excluded city consolidates its fire department into the consolidated fire department under subsection (b), the local boards for the 1937 firefighters' pension fund and the 1977 police officers' and firefighters' pension and disability fund of the excluded city are dissolved, and their services are terminated not later than the effective date of the consolidation. The duties performed by the local boards under IC 36-8-7 and IC 36-8-8,

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respectively, are assumed by the public safety pension commission established under IC 36-8-7.6.

(k) Whenever an excluded city consolidates its fire department into the consolidated fire department under subsection (b), the merit board and merit system of the excluded city's fire department are dissolved, and the duties of the excluded city's merit board are transferred to and assumed by the merit board for the consolidated fire department.

(l) Whenever an excluded city consolidates its fire department into the consolidated fire department under subsection (b), for property taxes first due and payable in the calendar year following the effective date of the consolidation, the maximum permissible ad valorem property tax levy under IC 6-1.1-18.5:

(1) is increased for a consolidated city by the amount levied in the prior calendar year for fire protection and related services by the excluded city; and

(2) is reduced for the excluded city by the amount levied in the prior calendar year for fire protection and related services by the excluded city.

(m) Whenever an excluded city consolidates its fire department into the consolidated fire department under subsection (b), for property taxes first due and payable in the calendar year following the effective date of the consolidation, the amount levied under IC 6-1.1-41 and IC 36-8-14 in the prior calendar year by the excluded city for its cumulative building and equipment fund for firefighting and related services is transferred to the consolidated city's cumulative building and equipment fund for firefighting and related services, and the consolidated city is exempted from the requirements of IC 6-1.1-41 and IC 36-8-14 regarding an increase to the levy for its cumulative building and equipment fund for firefighting and related services.

SECTION 157. IC 36-3-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 3. (a) A special service district of the consolidated city:

(1) may sue and be sued;

(2) may exercise powers of the consolidated city to the extent that those powers are delegated to it by law, but may not issue bonds; and

(3) shall provide services to property owners only in the district, unless a law provides otherwise.

(b) A special service district or special taxing district shall be administered under the jurisdiction of a department of the consolidated

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city **or the county.** The territory of a special service district or special taxing district may be expanded, in the manner prescribed by law, to include territory inside the county that is not originally included in the district.

(c) The city-county legislative body may, by ordinance, expand the territory of a ~~special service~~ **solid waste collection** district ~~subject to the following conditions:~~ **as follows:**

~~(1) In the case of the fire district, the ordinance may not be considered unless a petition to include additional territory in the district is first submitted to the metropolitan development commission for study and recommendation. The petition must be signed by a majority of the landowners, or by owners of land amounting to seventy-five percent (75%) in assessed valuation, in the proposed additional territory. After receiving the petition, the metropolitan development commission shall make findings of fact and recommendations and serve copies of these on the fire chief, the executive of each township affected, and the petitioners at least thirty (30) days before a public hearing before the legislative body. After the public hearing, the legislative body may pass the ordinance only if it determines:~~

~~(A) that reasonable and adequate fire protection service can be provided within the additional territory by the consolidated city, and~~

~~(B) that expansion of the district is in the public interest.~~

~~(2) In the case of the police district, the legislative body must hold a public hearing and then may pass the ordinance only if it determines:~~

~~(A) that reasonable and adequate police protection can be provided within the additional territory by the consolidated city, and~~

~~(B) that expansion of the district is in the public interest.~~

~~(3) In the case of the solid waste collection district,~~

(1) The ordinance may not be considered unless a petition to include additional territory in the district is first submitted to the works board for study and recommendation.

(2) The petition must be signed by at least ten (10) interested residents in the proposed additional territory.

(3) After receiving the petition, the works board shall:

(A) set a date for a public hearing;

(B) publish notice of the hearing in accordance with IC 5-3-1; and

(C) upon hearing the matter, determine whether the territory

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should be added to the district.

(4) If the works board recommends that the territory should be added to the district, the legislative body must hold a public hearing and then may pass the ordinance.

(5) Territory in the solid waste collection district may also be removed from the district in the manner prescribed by this ~~subdivision.~~ **section.**

SECTION 158. IC 36-3-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 10. (a) The general assembly finds the following:

(1) That the tax base of the consolidated city and the county have been significantly eroded through the ownership of tangible property by separate municipal corporations and other public entities that operate as private enterprises yet are exempt or whose property is exempt from property taxation.

(2) That to restore this tax base and provide a proper allocation of the cost of providing governmental services the legislative body of the consolidated city and county should be authorized to collect payments in lieu of taxes from these public entities.

(3) That the appropriate maximum payments in lieu of taxes would be the amount of the property taxes that would be paid if the tangible property were not subject to an exemption.

(b) As used in this section, the following terms have the meanings set forth in IC 6-1.1-1:

(1) Assessed value.

(2) Exemption.

(3) Owner.

(4) Person.

(5) Personal property.

(6) Property taxation.

(7) Tangible property.

~~(8) Township assessor.~~

(c) As used in this section, "PILOTS" means payments in lieu of taxes.

(d) As used in this section, "public entity" means any of the following government entities in the county:

(1) An airport authority operating under IC 8-22-3.

(2) A capital improvement board of managers under IC 36-10-9.

(3) A building authority operating under IC 36-9-13.

(4) A wastewater treatment facility.

(e) The legislative body of the consolidated city may adopt an ordinance to require a public entity to pay PILOTS at times set forth in

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the ordinance with respect to:

(1) tangible property of which the public entity is the owner or the lessee and that is subject to an exemption;

(2) tangible property of which the owner is a person other than a public entity and that is subject to an exemption under IC 8-22-3; or

(3) both.

The ordinance remains in full force and effect until repealed or modified by the legislative body.

(f) The PILOTS must be calculated so that the PILOTS may be in any amount that does not exceed the amount of property taxes that would have been levied by the legislative body for the consolidated city and county upon the tangible property described in subsection (e) if the property were not subject to an exemption from property taxation.

(g) PILOTS ~~shall be~~ **are** imposed as are property taxes and ~~shall be~~ **are** based on the assessed value of the tangible property described in subsection (e). The ~~township assessors~~ **county assessor** shall assess the tangible property described in subsection (e) as though the property were not subject to an exemption. The public entity shall report the value of personal property in a manner consistent with IC 6-1.1-3.

(h) Notwithstanding any law to the contrary, a public entity is authorized to pay PILOTS imposed under this section from any legally available source of revenues. The public entity may consider these payments to be operating expenses for all purposes.

(i) PILOTS ~~shall be~~ **are** deposited in the consolidated county fund and used for any purpose for which the consolidated county fund may be used.

(j) PILOTS ~~shall be~~ **are** due as set forth in the ordinance and bear interest, if unpaid, as in the case of other taxes on property. PILOTS ~~shall be~~ **are** treated in the same manner as taxes for purposes of all procedural and substantive provisions of law.

(k) PILOTS imposed on a wastewater treatment facility may be paid only from the cash earnings of the facility remaining after provisions have been made to pay for current obligations, including:

(1) operating and maintenance expenses;

(2) payment of principal and interest on any bonded indebtedness;

(3) depreciation or replacement fund expenses;

(4) bond and interest sinking fund expenses; and

(5) any other priority fund requirements required by law or by any bond ordinance, resolution, indenture, contract, or similar instrument binding on the facility.

SECTION 159. IC 36-3-2-11 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 11. (a) As used in this section, the following terms have the meanings set forth in IC 6-1.1-1:

(1) Assessed value.
(2) Exemption.
(3) Owner.
(4) Person.
(5) Property taxation.
(6) Real property.
~~(7) Township assessor~~.

(b) As used in this section, "PILOTS" means payments in lieu of taxes.

(c) As used in this section, "property owner" means the owner of real property described in IC 6-1.1-10-16.7 that is located in a county with a consolidated city.

(d) Subject to the approval of a property owner, the legislative body of the consolidated city may adopt an ordinance to require the property owner to pay PILOTS at times set forth in the ordinance with respect to real property that is subject to an exemption under IC 6-1.1-10-16.7. The ordinance remains in full force and effect until repealed or modified by the legislative body, subject to the approval of the property owner.

(e) The PILOTS must be calculated so that the PILOTS are in an amount that is:

(1) agreed upon by the property owner and the legislative body of the consolidated city;
(2) a percentage of the property taxes that would have been levied by the legislative body for the consolidated city and the county upon the real property described in subsection (d) if the property were not subject to an exemption from property taxation; and
(3) not more than the amount of property taxes that would have been levied by the legislative body for the consolidated city and county upon the real property described in subsection (d) if the property were not subject to an exemption from property taxation.

(f) PILOTS ~~shall be~~ **are** imposed as are property taxes and ~~shall be~~ **are** based on the assessed value of the real property described in subsection (d). The ~~township assessors~~ **county assessor** shall assess the real property described in subsection (d) as though the property were not subject to an exemption.

(g) PILOTS collected under this section ~~shall be~~ **are** deposited in the housing trust fund established under IC 36-7-15.1-35.5 and used for any purpose for which the housing trust fund may be used.

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(h) PILOTS ~~shall be~~ **are** due as set forth in the ordinance and bear interest, if unpaid, as in the case of other taxes on property. PILOTS ~~shall be~~ **are** treated in the same manner as taxes for purposes of all procedural and substantive provisions of law.

SECTION 160. IC 36-3-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 10. (a) The board of commissioners of the county is composed of the county treasurer, the county auditor, and the county assessor. These officers shall serve ex officio as commissioners without additional compensation for performing the duties of the board.

(b) The board of commissioners:

(1) shall make the appointments required by statute to be made by the board of commissioners of a county;

~~(2) shall perform the duties and exercise the powers prescribed by statutes pertaining to the issuance and payment of bonds of the county and the expenditure of the unexpended proceeds of those bonds;~~ and

~~(3)~~ **(2)** may exercise the powers granted it by Article 9, Section 3 of the Constitution of the State of Indiana and by IC 12-30-3.

SECTION 161. IC 36-3-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 14. (a) An ordinance or resolution passed by a legislative body is considered adopted when it is:

(1) signed by the presiding officer; and

(2) if subject to veto, either approved by the executive or passed over ~~his~~ **the executive's** veto by the legislative body, under section 16 of this chapter.

(b) All ordinances and resolutions of a legislative body are subject to veto, except the following:

~~(1) An ordinance or resolution, or part of either, providing for the budget or appropriating money for an office or officer of the county provided for by the Constitution of Indiana or for a judicial office or officer.~~

~~(2)~~ **(1)** An ordinance or resolution approving or modifying the budget of a political subdivision that the legislative body is permitted by statute to review.

~~(3)~~ **(2)** A resolution making an appointment that the legislative body is authorized to make.

~~(4)~~ **(3)** A resolution selecting officers or employees of the legislative body.

~~(5)~~ **(4)** A resolution prescribing rules for the internal management of the legislative body.

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~~(6)~~ **(5)** A zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under IC 36-7.

(c) An ordinance prescribing a penalty or forfeiture for a violation must, before it takes effect, be published in the manner prescribed by IC 5-3-1, unless:

(1) it is published under subsection (d); or

(2) there is an urgent necessity requiring its immediate effectiveness, the executive proclaims the urgent necessity, and copies of the ordinance are posted in three (3) public places in the county.

(d) If a legislative body publishes any of its ordinances in book or pamphlet form, no other publication is required. If an ordinance prescribing a penalty or forfeiture for a violation is published under this subsection, it takes effect two (2) weeks after the publication of the book or pamphlet. Publication under this subsection, if authorized by the legislative body, constitutes presumptive evidence:

(1) of the ordinances in the book or pamphlet;

(2) of the date of adoption of the ordinances; and

(3) that the ordinances have been properly signed, attested, recorded, and approved.

(e) Unless a legislative body provides in an ordinance or resolution for a later effective date, the ordinance or resolution takes effect when it is adopted, subject to subsections (c) and (d).

(f) Subsections (a), (c), (d), and (e) do not apply to zoning ordinances or amendments to zoning ordinances, or resolutions approving comprehensive plans, that are adopted under IC 36-7.

SECTION 162. IC 36-3-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 4. (a) Before the Wednesday after the first Monday in July each year, the consolidated city and county shall prepare budget estimates for the ensuing budget year under this section.

(b) The following officers shall prepare for their respective departments, offices, agencies, or courts an estimate of the amount of money required for the ensuing budget year, stating in detail each category and item of expenditure they anticipate:

(1) The director of each department of the consolidated city.

(2) Each ~~township assessor,~~ elected county officer or head of a county agency.

(3) The county clerk, for each court ~~of which he is~~ **the** clerk **serves.**

(c) In addition to the estimates required by subsection (b), the

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county clerk shall prepare an estimate of the amount of money that is, under law, taxable against the county for the expenses of cases tried in other counties on changes of venue.

(d) Each officer listed in subsection (b)(2) or (b)(3) shall append a certificate to each estimate ~~he~~ **the officer** prepares stating that in ~~his~~ **the officer's** opinion the amount fixed in each item will be required for the purpose indicated. The certificate must be verified by the oath of the officer.

(e) An estimate for a court or division of a court is subject to modification and approval by the judge of the court or division.

(f) All of the estimates prepared by city officers shall be submitted to the ~~city fiscal officer~~ **controller,** and all of the estimates prepared by county officers shall be submitted to the county fiscal officer.

(g) The ~~city fiscal officer~~ **controller** shall also prepare an itemized estimate of city expenditures for other purposes above the money proposed to be used by the city departments.

SECTION 163. IC 36-3-6-4.1 IS ADDED TO INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 4.1. Notwithstanding IC 36-8-7, the city-county legislative body shall adopt an ordinance under section 7 of this chapter to levy a tax only within the fire special service district in the amount and at the rate necessary to produce sufficient revenue to pay the amounts required to satisfy the consolidated city's 1937 firefighters' pension fund obligations under IC 36-8-7-14.**

SECTION 164. IC 36-3-7-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 6. (a) Notwithstanding any other law, the consolidated city may issue obligations to refund obligations issued before January 1, 2006, in the name of:**

(1) a township;

(2) an airport authority;

(3) a fire protection territory; or

(4) a building, holding, or leasing corporation on behalf of a township, an airport authority, or a fire protection territory;

to satisfy the requirements of IC 36-3-1-6.1(e), IC 36-3-1-6.1(f), and IC 36-3-1-6.1(g).

(b) Notwithstanding any other law, the consolidated city may issue obligations to refund obligations issued before the effective date of a consolidation described in IC 36-3-1-6.3(b) by:

(1) an excluded city; or

(2) a building, holding, or leasing corporation on behalf of an

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excluded city;

to satisfy the requirements of IC 36-3-1-6.3(f), IC 36-3-1-6.3(g), and IC 36-3-1-6.3(h).

SECTION 165. IC 36-6-1.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 1.1. Marion County Township Transitional Provisions

Sec. 1. This chapter applies only to townships in a county having a consolidated city.

Sec. 2. (a) Before January 1, 2006:

(1) township trustees continue to be governed by IC 36-6-4; and

(2) township boards continue to be governed by IC 36-6-6.

(b) Except as provided in subsection (c), after December 31, 2005:

(1) township trustees are governed by IC 36-6-4.1; and

(2) township boards are governed by IC 36-6-6.1.

(c) Before January 1, 2007, township trustees and township boards continue to represent their respective townships rather than a township district.

(d) Beginning with the general election held in 2006:

(1) new township trustees for the township districts shall be elected under IC 36-6-4.1; and

(2) new township boards for the township districts shall be elected under IC 36-6-6.1.

(e) On January 1, 2007:

(1) the township boards existing at the time the new township boards are elected under IC 36-6-6.1 are dissolved; and

(2) the township boards elected under IC 36-6-6.1 replace the township boards that are dissolved under subdivision (1).

Sec. 3. (a) A transitional advisory board shall be formed not later than August 1, 2005, to prepare a report and recommendations to the township trustees and township boards regarding the reorganization of townships, including the following:

(1) The transfer of residual township functions to appropriate departments or officers of the consolidated city or county.

(2) The provision of township assistance under IC 12-20 and IC 12-30-4.

(3) The transfer of township assessment functions from the township assessors to the county assessor.

(4) The location of township divisions of the small claims division of the superior court of the county.

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(b) The transitional advisory board consists of the following twenty-one (21) members:

(1) The nine (9) township trustees in the county holding office on the date the transitional advisory board is formed.

(2) Four (4) individuals appointed by the city executive. One (1) individual appointed under this subdivision must be an assessing professional.

(3) Four (4) individuals appointed by the city-county legislative body.

(4) Four (4) individuals appointed by the board of commissioners of the county.

(c) Members of the transitional advisory board appointed under subsection (b)(2), (b)(3), and (b)(4) are not entitled to receive any salary for their service. Members of the board designated under subsection (b)(1) are not entitled to any additional salary for their service on the board but are entitled to their regular salaries as township trustees under IC 36-6-8 until the end of their current terms. The board may use the staff and budget of the existing trustees to carry out the board's work. Two (2) co-chairpersons, each of a different political party, shall be elected by the members of the board.

(d) The transitional advisory board expires not later than February 28, 2006.

Sec. 4. All assets, property rights, equipment, records, personnel, and contracts and all else connected with the provision of township assistance under IC 12-20 and IC 12-30-4 by a township shall be transferred to the applicable township district on January 1, 2007. All other assets, property rights, equipment, records, personnel (except as otherwise provided by statute), and contracts and all else connected with the township shall be transferred to the consolidated city on January 1, 2006. Any indebtedness not connected with the provision of township assistance that was incurred by a township before the effective date of consolidation under this section shall be assumed or defeased by the consolidated city, notwithstanding any other provision of law requiring completion of certain procedures and approvals for the incurrence of indebtedness, provided that the indebtedness (or any part of the indebtedness) may not be assumed by the consolidated city if the assumption would cause the consolidated city to exceed any limitation on the amount of indebtedness that may be incurred by the consolidated city.

Sec. 5. Beginning January 1, 2006, notwithstanding any other

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law to the contrary, for a township located in a county having a consolidated city, the township's distributive share of any state or local taxes or revenues (other than property taxes) shall be reduced to zero and shall be transferred to the consolidated city.

SECTION 166. IC 36-6-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 1.5. Merger of Township Governments

Sec. 1. This chapter does not apply to a township in a county containing a consolidated city.

Sec. 2. As used in this chapter, "former township government" means a township government that merges with at least one (1) other township government under this chapter.

Sec 3. As used in this chapter, "new township government" means the township government that results from the merger of at least two (2) township governments under this chapter.

Sec. 4. (a) At least two (2) township governments may merge to form one (1) township government under this chapter, if:

(1) the township governments are entirely located within the same county;

(2) all the territory within the township governments is subject to the merger; and

(3) each township whose government is subject to the merger is contiguous to at least one (1) other township whose government is subject to the merger.

Sec. 5. (a) The township trustees, with the approval of a majority of the members of the township legislative body of each township that wants to merge township governments under this chapter must comply with this section.

(b) The township trustees must present identical resolutions approving the township government merger to the trustees' respective township legislative bodies. A township legislative body may adopt a resolution under this chapter only after the legislative body has held a public hearing concerning the proposed merger. The township legislative body shall hold the hearing not earlier than thirty (30) days after the date the resolution is introduced. The hearing shall be conducted in accordance with IC 5-14-1.5 and notice of the hearing shall be published in accordance with IC 5-3-1.

(c) The township legislative bodies may adopt the identical resolutions approving the township government merger under this chapter not later than ninety (90) days after the legislative body

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has held the public hearing under subsection (b). The townships shall submit the resolutions to the county legislative body of the county within which the townships are located.

(d) The county legislative body of the county where the township governments are located must:

(1) adopt an ordinance ordering the merger; and

(2) file a copy of the ordinance with:

(A) the circuit court clerk; and

(B) the office of the secretary of state.

(e) The county legislative body may not adopt an ordinance ordering a merger after January 1 of a year in which:

(1) a general election is held; and

(2) a township trustee is elected.

(f) The county legislative body may not adopt an ordinance merging township governments less than one (1) year before the merger becomes effective.

(g) A merger under this chapter may not reduce the term of a township trustee of a former township government.

Sec. 6. The merger becomes effective when the officers of the new township government are elected and qualified. An officer elected to represent the merged township government shall be considered to be a resident of the territory comprising the new township government unless the township merger is dissolved under IC 36-6-1.6.

Sec. 7. If township governments merge under this chapter:

(1) IC 36-6-6 applies to the election of the township board; and

(2) IC 36-6-5-1 applies to the election of a township assessor; of the new township government.

Sec. 8. On the date a merger takes effect:

(1) the former township governments are abolished as separate entities;

(2) each township subject to the merger retains its geographical boundaries and its name;

(3) the territory of the new township government includes all the territory that comprised the territories of the former township governments before the merger;

(4) the agencies of the former township governments are abolished;

(5) the functions of the abolished agencies are assigned to agencies of the new township government;

(6) the:

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(A) property;
(B) records;
(C) personnel;
(D) rights; and
(E) liabilities;

related to the functions of the abolished agencies are assigned to agencies of the new township government; and

(7) any bonds and other indebtedness of, or assumed by, the former township governments are transferred to the new township government.

Sec. 9. Upon the corporate dissolution of a township government under this article, the following apply for purposes of all state and federal licensing and regulatory laws, statutory entitlements, gifts, grants-in-aid, governmental loans, or other governmental assistance under state or federal statutes, rules, or regulations:

(1) The entire geographic area and population of a new township government that is established under this chapter shall be used when calculating and determining the distribution basis for the following:

(A) State or federal government statutory entitlements.
(B) Gifts.
(C) Grants-in-aid.
(D) Loans.
(E) Any form of governmental assistance that is not listed in this subdivision.

(2) Following a public hearing for which notice is published in accordance with IC 5-3-1 at least thirty (30) days before the public hearing takes place, the executive of a new township government that is established under this chapter shall determine and designate to the appropriate state or federal agency the:

(A) geographic areas;
(B) parts of roads;
(C) segments of population; or
(D) combinations of the items listed in clauses (A) through (C);

that constitute rural or urban areas, roads, or populations, if this designation was previously required of any township that merges under this chapter.

Sec. 10. When a new township government is established under this chapter, the following occur:

(1) The resolutions, rules, and bylaws of each of the former

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township governments:

(A) remain in force within the territory to which they applied before the merger; and

(B) continue in force until amended or repealed by the legislative body or an administrative body of the new township government.

(2) Pending actions that involve any former township government shall be prosecuted to final judgment and execution, and judgments rendered in those actions may be executed and enforced against the new township government without any change of the name of the plaintiff or defendant.

Sec. 11. (a) On the date the formation of a new township government takes effect, all money in the funds of each of the former township governments is transferred to the new township government. The new township government:

(1) shall deposit the money in its funds that most closely correspond to the funds of the former township governments; and

(2) may use the money to pay its operational and capital costs for the balance of the calendar year.

(b) After the date the formation of a new township government takes effect, the new township government is entitled to receive all distributions of taxes and other revenue that would have been made to the former township governments if the merger had not occurred. The new township government shall deposit the money in its funds that correspond most closely to the funds of the former township governments into which the taxes or other revenue would have been deposited if the merger had not occurred.

Sec. 12. The officers of the new township government shall:

(1) obtain from the department of local government finance approval under IC 6-1.1-18.5-7 of:

(A) a budget;

(B) an ad valorem property tax levy; and

(C) a property tax rate;

(2) fix the annual budget under IC 6-1.1-17;

(3) impose a property tax levy; and

(4) take any action necessary to ensure the collection of fees and other revenue;

for the new township government for the budget year following the year the officers take office.

SECTION 167. IC 36-6-1.6 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2005]:

Chapter 1.6. Dissolution of a Township Government Merger

Sec. 1. As used in this chapter, "merged township government" means the township government that results from the merger of at least two (2) township governments under IC 36-6-1.5.

Sec. 2. As used in this chapter, "reestablished township government" means a township government that:

(1) merged with at least one (1) other township government under IC 36-6-1.5; and

(2) is reestablished as a separate township government under this chapter.

Sec. 3. (a) Freeholders may initiate proceedings to reestablish a township government by filing a petition in the office of the county auditor of the county where the freeholder's land is located. The petition must be signed by the lesser of:

(1) at least ten percent (10%) of; or

(2) at least fifty (50);

freeholders owning land within the proposed reestablished township. A petition may also be filed with the county auditor by a merged township government under a resolution adopted by the legislative body of the township government.

(b) A county legislative body may adopt an ordinance that:

(1) dissolves a merger of township governments that took effect under IC 36-6-1.5; and

(2) reestablishes the township governments that were subject to the merger.

(c) The county legislative body must file a copy of the ordinance with:

(1) the circuit court clerk; and

(2) the secretary of state.

Sec. 4. (a) A county legislative body may not adopt an ordinance ordering a dissolution under section 3 of this chapter after January 1 of a year in which:

(1) a general election is held; and

(2) a township trustee is elected.

(b) The county legislative body may not adopt an ordinance ordering a dissolution under section 3 of this chapter less than one (1) year before the dissolution takes effect.

(c) A dissolution under this chapter may reduce the term of the township trustee of the merged township government.

Sec. 5. A dissolution under an ordinance adopted under section 3 of this chapter becomes effective when the officers of the

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reestablished township governments are elected and qualified as set forth in IC 36-6.

Sec. 6. (a) On the date on which a dissolution under an ordinance adopted under section 3 of this chapter takes effect:

(1) the reestablished township governments are established as separate entities;

(2) the territory of the reestablished township government is the same as the territory that comprised the reestablished township government before the merger;

(3) the agencies of the merged township government are abolished and the agencies of the reestablished township governments are established;

(4) the functions of the abolished agencies are assigned to agencies of each reestablished township government;

(5) the:

(A) property;

(B) records;

(C) personnel;

(D) rights; and

(E) liabilities;

related to the functions of the abolished agencies are assigned to agencies of the reestablished township governments; and

(6) any bonds and other indebtedness of, or assumed by, the merged township government is the indebtedness of the reestablished township governments.

(b) The county legislative body shall determine the distribution of property, records, and personnel to the reestablished township governments under subsection (a)(5).

Sec. 7. Upon the corporate dissolution of a merged township government under this article, the following apply for purposes of all state and federal licensing and regulatory laws, statutory entitlements, gifts, grants-in-aid, governmental loans, or other governmental assistance under state or federal statutes, rules, or regulations:

(1) The entire geographic area and population of a reestablished township government created under this chapter shall be used when calculating and determining the distribution basis for the following:

(A) State or federal government statutory entitlements.

(B) Gifts.

(C) Grants-in-aid.

(D) Loans.

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(E) Any form of governmental assistance that is not listed in this subdivision.

(2) Following a public hearing for which notice is published in accordance with IC 5-3-1 at least thirty (30) days before the public hearing takes place, the executive of each reestablished township government that is created under this chapter shall determine and designate to the appropriate state or federal agency the:

(A) geographic areas;

(B) parts of roads;

(C) segments of population; or

(D) combinations of the items listed in clauses (A) through (C);

that constitute rural or urban areas, roads, or populations, if this designation was previously required of the merged township government.

Sec. 8. When a reestablished township government is created under this chapter, the following occur:

(1) The resolutions, rules, and bylaws of the merged township government:

(A) remain in force in the reestablished township governments; and

(B) continue in force until amended or repealed by the legislative body or an administrative body of the reestablished township government.

(2) Pending actions that involve the merged township government shall be prosecuted to final judgment and execution, and judgments rendered in those actions may be executed and enforced against the reestablished township governments without any change of the name of the plaintiff or defendant.

Sec. 9. (a) On the date on which the formation of a reestablished township government takes effect under this chapter, all money in the funds of the merged township government is transferred to the reestablished township governments. The county legislative body shall determine the allocation of the funds to the reestablished township governments. The reestablished township governments:

(1) shall deposit the money in the funds that most closely correspond to the funds of the merged township government; and

(2) may use the money to pay operational and capital costs for the balance of the calendar year.

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(b) After the date on which the formation of a reestablished township government takes effect under this chapter, the reestablished township government is entitled to receive all distributions of taxes and other revenue that would have been made to the new township government if the merger had not occurred. The allocation of the distributions to the reestablished township governments shall be determined by the county legislative body. A reestablished township government shall deposit the money in its funds that correspond most closely to the funds of the merged township government into which the taxes or other revenue would have been deposited if the dissolution had not occurred.

Sec. 10. The officers of a new reestablished township government shall:

(1) obtain from the department of local government finance approval under IC 6-1.1-18.5-7 of:

(A) a budget;

(B) an ad valorem property tax levy; and

(C) a property tax rate;

(2) fix the annual budget under IC 6-1.1-17;

(3) impose a property tax levy; and

(4) take any action necessary to ensure the collection of fees and other revenue;

for the new township government for the budget year following the year the officers take office.

SECTION 168. IC 36-6-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. **(a) Except as provided in subsection (b),** this chapter applies to ~~all townships.~~ **a township.**

(b) This chapter does not apply to a township in a county having a consolidated city after December 31, 2005.

SECTION 169. IC 36-6-4.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 4.1. Township Executives in Marion County

Sec. 1. Subject to IC 36-6-1.1, this chapter applies only to a county having a consolidated city.

Sec. 2. As used in this chapter,"central township district" means the geographic area that is coterminous with the territory of the board of school commissioners under IC 20-3-11-1.

Sec. 3. As used in this chapter, "consolidated township district" means the territory of a county having a consolidated city,

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excluding the central township district.

Sec. 4. As used in this chapter "executive" refers to the township trustee of a township district elected under section 7 of this chapter.

Sec. 5. As used in this chapter, "township district" means the:

(1) central township district; and

(2) consolidated township district.

Sec. 6. As used in this chapter, "township district legislative body" refers to a township board created under IC 36-6-6.1.

Sec. 7. (a) Beginning with the general election to be held in 2006, a township trustee shall be elected under IC 3-10-2-13 by the voters of each township district. The township trustee elected for each township district is the executive for each township in the township district.

(b) The executive must reside within the township district as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The executive forfeits office if the executive ceases to be a resident of the township district.

(c) The term of office of the executive is four (4) years, beginning January 1 after the executive's election and continuing until a successor is elected and qualified.

Sec. 8. The executive shall do the following:

(1) Keep a written record of official proceedings.

(2) Manage all property interests in the township district.

(3) Keep records of the township district open for public inspection.

(4) Attend all meetings of the township district legislative body.

(5) Receive and pay out funds of the township district.

(6) Examine and settle all accounts and demands chargeable against the township district.

(7) Provide the assistance required under IC 12-20 and IC 12-30-4.

(8) File an annual personnel report under IC 5-11-13.

Sec. 9. The executive may do the following:

(1) Administer oaths when necessary in the discharge of official duties.

(2) Appoint an attorney to represent the township district in any proceeding in which the township district is interested.

(3) Enter into certain oil and gas leases of township district property under IC 36-9.

(4) Personally use a township district vehicle for the

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performance of official duties, but only if the use is authorized by the township district legislative body.

(5) Exercise other powers granted by statute.

Sec. 10. The executive shall maintain:

(1) a general account showing the total of all township district receipts and expenditures; and

(2) the financial and appropriation record of the township district, which must include an itemized and accurate account of the township district's financial affairs.

Sec. 11. (a) For each sum of money received by the executive, the financial and appropriation record must show:

(1) the date the sum of money was received;

(2) from whom the sum of money was received; and

(3) to what account the sum of money was credited.

(b) For each sum of money paid by the executive, the financial and appropriation record must show:

(1) the date the sum of money was paid;

(2) to whom the sum of money was paid;

(3) from what account the sum of money was paid; and

(4) why the sum of money was paid.

(c) The state board of accounts shall prescribe the form of the financial and appropriation record.

Sec. 12. (a) Each purchase for a township district by the executive must be made on written order of the executive, certifying that sufficient funds have been appropriated to pay the full price of the purchase. The executive shall issue a warrant and pay for the purchase not later than time of receipt of the county treasurer's first semiannual distribution following the purchase.

(b) An executive who violates this section commits a Class C infraction and is liable on the executive's official bond for the value of the purchase.

Sec. 13. (a) The executive may use the township district's share of state, county, and township district tax revenues and federal revenue sharing funds for all categories of community service, if these funds are appropriated for these services by the township district legislative body. The executive may use these funds for both operating and capital expenditures.

(b) With the consent of the township district legislative body, the executive may contract with corporations for health and community services not specifically provided by another governmental entity.

Sec. 14. On the first Monday of each August the executive shall

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post, in a conspicuous place near the executive's office, a verified statement showing the indebtedness of the township district in detail and giving the number and total amount of outstanding orders, warrants, and accounts.

Sec. 15. (a) At the township district legislative body's annual meeting under IC 36-6-6.1-12, the executive shall:

(1) present an itemized written statement of the estimated expenditures for which appropriations are requested, specifying the:

(A) number of teachers employed;

(B) salary of each teacher employed;

(C) property of the township district (and supplies on hand);

(D) estimated value of the property of the township district (and supplies on hand);

(E) supplies necessary for each school; and

(F) need for township assistance in the township district; and

(2) submit to questions from the township district legislative body or taxpayers concerning expenditures of the township district.

(b) The written statement required under subsection (a)(1) must comply with forms prescribed by the state board of accounts and show the amount of each item to be charged against funds of the township district.

Sec. 16. (a) At the annual meeting of the township district legislative body under IC 36-6-6.1-10, the executive shall present a complete report of all receipts and expenditures of the preceding calendar year, including the balance to the credit of each fund controlled by the executive. If the executive controls any money that is not included in a particular fund, the executive shall state all the facts concerning that money in the report.

(b) Each item of expenditure in the report presented under subsection (a) must be accompanied by the verified voucher of the person to whom the sum was paid, stating:

(1) why the payment was made;

(2) that the receipt is for the exact sum received;

(3) that no part of the sum has been retained by the executive; and

(4) that no part of the sum has been or is to be returned to the executive or any other person.

The executive may administer oaths to persons giving these

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receipts.

(c) The executive shall swear or affirm that:

(1) the report presented under subsection (a) shows all sums received by the executive;

(2) the expenditures credited have been fully paid in the sums stated, without express or implied agreement that any part of the sums is to be retained by or returned to the executive or any other person; and

(3) the executive has received no money or other property in consideration of any contract entered into or expenditure made on behalf of the township district.

(d) Within ten (10) days after the township district legislative body's action under IC 36-6-6.1-10, the executive shall file a copy of the report presented under subsection (a) and the report's accompanying vouchers, as adopted by the township district legislative body, in the office of the city controller of the consolidated city. The township district legislative body may, for the benefit of the township, bring a civil action against the executive if the executive fails to file the report within ten (10) days after the township district legislative body's action. The township district legislative body may recover five dollars ($5) for each day after the time limit for filing the report, until the report is filed.

Sec. 17. (a) When the executive prepares the annual report required by section 16 of this chapter, the executive shall also prepare, on forms prescribed by the state board of accounts, an abstract of receipts and expenditures:

(1) showing the sum of money in each fund of the township district at the beginning of the year;

(2) showing the sum of money received in each fund of the township district during the year;

(3) showing the sum of money paid from each fund of the township district during the year;

(4) showing the sum of money remaining in each fund of the township district at the end of the year;

(5) containing a statement of receipts, showing their source; and

(6) containing a statement of expenditures showing the combined gross payment, according to classification of expense, to each person.

(b) Not later than four (4) weeks after the annual meeting of the township district legislative body under IC 36-6-6.1-10, the executive shall publish the abstract required by subsection (a) in

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accordance with IC 5-3-1. The abstract must state that a complete and detailed annual report and the accompanying vouchers showing the names of persons paid money by the township district have been filed with the city controller of the consolidated city, and that the chairperson of the township district legislative body has a copy of the report that is available for inspection by any taxpayer of the township district.

(c) An executive who fails to comply with this section commits a Class C infraction.

Sec. 18. When an executive's term of office expires, the executive shall:

(1) immediately deliver to the new executive custody of all funds and property of the township district, except records necessary in the preparation of the former executive's annual report under section 16 of this chapter;

(2) deliver to the new executive, not later than the second Monday in the next January, the former executive's annual report and any records the former executive has retained; and

(3) attend the annual meeting of the township district legislative body held under IC 36-6-6.1-10 and submit to inquiries from the township district legislative body concerning the operation of the executive's office during the preceding calendar year.

Sec. 19. (a) If an executive resigns or dies, the executive's personal representative shall immediately deliver to the new executive custody of all funds and property of the township district. The new executive shall then issue a call for a special meeting of the township district legislative body, to be held not more than fifteen (15) days later. At the special meeting the township district legislative body shall:

(1) examine the records of the township district;

(2) inquire into the conduct of the executive's office; and

(3) approve in whole or in part the records, receipts, and expenditures of the township district to the date of the death or resignation of the former executive.

(b) In the new executive's annual report to the township district legislative body required under section 16 of this chapter, the new executive shall distinguish between the new executive's transactions and those of the former executive. The township district legislative body may, at its annual meeting under IC 36-6-6.1-10, review items in the report that were considered at the special meeting.

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Sec. 20. An executive is entitled to receive the following:

(1) The executive's salary.

(2) Reimbursement for expenses that are reasonably incurred by the executive for the following:

(A) The operation of the executive's office.

(B) Travel and meals while attending seminars or conferences on township district matters.

(C) A sum for mileage as permitted under IC 36-6-8-3(b).

The executive may not make any other personal use of funds of the township district without prior approval by the township district legislative body.

Sec. 21. (a) Not later than thirty (30) days after taking office, the executive shall designate a person who shall perform the executive's duties whenever the executive is incapable of performing the executive's functions because the executive:

(1) is absent from the township district; or

(2) becomes incapacitated.

The executive shall give notice of the designation to the chairperson of the township district legislative body, the county sheriff, the city controller, and any other persons that the executive chooses. The designee shall have all the powers of the executive. The executive is responsible for all acts of the designee. The executive may change the designee under this section at any time.

(b) The designee shall perform the executive's duties until the executive is no longer absent from the township district or incapacitated.

Sec. 22. The executive may pay township district funds for the purpose of supporting a drug awareness program that is implemented in schools.

SECTION 170. IC 36-6-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) **Except as provided in section 3 of this chapter,** a township assessor shall be elected under IC 3-10-2-13 by the voters of each township having:

(1) a population of more than eight thousand (8,000); or

(2) an elected township assessor or the authority to elect a township assessor before January 1, 1979.

(b) A township assessor shall be elected under IC 3-10-2-14 in each township having a population of more than five thousand (5,000) but not more than eight thousand (8,000), if the legislative body of the township:

(1) by resolution, declares that the office of township assessor is necessary; and

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(2) the resolution is filed with the county election board not later than the first date that a declaration of candidacy may be filed under IC 3-8-2.

(c) A township government that is created by merger under IC 36-6-1.5 shall elect only one (1) township assessor under this section.

~~(c)~~ **(d)** The township assessor must reside within the township as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The assessor forfeits office if the assessor ceases to be a resident of the township or fails to comply with the requirements of IC 6-1.1-35-1.1.

~~(d)~~ **(e)** The term of office of a township assessor is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified. However, the term of office of a township assessor elected at a general election in which no other township officer is elected ends on December 31 after the next election in which any other township officer is elected.

SECTION 171. IC 36-6-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 2. (a) This section applies to ~~townships~~ **a township, other than a township located in a county having a consolidated city,** that ~~do~~ **does** not have an elected or appointed and qualified township assessor.

(b) The township executive shall perform all the duties and has all the rights and powers of assessor. If a township qualifies under IC 36-6-5-1 to elect a township assessor, the executive shall continue to serve as assessor until an assessor is appointed or elected and qualified.

(c) The bond filed by the executive in ~~his~~ **the executive's** capacity as executive also covers ~~his~~ **the executive's** duties as assessor.

SECTION 172. IC 36-6-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. **(a) Except as provided in subsection (b),** the assessor shall perform the duties prescribed by statute, including:

(1) assessment duties prescribed by IC 6-1.1; and

(2) administration of the dog tax and dog fund, as prescribed by IC 15-5-9.

(b) In a township located in a county having a consolidated city:

(1) there is no township assessor;

(2) the duties of the township assessor prescribed by IC 6-1.1 are performed by the county assessor under IC 36-2-15-5; and

(3) the duties of the township assessor prescribed by IC 15-5-9 are performed by the controller of the consolidated city or the

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controller's designee.

SECTION 173. IC 36-6-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. **(a) Except as provided in subsection (b),** this chapter applies to ~~all townships.~~ **a township.**

(b) This chapter does not apply to a township in a county having a consolidated city after December 31, 2005.

SECTION 174. IC 36-6-6-2.1 IS ADDED TO THE INDIANA CODE AS **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 2.1. (a) This section applies if township governments merge under IC 36-6-1.5.**

(b) If two (2) township governments merge, the resulting merged township government shall elect a three (3) member township board. The voters of the resulting merged township government shall elect all the members of the township board. One (1) member must reside within the boundaries of each of the township governments that merged.

(c) If at least three (3) township governments merge, the resulting merged township government shall elect a township board that has the same number of members as the number of township governments that merged. The voters of the resulting merged township shall elect all the members of the township board. One (1) township board member must reside within the boundaries of each of the townships that merged.

SECTION 175. IC 36-6-6-2.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.2. ~~(a) This subsection applies to townships in a county containing a consolidated city. The voters of each legislative body district established under section 2.5 of this chapter shall elect one (1) member of the township board.~~

~~(b) This subsection applies to townships not included in subsection (a).~~ The voters of each township shall elect all the members of the township board.

SECTION 176. IC 36-6-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) This subsection applies to townships in a county containing a consolidated city. One (1) member of the legislative body must reside within each legislative body district. If a member of the legislative body ceases to be a resident of the district from which the member was elected, the office becomes vacant.

(b) This subsection applies to townships not included in subsection (a) **or (c).** A member of the legislative body must reside within the township as provided in Article 6, Section 6 of the Constitution of the

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State of Indiana. If a member of the legislative body ceases to be a resident of the township, the office becomes vacant.

(c) This subsection applies to a township government that:

(1) is created by a merger of township governments under IC 36-6-1.5; and

(2) elects a township board under section 2.1 of this chapter. One (1) member of the legislative body must reside within the boundaries of each of the former townships that merged. If a member of the legislative body ceases to be a resident of that former township, the office becomes vacant.

SECTION 177. IC 36-6-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) Except as provided in ~~subsection~~ **subsections** (b) **and (c),** two (2) members of the legislative body constitute a quorum.

(b) Four (4) members of the legislative body in a county containing a consolidated city constitute a quorum.

(c) This subsection applies to a township government that:

(1) is created by a merger of township governments under IC 36-6-1.5; and

(2) elects a township board under section 2.1 of this chapter. A majority of the members of the legislative body constitute a quorum. If a township board has an even number of members, the township executive shall serve as an ex officio member of the township board for the purpose of casting the deciding vote to break a tie.

SECTION 178. IC 36-6-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 10. (a) This section does not apply to the appropriation of money to pay a deputy, an employee, or a technical adviser that assists a township assessor with assessment duties or to an elected township assessor.

(b) The township legislative body shall fix the:

(1) salaries;

(2) wages;

(3) rates of hourly pay; and

(4) remuneration other than statutory allowances;

of all officers and employees of the township.

(c) Subject to subsection (d), the township legislative body may reduce the salary of an elected or appointed official. However, the official is entitled to a salary that is not less than the salary fixed for the first year of the term of office that immediately preceded the current term of office.

(d) Except as provided in subsection (e), the township legislative

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body may not alter the salaries of elected or appointed officers during the fiscal year for which they are fixed, but it may add or eliminate any other position and change the salary of any other employee, if the necessary funds and appropriations are available.

(e) In a township that:

(1) is not located in a county having a consolidated city; and

(2) does not elect a township assessor under IC 36-6-5-1;

the township legislative body may appropriate available township funds to supplement the salaries of elected or appointed officers to compensate them for performing assessing duties. However, in any calendar year no officer or employee may receive a salary and additional salary supplements which exceed the salary fixed for that officer or employee under subsection (b).

(f) If a change in the mileage allowance paid to state officers and employees is established by July 1 of any year, that change shall be included in the compensation fixed for the township executive and assessor under this section, to take effect January 1 of the next year. However, the township legislative body may by ordinance provide for the change in the sum per mile to take effect before January 1 of the next year.

(g) The township legislative body may not reduce the salary of the township executive without the consent of the township executive during the term of office of the township executive as set forth in IC 36-6-4-2.

(h) This subsection applies when a township executive dies or resigns from office. The person filling the vacancy of the township executive shall receive at least the same salary the previous township executive received for the remainder of the unexpired term of office of the township executive (as set forth in IC 36-6-4-2), unless the person consents to a reduction in salary.

SECTION 179. IC 36-6-6.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 6.1. Township Legislative Bodies in Marion County

Sec. 1. Subject to IC 36-6-1.1, this chapter applies only in a county having a consolidated city.

Sec. 2. The definitions in IC 36-6-4.1 apply to this chapter.

Sec. 3. (a) The township board shall serve as the township district legislative body.

(b) The township board for the:

(1) central township district consists of seven (7) at-large members; and

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(2) consolidated township district consists of nine (9) at-large members.

(c) Beginning with the general election to be held in 2006, all members of the township boards shall be elected under IC 3-10-2-13 by the voters of each township district.

(d) The term of office of a township board member is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified.

Sec. 4. A member of the legislative body must reside within the township district. If a member of the legislative body ceases to be a resident of the township district from which the member was elected, the office becomes vacant.

Sec. 5. (a) Four (4) members of the legislative body for the central township district constitute a quorum.

(b) Five (5) members of the legislative body for the consolidated township district constitute a quorum.

Sec. 6. The legislative body may adjourn a meeting from day to day until the business of the legislative body is completed.

Sec. 7. A taxpayer of the township district may appear at any meeting of the legislative body and be heard as to:

(1) an estimate of expenditures;

(2) a proposed levy of taxes;

(3) the approval of the executive's annual report; or

(4) any other matter being considered by the legislative body.

Sec. 8. (a) The legislative body shall meet at the office of the executive on the first Tuesday after the first Monday in January of each year. At this meeting the legislative body shall elect one (1) member as chairperson and one (1) member as secretary for that year.

(b) If a newly elected legislative body holds a special meeting before the first Tuesday after the first Monday in the January following its election, the legislative body shall elect a chairperson and a secretary before conducting any other business. The chairperson and secretary elected at the special meeting retain those positions until the first Tuesday after the first Monday in January of the year following the special meeting.

Sec. 9. The legislative body shall keep a permanent record of its proceedings in a book furnished by the executive. The secretary of the legislative body shall, under the direction of the legislative body, record the minutes of the proceedings of each meeting in full and shall provide copies of the minutes to each member of the legislative body before the next meeting is convened. After the

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minutes are approved by the legislative body, the secretary of the legislative body shall place the minutes in the permanent record book. The chairperson of the legislative body shall retain the record in the chairperson's custody.

Sec. 10. (a) The legislative body shall meet on or before the third Tuesday after the first Monday in January of each year. At this meeting the legislative body shall consider and approve, in whole or in part, the annual report of the executive presented under IC 36-6-4.1-15.

(b) The legislative body may send for persons, books, and papers necessary in the examination of the annual report. A member may administer oaths necessary in the examination of the annual report.

(c) Any sum in the control of the executive that remains unexpended and is subject to no liability shall be credited in favor of the fund for which it was appropriated.

(d) Any fund expended, in whole or in part, for a purpose for which it was not appropriated shall be considered unexpended and in the control of the executive, who is liable on his bond for such an expenditure.

(e) When the legislative body completes its examination of the annual report, the legislative body shall take action on the annual report, specifying the parts of the annual report that are altered or disallowed. The annual report remains under the control of the legislative body and in custody of the chairperson of the legislative body, who shall keep it open to inspection by taxpayers of the township district.

Sec. 11. (a) The legislative body shall fix the:

(1) salaries;

(2) wages;

(3) rates of hourly pay; and

(4) remuneration other than statutory allowances;

of all officers and employees of the township district.

(b) Subject to subsection (c), the legislative body may reduce the salary of an elected or appointed official. However, the official is entitled to a salary that is not less than the salary fixed for the first year of the term of office that immediately preceded the current term of office.

(c) The legislative body may not alter the salaries of elected or appointed officers during the fiscal year for which they are fixed, but the legislative body may add or eliminate any other position and change the salary of any other employee, if the necessary funds

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and appropriations are available.

(d) If a change in the mileage allowance paid to state officers and employees is established by July 1 of any year, that change shall be included in the compensation fixed for the executive under this section and take effect January 1 of the next year. However, the legislative body may by ordinance provide for the change in the sum per mile to take effect before January 1 of the next year.

(e) The legislative body may not reduce the salary of the executive without the consent of the executive during the term of office of the executive as set forth in IC 36-6-4.1-7.

(f) This subsection applies when an executive dies or resigns from office. The person filling the vacancy of the executive shall receive at least the same salary the previous executive received for the remainder of the unexpired term of office of the executive (as set forth in IC 36-6-4.1-7), unless the person consents to a reduction in salary.

Sec. 12. (a) The legislative body shall meet annually in accordance with IC 6-1.1-17 to adopt the annual budget of the district.

(b) The legislative body shall consider the estimates of expenditures made by the executive under IC 36-6-4.1-15, and may approve or reject all or part of any estimate or any item within an estimate. The legislative body may require the executive to further itemize an estimate not sufficiently itemized.

(c) The legislative body may not appropriate for any purpose an amount more than the executive's estimate of the amount required for that purpose.

(d) The legislative body shall include in the budget:

(1) provisions for the payment of existing debt of the township district as it becomes due; and

(2) the salaries fixed under section 11 of this chapter.

(e) In making levies for the general fund of the township district, the legislative body may include an amount not more than the amount necessary to compensate its members for their services during the year for which the levies are made.

(f) After the legislative body has taken action on the executive's estimates, it shall levy taxes for the township district funds on property in the township district and fix rates of taxation sufficient to provide that revenue during the next year.

(g) On the assessment date, as defined by IC 6-1.1-1-2, the rates of taxation adopted under this section become a levy and a lien on all taxable property in the township district, including property in

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municipalities in the township district. The levy constitutes an appropriation for the specific items in the executive's estimates.

Sec. 13. (a) The legislative body may appropriate money for membership of the township district in county, state, or national associations that:

(1) are of a civic, an educational, or a governmental nature; and

(2) have as a purpose the improvement of township or township district governmental operations.

The township district representatives may participate in the activities of these associations, and the legislative body may appropriate money to defray the expenses of township district representatives in connection with these activities.

(b) Each representative of the township district attending any meeting, conference, seminar, or convention approved by the executive shall be allowed reimbursement for all necessary and legitimate expenses incurred while representing the township district. Expenses shall be paid to each representative in accordance with the reimbursement policy of the township district, which may include an established per diem rate, as recommended by the executive and adopted by the legislative body.

Sec. 14. (a) A special meeting may be held by the legislative body if the executive, the chairperson of the legislative body, or a majority of the members of the legislative body issue a written notice of the meeting to each member of the legislative body. The notice must state the time, place, and purpose of the meeting.

(b) At the special meeting, if a majority of the members give their consent, the legislative body may determine whether there is an emergency requiring the expenditure of money not included in the budget estimates and levy of the township district. Subject to section 15 of this chapter, if the legislative body finds that such an emergency exists, it may issue a special order, entered and signed on the record, authorizing the executive to borrow a specified amount of money sufficient to meet the emergency. At the legislative body's next annual session, the legislative body shall cover the debt created by making a levy to the credit of the fund for which the amount was borrowed under this subsection.

Sec. 15. (a) If the legislative body issues a special order under section 14 of this chapter authorizing the executive to borrow money, not less than ten (10) taxpayers in the township district who disagree with the special order may file a petition in the office of the city controller of the consolidated city not more than thirty (30)

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days after notice of the special order is given. The petition must state the taxpayers' objections and the reasons why the taxpayers believe the special order is unnecessary or unwise.

(b) The city controller of the consolidated city shall immediately certify a copy of the petition, together with other data necessary to present the questions involved, to the department of local government finance. Upon receipt of the certified petition and other data, the department of local government finance shall fix a date, time, and place for the hearing of the matter. The hearing must be held not less than five (5) and not more than thirty (30) days after the receipt of the certified documents.

(c) The hearing must be held in the township district where the petition arose.

(d) Notice of the hearing shall be given by the department of local government finance to the township district and to the first ten (10) taxpayer petitioners listed on the petition by letter. The letter shall be sent to the first ten (10) taxpayer petitioners at each taxpayer's usual place of residence at least five (5) days before the date of the hearing.

(e) A:

(1) taxpayer who signed a petition filed under subsection (a); or

(2) township district against which a petition under subsection (a) is filed;

may petition for judicial review of the final determination of the department of local government finance under subsection (a). The petition must be filed in the tax court not more than forty-five (45) days after the date of the department's final determination.

Sec. 16. (a) If the legislative body finds that an emergency requires the borrowing of money to meet the current expenses of the township district, the legislative body may take out temporary loans in an amount not more than fifty percent (50%) of the total anticipated revenue for the remainder of the year in which the loans are taken out.

(b) The legislative body must authorize the temporary loans by a resolution:

(1) stating the nature of the consideration for the loans;

(2) stating the time the loans are payable;

(3) stating the place the loans are payable;

(4) stating a rate of interest;

(5) stating the anticipated revenues on which the loans are based and out of which they are payable; and

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(6) appropriating a sufficient amount of the anticipated revenues on which the loans are based and out of which they are payable for the payment of the loans.

(c) The loans must be evidenced by time warrants of the township district stating:

(1) the nature of the consideration;

(2) the time payable;

(3) the place payable; and

(4) the anticipated revenues on which they are based and out of which they are payable.

SECTION 180. IC 36-6-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. **(a) Except as provided in subsection (b),** this chapter applies to all townships.

(b) Sections 5, 6, 9, 10, and 11 of this chapter do not apply to a township located in a county having a consolidated city.

SECTION 181. IC 36-6-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 10. (a) The county fiscal body shall, in the manner prescribed by IC 36-2-5 or IC 36-2-6, fix and appropriate money to pay the per diem established under section 5 of this chapter and the salaries and per diems of the county's township assessors and any deputies or other employees that assist the elected township assessor.

(b) Each township assessor shall file the budget estimate required by IC 36-2-5-5. ~~or IC 36-3-6-4.~~ The budget estimate filed under this subsection must include all estimated expenses of the office, including costs incurred through litigation for the office.

(c) If the township executive is performing the duties of assessor, the county fiscal body shall appropriate money for the purposes of subsection (a) and other expenses of acting as assessor, including all costs incurred through litigation for the office. However, it may not provide a salary that is below the amount fixed for that salary for the year 1984.

SECTION 182. IC 36-7-11.2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 11. As used in this chapter, "notice" means written notice:

(1) served personally upon the person, official, or office entitled to the notice; or

(2) served upon the person, official, or office by placing the notice in the United States mail, first class postage prepaid, properly addressed to the person, official, or office. Notice is considered served if mailed in the manner prescribed by this subdivision properly addressed to the following:

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(A) The governor, both to the address of the governor's official residence and to the governor's executive office in Indianapolis.

(B) The Indiana department of transportation, to the commissioner.

(C) The department of natural resources, both to the director of the department and to the director of the department's division of historic preservation and archeology.

(D) The department of metropolitan development.

(E) An occupant, to:

(i) the person by name; or

(ii) if the name is unknown, to the "Occupant" at the address of the Meridian Street or bordering property occupied by the person.

(F) An owner, to the person by the name shown to be the name of the owner, and at the person's address, as the address appears in the records in the bound volumes of the most recent real estate tax assessment records as the records appear in the offices of the ~~township assessors~~ **county assessor** in Marion County.

(G) A neighborhood association or the society, to the organization at the latest address as shown in the records of the commission.

SECTION 183. IC 36-7-11.2-58 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 58. (a) A person who has filed a petition under section 56 or 57 of this chapter shall, not later than ten (10) days after the filing, serve notice upon all interested parties. The notice must state the following:

(1) The full name and address of the following:

(A) The petitioner.

(B) Each attorney acting for and on behalf of the petitioner.

(2) The street address of the Meridian Street and bordering property for which the petition was filed.

(3) The name of the owner of the property.

(4) The full name and address of, and the type of business, if any, conducted by:

(A) each person who at the time of the filing is a party to; and

(B) each person who is a disclosed or an undisclosed principal for whom the party was acting as agent in entering into;

a contract of sale, lease, option to purchase or lease, agreement to build or develop, or other written agreement of any kind or nature concerning the subject property or the present or future

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ownership, use, occupancy, possession, or development of the subject property.

(5) A description of the contract of sale, lease, option to purchase or lease, agreement to build or develop, or other written agreement sufficient to disclose the full nature of the interest of the party or of the party's principal in the subject property or in the present or future ownership, use, occupancy, possession, or development of the subject property.

(6) A description of the proposed use for which the rezoning or zoning variance is sought, sufficiently detailed to appraise the notice recipient of the true character, nature, extent, and physical properties of the proposed use.

(7) The date of the filing of the petition.

(8) The date, time, and place of the next regular meeting of the commission if a petition is for approval of a zoning variance. If a petition is filed with the development commission, the notice does not have to specify the date of a hearing before the commission or the development commission. However, the person filing the petition shall give ten (10) days notice of the date, time, and place of a hearing before the commission on the petition after the referral of the petition to the commission by the development commission.

(b) For purposes of giving notice to the interested parties who are owners, the records in the bound volumes of the recent real estate tax assessment records as the records appear in the offices of the ~~township assessors~~ **county assessor** as of the date of filing are considered determinative of the persons who are owners.

SECTION 184. IC 36-7-15.1-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 32. (a) The commission must establish a program for housing. The program, which may include such elements as the commission considers appropriate, must be adopted as part of a redevelopment plan or amendment to a redevelopment plan, and must establish an allocation area for purposes of sections 26 and 35 of this chapter for the accomplishment of the program.

(b) The notice and hearing provisions of sections 10 and 10.5 of this chapter apply to the resolution adopted under subsection (a). Judicial review of the resolution may be made under section 11 of this chapter.

(c) Before formal submission of any housing program to the commission, the department shall consult with persons interested in or affected by the proposed program and provide the affected neighborhood associations, residents, and ~~township assessors~~ **the**

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county assessor with an adequate opportunity to participate in an advisory role in planning, implementing, and evaluating the proposed program. The department may hold public meetings in the affected neighborhood to obtain the views of neighborhood associations and residents.

SECTION 185. IC 36-8-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1. 2006]: Sec. 7. **(a) Except as provided in subsection (b),** "local board" means the board of trustees of a 1925, 1937, or 1953 fund.

(b) After December 31, 2005, in a consolidated city, "local board" means the public safety pension commission established by IC 36-8-7.6-2.

SECTION 186. IC 36-8-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 6. (a) This section applies to:

(1) all municipalities, **except a consolidated city; and**

(2) a county having a consolidated city that establishes a metropolitan law enforcement agency under IC 36-8-10.1.

(b) As used in this section, "member of the metropolitan law enforcement agency" refers to a member of the metropolitan law enforcement agency established by IC 36-8-10.1.

~~(b)~~ **(c)** A warrant of search or arrest, issued by any judge, may be executed in the municipality by:

(1) any municipal police officer; **or**

(2) a member of the metropolitan law enforcement agency;

subject to the laws governing arrest and bail.

~~(c)~~ **(d)** The police officers of a municipality **or a member of the metropolitan law enforcement agency** shall:

(1) serve all process within the municipality **or the consolidated city** issuing from the city or town court;

(2) arrest, without process, all persons who within view violate statutes, take them before the court having jurisdiction of the offense, and retain them in custody until the cause of the arrest has been investigated;

(3) enforce municipal ordinances in accordance with IC 36-1-6;

(4) suppress all breaches of the peace within their knowledge and may call to their aid the power of the municipality **or the consolidated city** and pursue and commit to jail persons guilty of crimes;

(5) serve all process issued by:

(A) the legislative body of the municipality **or the consolidated city;** ~~or~~

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(B) any committee of ~~it,~~ **the legislative body of the municipality or the consolidated city;** or ~~by~~

(C) any of the executive departments of the municipality **or the consolidated city;**

(6) serve the city or town court and assist the bailiff in preserving order in the court; and

(7) convey prisoners to and from the county jail or station houses of the municipality **or the consolidated city** for arraignment or trial in the city or town court or to the place of imprisonment under sentence of the court.

SECTION 187. IC 36-8-3-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 20. (a) This section applies to **the following:**

(1) Counties, **including a county having a consolidated city.** ~~and~~

(2) Towns. ~~as well as~~

(3) Cities.

(b) A unit may provide by ordinance for any number of police reserve officers.

(c) Police reserve officers shall be appointed by the same authority that appoints regular members of the department.

(d) Police reserve officers may be designated by another name specified by ordinance.

(e) Police reserve officers may not be members of the regular police department but have all of the same police powers as regular members, except as limited by the rules of the department. Each department may adopt rules to limit the authority of police reserve officers.

(f) To the extent that money is appropriated for a purpose listed in this subsection, police reserve officers may receive any of the following:

(1) A uniform allowance.

(2) Compensation for time lost from other employment because of court appearances.

(3) Insurance for life, accident, and sickness coverage.

(4) In the case of county police reserve officers, compensation for lake patrol duties that the county sheriff assigns and approves for compensation.

(g) Police reserve officers are not eligible to participate in any pension program provided for regular members of the department.

(h) A police reserve officer may not be appointed until he has completed the training and probationary period specified by rules of the department.

(i) A police reserve officer appointed by the department after June

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30, 1993, may not:

(1) make an arrest;

(2) conduct a search or a seizure of a person or property; or

(3) carry a firearm;

unless the police reserve officer successfully completes a pre-basic course under IC 5-2-1-9(f).

(j) A police reserve officer may be covered by the medical treatment and burial expense provisions of the worker's compensation law (IC 22-3-2 through IC 22-3-6) and the worker's occupational diseases law (IC 22-3-7). If compensability of the injury is an issue, the administrative procedures of IC 22-3-2 through IC 22-3-6 and IC 22-3-7 shall be used to determine the issue.

(k) A police reserve officer carrying out lake patrol duties under this chapter is immune from liability under IC 34-30-12, notwithstanding the payment of compensation to the officer.

SECTION 188. IC 36-8-3-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 21. (a) Except as provided in subsection (b), this section applies to all units, **including a county having a consolidated city that establishes a metropolitan law enforcement agency under IC 36-8-10.1.**

(b) This subsection does not apply to the appointment of a fire chief under a waiver under IC 36-8-4-6(c) or the appointment of a police chief under a waiver under IC 36-8-4-6.5(c). An individual may not be employed by a unit after May 31, 1985, as a member of the unit's fire department or as a member of the unit's police department unless the individual meets the conditions for membership in the 1977 fund.

(c) Notwithstanding IC 36-8-1-9, the executive of the unit may request that the 1977 fund accept the following individuals in the 1977 fund under IC 36-8-8-7(h):

(1) A fire chief appointed under a waiver under IC 36-8-4-6(c).

(2) A police chief appointed under a waiver under IC 36-8-4-6.5(c).

(d) This subsection applies to a county having a consolidated city that establishes a metropolitan law enforcement agency under IC 36-8-10.1. The executive of the consolidated city may request that the 1977 fund accept in the 1977 fund under IC 36-8-8-7(m) the sheriff of the county whose initial term of office begins after December 31, 2005.

SECTION 189. IC 36-8-3.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. (a) **Except as provided in subsection (b),** this chapter applies to each municipality or township that has a full-time paid police or fire department.

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(b) This chapter does not apply to a metropolitan law enforcement agency established under IC 36-8-10.1.

(c) A municipality may exercise the power of establishing a merit system for its police or fire department under this chapter or by ordinance adopted under IC 36-1-4-14. A township may exercise the power of establishing a merit system for its fire department under this chapter or by resolution under IC 36-1-4-14. This chapter does not affect merit systems established:

(1) by ordinance under IC 36-1-4-14, except as provided by subsection ~~(c),~~ **(g);**

(2) by resolution under IC 36-1-4-14, except as provided by subsection ~~(f),~~ **(h);** or

(3) by a prior statute, except as provided by subsection ~~(b).~~ **(d).**

~~(b)~~ **(d)** If a city had a merit system for its police or fire department under the former IC 18-4-12, IC 19-1-7, IC 19-1-14, IC 19-1-14.2, IC 19-1-14.3, IC 19-1-14.5, IC 19-1-20, IC 19-1-21, IC 19-1-29, IC 19-1-29.5, IC 19-1-31, IC 19-1-31.5, or IC 19-1-37.5, it may retain that system by ordinance of the city legislative body passed before January 1, 1983. The ordinance must initially incorporate all the provisions of the prior statute but may be amended by the legislative body after December 31, 1984. The ordinance retaining the system must be amended, if necessary, to include a provision under which the commission (or governing board of the merit system) has at least one-third (1/3) of its members elected by the active members of the department as prescribed by section 8 of this chapter. Each elected commission member must:

(1) be a person of good moral character; and

(2) except for a member of a fire department having a merit system established under IC 19-1-37.5, not be an active member of a police or fire department or agency.

~~(c)~~ **(e)** After December 31, 1984, the legislative body also may repeal the ordinance described in subsection ~~(b),~~ **(d),** but the legislative body shall in the repealing ordinance concurrently establish a new merit system under section 3 of this chapter. (This subsection does not require the legislative body to establish a new merit system when it exercises its power to amend the ordinance under subsection ~~(b).)~~ **(d).)** After the new merit system takes effect, all members of the department are entitled to the same ranks and pay grades the members held under the prior system, subject to changes made in accordance with this chapter.

~~(d)~~ **(f)** If a city had a merit system for its police or fire department under a prior statute but fails to retain that system under subsection ~~(b),~~

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(d), the city legislative body shall, before July 1, 1983, pass an ordinance to establish a new merit system under section 3 of this chapter. If the new merit system is approved as provided by section 4 of this chapter, it takes effect as provided by that section. However, if the new merit system is rejected under section 4 of this chapter, within thirty (30) days the city legislative body shall adopt an ordinance to retain the prior merit system. The prior merit system remains in effect until the new merit system takes effect, after which time all members of the department are entitled to the same ranks and pay grades the members held under the prior system, subject to changes made in accordance with this chapter.

~~(e)~~ **(g)** An ordinance adopted under IC 36-1-4-14 to establish a police or fire merit system must include a provision under which the commission, or governing board of the merit system, has at least one-third (1/3) of its members elected by the active members of the department as prescribed by section 8 of this chapter. Each elected commission member must be a person of good moral character who is not an active member of a police or fire department or agency. If an ordinance was adopted under IC 36-1-4-14 before July 1, 1988, the ordinance must be amended to include this requirement.

~~(f)~~ **(h)** This chapter does not prevent a township or other unit that has adopted a merit system under section 3 of this chapter from later amending or deleting any provisions of the merit system contained in this chapter. However, the merit system must include a provision under which the commission has at least one-third (1/3) of its members elected by the active members of the department, as set forth in section 8 of this chapter and a provision that incorporates the requirements of section 6(a) of this chapter. This subsection does not require the legislative body to establish a new merit system when it exercises its power to amend under this subsection.

SECTION 190. IC 36-8-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. **(a) Except as provided in subsection (b),** this chapter applies to all cities.

(b) This chapter does not apply to a metropolitan law enforcement agency established under IC 36-8-10.1, except that section 6.5(a) and 6.5(b) of this chapter apply to the chief of a metropolitan law enforcement agency.

SECTION 191. IC 36-8-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. **(a)** This chapter applies to **the following:**

(1) All municipalities.

(2) A county having a consolidated city that establishes a

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metropolitan law enforcement agency under IC 36-8-10.1. ~~In addition,~~

(b) Section 2 of this chapter applies to any other political subdivision that employs full-time, fully paid firefighters.

SECTION 192. IC 36-8-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. (a) This chapter applies to pension benefits for members of police departments hired before May 1, 1977, in second and third class cities, and in towns that have established a board of metropolitan police commissioners.

(b) A police officer with twenty (20) years of service is covered by this chapter and not by IC 36-8-8 if ~~he:~~ **the police officer:**

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 (repealed September 1, 1981); and

(3) is rehired after April 30, 1977, by the same employer.

(c) A police officer is covered by this chapter and not by IC 36-8-8 if ~~he:~~ **the police officer:**

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 (repealed September 1, 1981);

(3) was rehired after April 30, 1977, but before February 1, 1979; and

(4) was made, before February 1, 1979, a member of a 1925 fund.

(d) A police matron is covered by this chapter and not by IC 5-10.3 or IC 36-8-8 if ~~she:~~ **the police matron:**

(1) was hired before May 1, 1977;

(2) is a member of a police department in a second or third class city; and

(3) is employed as a police matron on March 31, 1996.

(e) A police officer who:

(1) is covered by this chapter before January 1, 2006; and

(2) after December 31, 2005, becomes a member of the metropolitan law enforcement agency established under IC 36-8-10.1;

is covered by this chapter after December 31, 2005, and the police officer's service as a member of the metropolitan law enforcement agency is considered active service under this chapter.

SECTION 193. IC 36-8-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. (a) This chapter applies to pension benefits for members of fire departments hired before May 1, 1977, in units for which a 1937 fund was established before May 1, 1977.

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(b) A firefighter with twenty (20) years of service is covered by this chapter and not by IC 36-8-8 if ~~he:~~ **the firefighter:**

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-36.5-7 (repealed September 1, 1981); and

(3) is rehired after April 30, 1977, by the same employer.

(c) A firefighter is covered by this chapter and not by IC 36-8-8 if ~~he:~~ **the firefighter:**

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-36.5-7 (repealed September 1, 1981);

(3) was rehired after April 30, 1977, but before February 1, 1979; and

(4) was made, before February 1, 1979, a member of a 1937 fund.

(d) A firefighter who:

(1) is covered by this chapter before January 1, 2006; and

(2) after December 31, 2005, becomes a member of a fire department of a consolidated city under IC 36-3-1-6.1;

is covered by this chapter after December 31, 2005, and the firefighter's service as a member of a fire department of a consolidated city is considered active service under this chapter.

SECTION 194. IC 36-8-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 3. (a) A firefighters' pension fund to be known as the 1937 fund is established in each unit described by section 1(a) of this chapter.

(b) **Except as provided in subsection (c),** the 1937 fund **for each unit** shall be managed by a board of trustees (referred to as the "local board" in this chapter) **under this chapter. A local board is** composed of seven (7) trustees **as follows:** ~~Two (2) trustees are~~

(1) The executive of the unit, **an ex officio voting trustee.** ~~and~~

(2) The fire chief, ~~who are~~ **an** ex officio voting ~~trustees~~ **trustee.** ~~The other trustees are~~

(3) One (1) retired member of the fire department. ~~and~~

(4) Four (4) active members of the fire department.

The retired member and the active members of the fire department are elected for the terms and in the manner provided in this chapter.

(c) The local board for a unit having a fire department consolidated under IC 36-3-1-6.1 is the public safety pension commission established by IC 36-8-7.6.

~~(c)~~ **(d)** The local board has control of the 1937 fund of the unit. The local board shall manage, use, and disburse the fund for the purpose and in the manner prescribed by this chapter. The local board may

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adopt and enforce bylaws that do not conflict with this chapter and are considered necessary to enable it to achieve the purposes for which it was organized. Each trustee shall, before entering upon the duties of his office, take an oath to faithfully perform his duties.

SECTION 195. IC 36-8-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 4. (a) If a unit has less than five (5) members in its fire department, the unit may provide for the organization of a local board consisting of the fire chief, the executive of the unit, and one (1) member of the fire department.

(b) The trustee from the fire department shall be elected under this section.

(c) The local board may amend the bylaws of the fund to elect the trustee from the fire department in an election held on any three (3) consecutive days in February specified in the bylaws. The election shall be called by the fire chief and held at the house or quarters of the fire department. Subject to this section, the election shall be conducted in the manner specified in the bylaws.

(d) This subsection applies only if the local board does not elect to be governed by subsection (c). The trustee from the fire department shall be elected at a meeting held on the second Monday in February each year. The meeting shall be called by the fire chief and held at the house or quarters of the fire department.

(e) The term of the elected trustee is one (1) year beginning immediately after ~~his~~ **the trustee's** election.

(f) Each member of the department is entitled to one (1) ballot and the person receiving the highest number of votes is elected. The executive of the unit, the fire chief, and the city or county clerk shall canvass and count the ballots, and the clerk shall issue a certificate of election to the person having received the highest number of votes. If two (2) persons have received the same number of votes, the executive and the chief shall immediately determine by lot who will be the trustee from the persons receiving an equal number of votes.

(g) This section does not apply to a consolidated city.

SECTION 196. IC 36-8-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 5. (a) An election shall be held each year under this section to elect one (1) trustee from the active members of the fire department for a term of four (4) years, commencing on the day of his election. The fire chief shall fix a time for holding a convention to nominate candidates for trustees to be elected at each election. Each convention must be held at least five (5) days before the day on which the annual election is held. A convention consists of one (1) delegate from each fire company and one (1)

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delegate to be selected by the chief and ~~his~~ **the chief's** assistants. The delegate from each fire company shall be elected by ballot by the members of the company at a time to be fixed by the chief in the call for a convention. The election of delegates shall be certified by the captain or other officer of the company, or, if there is not an officer present, then by the oldest member of the company present. The convention, when assembled, shall nominate six (6) members of the fire department to be voted upon as trustees, and the delegates shall report the names of the persons nominated as candidates to their respective companies in writing.

(b) The local board may amend the bylaws of the fund to elect the trustee from the active members of the fire department in an election held on any three (3) consecutive days in February specified in the bylaws. The election shall be called by the fire chief and held at the house or quarters of the respective companies of the fire department. Subject to this section, the election shall be conducted in the manner specified in the bylaws.

(c) This subsection applies only if the local board does not elect to be governed by subsection (b). The election shall be held at the houses or quarters of the respective companies on the second Monday in February between 9 a.m. and 6 p.m.

(d) Each member of a fire company is entitled to one (1) ballot, and the ballot may not contain the names of more than one (1) person, chosen from the six (6) persons nominated by the convention. The candidate receiving the highest number of votes is elected.

(e) The captain or other officer in command of each of the fire companies, immediately after the casting of all ballots, shall canvass and count the ballots. ~~He~~ **The captain or other officer** shall certify in writing the total number of ballots cast and the number of votes received by each candidate for the office of trustee. After signing the certificate, the officer shall enclose it, together with all the ballots cast by the fire company, in an envelope, securely sealed and addressed, and deliver them to the fire chief. The fire chief shall deliver them to the executive of the unit as soon as **the chief receives** all **the** certificates and ballots. ~~have been received by him.~~ Upon receipt the executive shall, in the presence of the chief and the clerk of the unit, open the envelopes, examine the certificates, and determine the total number of votes cast for each of the candidates. The executive shall then issue a certificate of election to the candidate having received the highest number of votes. If two (2) or more candidates have received the same number of votes, the executive and the chief shall immediately determine by lot who will be trustee from the persons

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receiving an equal number of votes. An election may not be set aside for lack of formality in balloting by the members or in certifying or transmitting the returns of an election by the officers in charge.

(f) This section does not apply to a consolidated city.

SECTION 197. IC 36-8-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 6. (a) An election shall be held under this section every two (2) years to elect one (1) trustee from the retired members of the fire department for a term of two (2) years, commencing on the day of ~~his~~ **the trustee's** election, if the retired list contains **at least** three (3) ~~or more~~ retired members at the time of election. The fire chief shall fix a time for holding a convention to nominate candidates for trustee to be elected at each election. Each convention must be held at least fifteen (15) days before the day on which the biennial election is held. All retired members of the fire department may participate in the convention. The convention, when assembled, shall nominate not more than four (4) members of the retired list to be voted upon as trustee. The secretary of the board shall mail the names of the persons nominated along with an official ballot to the retired members within forty-eight (48) hours of the end of the convention.

(b) The election shall be conducted by mail. Each retired member is entitled to cast one (1) ballot by mail and the ballot may not contain more than one (1) name, chosen from the list of retired persons nominated by the convention. The candidate receiving the highest number of votes by 6 p.m. on the second Monday in February or an alternative date in February specified in the bylaws of the fund is elected.

(c) The ballots must remain closed and inviolate until the close of the election, at which time, in the presence of the executive of the unit, the fire chief, and the clerk of the unit, the ballots shall be opened and counted. A certificate of election shall be issued to the candidate receiving the highest number of votes. If two (2) or more candidates receive the same number of votes, the executive and the chief shall immediately determine by lot who will be trustee from the persons receiving an equal number of votes.

(d) This section does not apply to a consolidated city.

SECTION 198. IC 36-8-7-6.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 6.5. (a) All ballots voted under this chapter shall be secured until the balloting is closed.

(b) Tampering with a ballot for an election under this chapter is a Class A infraction.

(c) This section does not apply to a consolidated city.

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SECTION 199. IC 36-8-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 7. (a) The fire chief is the president of the local board.

(b) At the first meeting after each election, the local board shall elect a secretary, who may be chosen from among the trustees. However, the local board may consider it proper to have a secretary who is a member of the fire department, to be elected by the companies for a term of four (4) years in the same manner as the election for trustees. The secretary shall keep a full record of all the proceedings of the local board in a book provided for that purpose.

(c) The local board shall make all rules necessary for the discharge of its duties and shall hear and determine all applications for relief or pensions under this chapter.

(d) This section does not apply to a consolidated city.

SECTION 200. IC 36-8-7-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: 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, who shall collect all interest due and credit it to the 1937 fund.

(c) The fiscal officer 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

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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 the fiscal officer will faithfully discharge the duties of the fiscal officer's office and faithfully account for and pay over to the persons authorized to receive it all money that comes into the fiscal officer's hands by virtue of the fiscal officer's 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 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.

(f) This section does not apply to a local board established under IC 36-8-7.6.

SECTION 201. IC 36-8-7.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. (a) This chapter applies to pension benefits for members of police departments hired before May 1, 1977, by a consolidated city.

(b) A police officer with twenty (20) years of service is covered by this chapter and not by IC 36-8-8 if:

(1) the officer was hired before May 1, 1977;

(2) the officer did not convert under IC 19-1-17.8-7 (repealed September 1, 1981);

(3) the officer was not a member of the 1953 fund because:

(A) ~~his~~ **the officer's** employment was on a temporary or emergency status under a statute in effect before February 25, 1953;

(B) ~~he~~ **the officer** failed to pass a five (5) year physical requirement under such a statute; or

(C) ~~he~~ **the officer** was a war veteran without pension status;

(4) the officer submitted to a physical medical examination, if required by the local board, and the results were satisfactory; and

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(5) the officer was accepted by the local board as a member of the 1953 fund upon payment of all dues required for ~~his~~ **the officer's** entire time as a member of the police department.

(c) A police officer is covered by this chapter and not by IC 36-8-8 if ~~he:~~ **the officer:**

(1) was hired before May 1, 1977; and

(2) did not convert under IC 19-1-17.8-7 (repealed September 1, 1981).

(d) A police officer is covered by this chapter and not by IC 36-8-8 if ~~he:~~ **the officer:**

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 (repealed September 1, 1981);

(3) is a regularly appointed member of the police department;

(4) is a member of the 1953 fund;

(5) was employed on a temporary or emergency status before regular employment; and

(6) paid into the 1953 fund by not later than January 1, 1968, all dues for the period ~~he~~ **the officer** was on temporary or emergency status.

(e) A police officer who:

(1) is covered by this chapter before January 1, 2006; and

(2) after December 31, 2005, becomes a member of the metropolitan law enforcement agency established under IC 36-8-10.1;

is covered by this chapter after December 31, 2005, and the officer's service as a member of the metropolitan law enforcement agency is considered active service under this chapter.

~~(e)~~ **(f)** In computing the length of active service rendered by any police officer for the purpose of determining the expiration of a period of twenty (20) years of active service, all of the following periods are counted:

(1) All of the time the officer performed the duties of ~~his~~ **the officer's** position in active service.

(2) Vacation time or periods of leave of absence with whole or part pay.

(3) Periods of leave of absence without pay that were necessary on account of physical or mental disability.

(4) Periods of disability for which the officer will receive or has received any disability benefit.

~~(f)~~ **(g)** In computing the term of service there is not included any of the following:

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(1) Periods during which the police officer was or is suspended or on leave of absence without pay.

(2) Periods during which the officer was not in active service on account of ~~his~~ **the officer's** resignation from the department.

(3) Time served as a special police officer, a merchant police officer, or private police officer.

SECTION 202. IC 36-8-7.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2. (a) A police pension fund to be known as the 1953 fund is established in each consolidated city.

(b) The 1953 fund shall be managed by a board of trustees (referred to as the "local board" in this chapter) ~~having nine (9) trustees, as follows:~~

~~(1) The city executive, the county treasurer, and the city police chief.~~

~~(2) One (1) retired member of the police department.~~

~~(3) Five (5) active members of the police department.~~

~~(c) The trustee under subsection (b)(2) shall be elected at a meeting of the retired members of the 1953 fund. The trustees under subsection (b)(3) shall be elected at a meeting of the active members of the police department. The trustees are elected for terms of three (3) years, beginning on January 1 following the election, and succeeding those trustees whose terms of office expire on that date.~~

~~(d) If a vacancy occurs on the local board among those trustees elected by the police department, the remaining trustees of the local board shall fill the vacancy for the unexpired term of the trustee causing the vacancy, from the same class of members, active or retired, as was the trustee causing the vacancy.~~

~~(e) Any trustee of the local board elected as an active member of the police department automatically ceases to be a member of the local board if he ceases, for any reason, to be an active member of the police department and the vacancy shall be filled as provided in subsection (d).~~

~~(f) The trustees receive no compensation for their services and shall be paid only their necessary and actual expenses, including travel expenses, out of the fund in the custody of the treasurer, for acting upon matters related to the 1953 fund. The submission of expenses by any local board member and the authorization by the local board at regular meeting is sufficient authorization to the treasurer for payment.~~

~~(g) The local board may make all necessary bylaws for:~~

~~(1) meetings of the trustees;~~

~~(2) the manner of their election, including the counting and~~

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~~canvassing of the votes;~~

~~(3) the collection of all money and other property due or belonging to the 1953 fund;~~

~~(4) all matters connected with the care, preservation, and disbursement of the fund; and~~

~~(5) all other matters connected with the proper execution of this chapter.~~

established under IC 36-8-7.6.

SECTION 203. IC 36-8-7.5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 10. (a) If the local board determines that the total amount of money available for a year will be insufficient to pay the benefits, pensions, and retirement allowances the local board is obligated to pay under this chapter, the local board shall, before the date on which the budget of the police special service district is adopted, prepare an itemized estimate in the form prescribed by the state board of accounts of the amount of money that will be receipted into and disbursed from the 1953 fund during the next fiscal year. The estimated receipts consist of the items enumerated in section 8 of this chapter. The estimated disbursements consist of an estimate of the amount of money that will be needed by the local board during the next fiscal year to defray the expenses and obligations incurred and that will be incurred by the local board in making the payments prescribed by this chapter to retired members, to members who are eligible and expect to retire during the ensuing fiscal year, and to the dependents of deceased members.

(b) At the time when the estimates are prepared and submitted, the local board shall also prepare and submit a certified statement showing:

(1) the estimated number of beneficiaries from the 1953 fund during the ensuing fiscal year in each of the various classifications of beneficiaries as prescribed in this chapter, and the names and amount of benefits being paid to those actively on the list of beneficiaries at that time;

(2) the name, age, and length of service of each member of the police department who is eligible to and expects to retire during the ensuing fiscal year, and the monthly and yearly amounts of the payment that the member will be entitled to receive; and

(3) the name and age of each dependent of a member of the police department who is then receiving benefits, the date on which the dependent commenced drawing benefits, and the date on which the dependent will cease to be a dependent by reason of attaining the age limit prescribed by this chapter, and the monthly and yearly amounts of the payments to which each of the dependents

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is entitled.

(c) After the amounts of receipts and disbursements shown in the itemized estimate are fixed and approved by the executive, fiscal officer, legislative body and other bodies, as provided by law for other municipal funds, the total receipts shall be deducted from the total expenditures stated in the itemized estimate, and the amount of the excess shall be paid by the police special service district in the same manner as other expenses of the district are paid. The legislative body shall levy a tax ~~and~~ **in the police special service district in the amount and at the rate that is necessary to produce sufficient revenue to pay the deficit described in subsection (a). This levy is in addition to the levy, if any, in the police special service district to pay operational expenses of the metropolitan law enforcement agency under IC 36-8-10.1-17. The part of** the money derived from the levy **equal to the deficit** shall, when collected, be credited exclusively to the 1953 fund. ~~The tax shall be levied in the amount and at the rate that is necessary to produce sufficient revenue to equal the deficit.~~ Notwithstanding any other law, neither the county board of tax adjustment nor the department of local government finance may reduce the **part of the** tax levy **equal to the deficit.**

SECTION 204. IC 36-8-7.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 12. (a) Benefits paid under this section are subject to section 1.5 of this chapter.

(b) The 1953 fund shall be used to provide a member of the police department who retires from active duty after twenty (20) or more years of active duty an annual pension equal to fifty percent (50%) of the salary of a first class patrolman in the police department, plus:

(1) for a member who retires before January 1, 1986, two percent (2%) of the first class patrolman's salary for each year of service; or

(2) for a member who retires after December 31, 1985, one percent (1%) of the first class patrolman's salary for each six (6) months of service;

of the retired member over twenty (20) years. The pension may not exceed in any year an amount greater than seventy-four percent (74%) of the salary of a first class patrolman. The pensions shall be computed on an annual basis but shall be paid in twelve (12) equal monthly installments. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased.

(c) If a member retires upon his voluntary application after twenty (20) years or more of active service, he then relinquishes all rights to

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other benefits or pensions for disability during the time of his retirement.

(d) After retirement the member is not required to render further services on the police department and is no longer subject to the rules of the police department, unless a national emergency has been declared by the local board, on application by the executive, ~~the safety board, and the police chief of the city.~~ **the sheriff, or the chief of the metropolitan law enforcement agency**. Upon declaration of such an emergency, the retired member, if physically able, shall return to active duty under the rank he attained at the time of his retirement, and if he refuses to return to active duty upon being declared physically fit, he forfeits his right to receive his pension until the time he returns to active duty and again is retired or discharged from service.

(e) No pension, annuity, or benefit provided by this chapter is payable by the local board except upon written application by the member of the police department, or the surviving spouse or other dependent, upon the forms and with the information required by the local board.

SECTION 205. IC 36-8-7.6 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 7.6. Public Safety Pension Commission in a Consolidated City

Sec. 1. This chapter applies to a consolidated city after December 31, 2005.

Sec. 2. (a) The public safety pension commission is established.

(b) After December 31, 2005, the boards of trustees of:

(1) the 1925 fund, for the police departments being consolidated into the metropolitan law enforcement agency under IC 36-8-10.1;

(2) the 1937 fund, for the fire departments being consolidated into the fire department of the consolidated city under IC 36-3-1-6.1 or IC 36-3-1-6.3; and

(3) the 1953 fund, for the police department being consolidated into the metropolitan law enforcement agency under IC 36-8-10.1;

are abolished, and except as otherwise provided by this chapter, the powers and duties of those boards of trustees necessary to administer and manage the 1925 fund, the 1937 fund, and the 1953 fund are transferred to and assumed by the public safety pension commission.

Sec. 3. (a) The local board consists of fourteen (14) trustees, as

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follows:

(1) The city executive, or the executive's designee.

(2) The city controller.

(3) The county auditor.

(4) The county treasurer.

(5) The chair of the administration and finance committee of the city-county legislative body.

(6) The chair of the public safety and criminal justice committee of the city-county legislative body.

(7) The chief of the consolidated fire department, or the chief's designee.

(8) An active member of the metropolitan law enforcement agency (established by IC 36-8-10.1-16), appointed by the county sheriff and having an appointed rank of at least assistant chief.

(9) An active member of the metropolitan law enforcement agency (established by IC 36-8-10.1-16), elected by the active members of the metropolitan law enforcement agency.

(10) An active member of the consolidated fire department (established by IC 36-3-1-6.1), elected by the active members of the consolidated fire department.

(11) A trustee who is a certified public accountant, appointed by the city executive.

(12) A trustee who is employed in an occupation related to pension finance or administration, appointed by the city executive.

(13) A retired member from the consolidated city's police department as the department existed before January 1, 2006, elected by the retired members of the consolidated city's police department who are members of the 1953 fund or the 1977 fund.

(14) A retired member of the consolidated fire department, elected by the retired members of the consolidated fire department who are members of the 1937 fund or 1977 fund.

(b) The trustee described in subsection (a)(9) must be elected at a meeting of the active members of the metropolitan law enforcement agency.

(c) The trustee described in subsection (a)(10) must be elected at a meeting of the active members of the consolidated fire department.

(d) The trustee described in subsection (a)(13) must be elected at a meeting of the retired members of the police department of the

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consolidated city who are members of the 1953 fund or the 1977 fund.

(e) The trustee described in subsection (a)(14) must be elected at a meeting of the retired members of the consolidated fire department who are members of the 1937 fund or the 1977 fund.

Sec. 4. Unless a bylaw adopted by the local board under section 10 of this chapter provides otherwise, the following governs the terms of the trustees:

(1) A trustee listed in section 3(a)(1) through 3(a)(7) of this chapter serves by virtue of the trustee's elected or appointed office.

(2) Except for the initial trustees whose terms may be shorter, a trustee serves a term of three (3) years, beginning on January 1 following the trustee's appointment or election and until the trustee's successor is appointed or elected, and qualified.

(3) A vacancy shall be filled in the same manner as the vacating trustee was selected for the remainder of the trustee's term.

(4) A person who must be an active member of:

(A) the metropolitan law enforcement agency; or

(B) the consolidated fire department;

to serve as a trustee automatically vacates the office, if the person, for any reason, is no longer an active member of the agency or department.

(5) The terms of at least two (2) of the trustees listed in section 3(a)(8) through 3(a)(14) of this chapter must expire each year.

Sec. 5. The city executive shall designate one (1) of the trustees appointed under section 3(a)(11) or 3(a)(12) of this chapter as the president of the local board.

Sec. 6. (a) The city controller shall serve as the treasurer of the local board.

(b) The treasurer shall perform the following duties:

(1) Have or arrange for custody of all property, money, and securities deposited into the 1925 fund, the 1937 fund, and the 1953 fund, and separately account for the assets of each fund.

(2) Keep a true account of the proceedings of the local board.

(3) Keep a correct statement of the account of each member with the member's fund.

(4) When leaving the treasurer's office, account to the local board for all property, money and securities, including the income received, in the 1925 fund, the 1937 fund, and the 1953

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fund.

(5) Turn over to a successor:

(A) all property, money, and securities belonging; and

(B) all books and papers pertaining;

to the 1925 fund, the 1937 fund, and the 1953 fund, that are in the treasurer's possession.

(6) Execute a bond, in the manner prescribed by IC 5-4-1, covering:

(A) the faithful performance of the treasurer's duties; and

(B) the duty to fully account for all property, money, and securities belonging to the 1925 fund, the 1937 fund, and the 1953 fund that are in the treasurer's possession.

(7) Except as provided by this chapter, perform any other duties of a fund treasurer or a fund secretary:

(A) required by IC 36-8-6, IC 36-8-7, or IC 36-8-7.5; or

(B) assigned by the local board.

(c) The treasurer shall provide complete and accurate reports to the local board concerning the 1925 fund, the 1937 fund, and the 1953 fund in the manner and as often as the local board, by bylaw, establishes.

(d) The books of the treasurer must be open at all times to examination by the trustees of the local board.

Sec. 7. The local board shall submit a report each July to the city-county legislative body. The report must cover the preceding calendar year through December 31, and must contain a detailed statement of the affairs of the 1925 fund, the 1937 fund, and the 1953 fund, including a separate accounting of the income, disbursements, assets, and liabilities of each fund during the preceding calendar year.

Sec. 8. (a) The local board shall appoint, as necessary, actuarial, medical, clerical, legal, or other employees, and set or approve their compensation.

(b) The treasurer has the discretion to appropriately attribute to or apportion among the 1925 fund, the 1937 fund, and the 1953 fund for payment of the costs of the services described in subsection (a).

Sec. 9. The trustees of the local board receive no compensation for their services.

Sec. 10. The local board may adopt all bylaws that are necessary for the management of the 1925 fund, the 1937 fund, and the 1953 fund, including bylaws covering the following administrative matters:

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(1) The conduct of local board meetings.

(2) The procedures for trustee appointments or elections.

(3) The collection of all money and other property due or belonging to the 1925 fund, the 1937 fund, or the 1953 fund.

(4) The care, preservation, and disbursement of assets from the 1925 fund, the 1937 fund, and the 1953 fund.

(5) The formation of one (1) or more subcommittees to review retirement, disability, and survivor applications for benefits, and other matters concerning benefits of retirees, survivors, and beneficiaries.

(6) The terms of the trustees initially appointed or elected under section 3(a)(8) through 3(a)(14) of this chapter.

(7) All other matters necessary for the management of the 1925 fund, the 1937 fund, or the 1953 fund.

Sec. 11. The local board may invest the 1925 fund, the 1937 fund, or the 1953 fund in any of the following:

(1) Interest bearing direct obligations of the United States or of the state or bonds lawfully issued by an Indiana political subdivision.

(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) a federal savings association organized under 12 U.S.C. 1461, as amended, having its principal office in Indiana; or

(B) a savings association organized and operating under state law whose accounts are insured by a federal agency.

However, the local board may not purchase shares in excess of the amount of insurance protection afforded a member or an investor of the association.

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

Sec. 12. (a) The city controller may establish a pension stabilization account for the consolidated city to fund the consolidated city's obligations under the 1925 fund, the 1937 fund, or the 1953 fund.

(b) The city executive and the city controller shall determine the amount, if any, of the pension stabilization account that may be used each fiscal year to meet the obligations described in subsection (a).

(c) The city controller may, in the controller's sole discretion,

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deposit all or any part of the consolidated city's pension stabilization account with the board of trustees of the public employees' retirement fund (the PERF board) to have the PERF board administer and invest some or all of the consolidated city's pension stabilization account assets in accordance with IC 5-10.3-5-3 and IC 5-10.3-11-6.

(d) As required by IC 5-10.3-11-6, the consolidated city's deposit described in subsection (c) is a separate and distinct account within the public employees' retirement fund and the pension relief fund. The assets in the consolidated city's account may be commingled with other funds administered by the public employee's retirement fund for investment purposes.

Sec. 13. The local board has no taxing authority.

SECTION 206. IC 36-8-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. This chapter applies to:

(1) full-time police officers hired or rehired after April 30, 1977, in all municipalities, or who converted their benefits under IC 19-1-17.8-7 (repealed September 1, 1981);

(2) full-time fully paid firefighters hired or rehired after April 30, 1977, or who converted their benefits under IC 19-1-36.5-7 (repealed September 1, 1981);

(3) a police matron hired or rehired after April 30, 1977, and before July 1, 1996, who is a member of a police department in a second or third class city on March 31, 1996; ~~and~~

(4) a park ranger who:

(A) completed at least the number of weeks of training at the Indiana law enforcement academy or a comparable law enforcement academy in another state that were required at the time the park ranger attended the Indiana law enforcement academy or the law enforcement academy in another state;

(B) graduated from the Indiana law enforcement academy or a comparable law enforcement academy in another state; and

(C) is employed by the parks department of a city having a population of more than one hundred twenty thousand (120,000) but less than one hundred fifty thousand (150,000);

(5) a full-time police officer who is covered by this chapter before January 1, 2006, and after December 31, 2005, becomes a member of the metropolitan law enforcement agency established under IC 36-8-10.1 provided that the officer's service as a member of the metropolitan law enforcement agency is considered active service under this

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chapter;

(6) a full-time police officer who is hired or rehired after January 1, 2006, by the metropolitan law enforcement agency established by IC 36-8-10.1-16;

(7) a full-time fully paid firefighter who is covered by this chapter before January 1, 2006, and after December 31, 2005, becomes a member of the fire department of a consolidated city under IC 36-3-1-6.1 or IC 36-3-1-6.3 provided that the firefighter's service as a member of the fire department of a consolidated city is considered active service under this chapter; and

(8) a full-time fully paid firefighter who is hired or rehired after January 1, 2006, by the fire department of a consolidated city established under IC 36-3-1-6.1;

except as provided by section 7 of this chapter.

SECTION 207. IC 36-8-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2. As used in this chapter, "employer" means:

(1) a municipality that established a 1925 or 1953 fund or that participates in the 1977 fund under section 3 or 18 of this chapter; ~~or~~

(2) a unit that established a 1937 fund or that participates in the 1977 fund under section 3 or 18 of this chapter;

(3) a consolidated city that consolidated the police departments of units that:

(A) established a 1925 or 1953 fund; or

(B) participated in the 1977 fund;

before the units' consolidation into the metropolitan law enforcement agency established by IC 36-8-10.1-16; or

(4) a consolidated city that consolidated the fire departments of units that:

(A) established a 1937 fund; or

(B) participated in the 1977 fund;

before the units' consolidation into the fire department of a consolidated city established by IC 36-3-1-6.1.

SECTION 208. IC 36-8-8-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2.1. (a) As used in this chapter, "local board" means the following:

(1) **Except as provided in subdivision (2),** for a unit that established a 1925 fund for its police officers, the local board described in IC 36-8-6-2.

(2) For a unit that established a 1925 fund for its police

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officers and consolidates its police department into the metropolitan law enforcement agency under IC 36-8-10.1:

(A) before the date the consolidation is effective, the local board described in IC 36-8-6-2; and

(B) on and after the date the consolidation is effective, the local board established by IC 36-8-7.6-2.

~~(2)~~ **(3) Except as provided in subdivision (4) or (5),** for a unit that established a 1937 fund for its firefighters, the local board described in IC 36-8-7-3.

(4) Except as provided in subdivision (5), for a unit that established a 1937 fund for its firefighters and consolidates its fire department into the fire department of a consolidated city under IC 36-3-1-6.1 or IC 36-3-1-6.3:

(A) before the date the consolidation is effective, the local board described in IC 36-8-7-3; and

(B) on and after the date the consolidation is effective, the local board established by IC 36-8-7.6-2.

(5) For a consolidated city that established a 1937 fund for its firefighters:

(A) before January 1, 2006, the local board described in IC 36-8-7-3; and

(B) after December 31, 2005, the local board established by IC 36-8-7.6-2.

~~(3)~~ **(6)** For a consolidated city that established a 1953 fund for its police officers:

(A) before January 1, 2006, the local board described in IC 36-8-7.5-2; **and**

(B) after December 31, 2005, the local board established by IC 36-8-7.6-2.

~~(4)~~ **(7)** For a unit, other than a consolidated city, that did not establish a 1925 fund for its police officers or a 1937 fund for its firefighters, the local board described in subsection (b) or (c).

(b) If a unit did not establish a 1925 fund for its police officers, a local board shall be composed in the same manner described in IC 36-8-6-2(b). However, if there is not a retired member of the department, no one shall be appointed to that position until such time as there is a retired member.

(c) If a unit did not establish a 1937 fund for its firefighters, a local board shall be composed in the same manner described in IC 36-8-7-3(b). However, if there is not a retired member of the department, no one shall be appointed to that position until such time as there is a retired member.

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SECTION 209. IC 36-8-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 7. (a) Except as provided in subsections (d), (e), (f), (g), ~~and~~ (h), **(k), and (l):**

(1) a police officer; or

(2) a firefighter;

who is less than thirty-six (36) years of age and who passes the baseline statewide physical and mental examinations required under section 19 of this chapter shall be a member of the 1977 fund and is not a member of the 1925 fund, the 1937 fund, or the 1953 fund.

(b) A police officer or firefighter with service before May 1, 1977, who is hired or rehired after April 30, 1977, may receive credit under this chapter for service as a police officer or firefighter prior to entry into the 1977 fund if the employer who rehires ~~him~~ **the police officer or firefighter** chooses to contribute to the 1977 fund the amount necessary to amortize ~~his~~ **the police officer's or firefighter's** prior service liability over a period of not more than forty (40) years, the amount and the period to be determined by the PERF board. If the employer chooses to make the contributions, the police officer or firefighter is entitled to receive credit for ~~his~~ **the police officer's or firefighter's** prior years of service without making contributions to the 1977 fund for that prior service. In no event may a police officer or firefighter receive credit for prior years of service if the police officer or firefighter is receiving a benefit or is entitled to receive a benefit in the future from any other public pension plan with respect to the prior years of service.

(c) Except as provided in section 18 of this chapter, a police officer or firefighter is entitled to credit for all years of service after April 30, 1977, with the police or fire department of an employer covered by this chapter.

(d) A police officer or firefighter with twenty (20) years of service does not become a member of the 1977 fund and is not covered by this chapter, if ~~he:~~ **the police officer or firefighter:**

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981); and

(3) is rehired after April 30, 1977, by the same employer.

(e) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if ~~he:~~ **the police officer or firefighter:**

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981);

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(3) was rehired after April 30, 1977, but before February 1, 1979; and

(4) was made, before February 1, 1979, a member of a 1925, 1937, or 1953 fund.

(f) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if ~~he:~~ **the police officer or firefighter:**

(1) was hired by the police or fire department of a unit before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981);

(3) is rehired by the police or fire department of another unit after December 31, 1981; and

(4) is made, by the fiscal body of the other unit after December 31, 1981, a member of a 1925, 1937, or 1953 fund of the other unit.

If the police officer or firefighter is made a member of a 1925, 1937, or 1953 fund, ~~he~~ **the police officer or firefighter** is entitled to receive credit for all ~~his~~ **the police officer's or firefighter's** years of service, including years before January 1, 1982.

(g) As used in this subsection, "emergency medical services" and "emergency medical technician" have the meanings set forth in IC 16-18-2-110 and IC 16-18-2-112. A firefighter who:

(1) is employed by a unit that is participating in the 1977 fund;

(2) was employed as an emergency medical technician by a political subdivision wholly or partially within the department's jurisdiction;

(3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and

(4) ceased employment with the political subdivision and was hired by the unit's fire department due to the reorganization of emergency medical services within the department's jurisdiction;

shall participate in the 1977 fund. A firefighter who participates in the 1977 fund under this subsection is subject to sections 18 and 21 of this chapter.

(h) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if the individual was appointed as:

(1) a fire chief under a waiver under IC 36-8-4-6(c); or

(2) a police chief under a waiver under IC 36-8-4-6.5(c);

unless the executive of the unit requests that the 1977 fund accept the individual in the 1977 fund and the individual previously was a

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member of the 1977 fund.

(i) A police matron hired or rehired after April 30, 1977, and before July 1, 1996, who is a member of a police department in a second or third class city on March 31, 1996, is a member of the 1977 fund.

(j) A park ranger who:

(1) completed at least the number of weeks of training at the Indiana law enforcement academy or a comparable law enforcement academy in another state that were required at the time the park ranger attended the Indiana law enforcement academy or the law enforcement academy in another state;

(2) graduated from the Indiana law enforcement academy or a comparable law enforcement academy in another state; and

(3) is employed by the parks department of a city having a population of more than one hundred twenty thousand (120,000) but less than one hundred fifty thousand (150,000);

is a member of the fund.

(k) Notwithstanding any other provision of this chapter, a police officer or a firefighter:

(1) who is a member of the 1977 fund before January 1, 2006;

(2) whose employer is consolidated into:

(A) the metropolitan law enforcement agency under IC 36-8-10.1; or

(B) the fire department of a consolidated city under IC 36-3-1-6.1 or IC 36-3-1-6.3; and

(3) who, after the consolidation, becomes an employee of:

(A) the metropolitan law enforcement agency under IC 36-8-10.1; or

(B) the fire department of a consolidated city under IC 36-3-1-6.1 or IC 36-3-1-6.3;

is a member of the 1977 fund without meeting the requirements under sections 19 and 21 of this chapter.

(l) Notwithstanding any other provision of this chapter, a police officer or a firefighter who:

(1) before January 1, 2006, provides fire protection or law enforcement services for an entity in a consolidated city;

(2) has the provision of those services consolidated into:

(A) the metropolitan law enforcement agency under IC 36-8-10.1; or

(B) the fire department of a consolidated city under IC 36-3-1-6.1 or IC 36-3-1-6.3; and

(3) after the consolidation, becomes an employee of:

(A) the metropolitan law enforcement agency under

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IC 36-8-10.1; or

(B) the fire department of a consolidated city under IC 36-3-1-6.1 or IC 36-3-1-6.3;

is a member of the 1977 fund without meeting the requirements under sections 19 and 21 of this chapter.

(m) A police officer or firefighter who is a member of the 1977 fund under subsection (k) or (l):

(1) may not be:

(A) retired for purposes of section 10 of this chapter; or

(B) disabled for purposes of section 12 of this chapter;

solely because of a change in employer described in subsection (k) or (l); and

(2) shall receive credit for all years of service as a member of the 1977 fund before the consolidation described in subsection (k) or (l).

(n) Notwithstanding any other provision of this chapter, upon the request of the executive of a consolidated city to the PERF board, a sheriff of a county having a consolidated city may become a member of the 1977 fund without meeting:

(1) the age limitations under subsection (a); or

(2) the requirements under section 19 of this chapter.

SECTION 210. IC 36-8-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. **(a) Except as provided in subsection (b),** this chapter applies to all counties.

(b) Except as provided in section 9 of this chapter, this chapter does not apply to a county having a consolidated city that establishes a metropolitan law enforcement agency under IC 36-8-10.1.

SECTION 211. IC 36-8-10-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 9. **(a) This section applies to a county having a consolidated city that establishes a metropolitan law enforcement agency under IC 36-8-10.1. The members of the metropolitan law enforcement agency have the powers listed in this section that are not powers given to the members of the metropolitan law enforcement agency under IC 36-3-6-8.**

~~(a)~~ **(b)** Each member of the department:

(1) has general police powers;

(2) shall arrest, without process, all persons who commit an offense within ~~his~~ **the member's** view, take them before the court having jurisdiction, and detain them in custody until the cause of the arrest has been investigated;

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(3) shall suppress all breaches of the peace within ~~his~~ **the member's** knowledge, with authority to call to ~~his~~ **the member's** aid the power of the county;

(4) shall pursue and commit to the jail of the county all felons;

(5) may execute all process directed to the sheriff by legal authority;

(6) shall attend upon and preserve order in all courts of the county;

(7) shall guard prisoners in the county jail;

(8) shall serve all process directed to the sheriff from a court or from the county executive according to law; and

(9) shall take photographs, fingerprints, and other identification data as shall be prescribed by the sheriff of persons taken into custody for felonies or misdemeanors.

~~(b)~~ **(c)** A person who:

(1) refuses to be photographed;

(2) refuses to be fingerprinted;

(3) withholds information; or

(4) gives false information;

as prescribed in subsection (a)(9), commits a Class C misdemeanor.

SECTION 212. IC 36-8-10-10.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 10.6. (a) The sheriff may appoint as a special deputy any person who is employed by a governmental entity as defined in IC 35-41-1 or private employer, the nature of which employment necessitates that the person have the powers of a law enforcement officer. During the term of ~~his~~ **the person's** appointment and while ~~he~~ **the person** is fulfilling the specific responsibilities for which the appointment is made, a special deputy has the powers, privileges, and duties of a county police officer under this chapter, subject to any written limitations and specific requirements imposed by the sheriff and signed by the special deputy. A special deputy is subject to the direction of the sheriff and shall obey the rules and orders of the department. A special deputy may be removed by the sheriff at any time, without notice and without assigning any cause.

(b) The sheriff shall fix the prerequisites of training, education, and experience for special deputies, subject to the minimum requirements prescribed by this subsection. Applicants must:

(1) be twenty-one (21) years of age or older;

(2) never have been convicted of a felony, or a misdemeanor involving moral turpitude;

(3) be of good moral character; and

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(4) have sufficient training to insure the proper performance of their authorized duties.

(c) Except as provided in subsection (d), a special deputy shall wear a uniform the design and color of which is easily distinguishable from the uniforms of the Indiana state police, the regular county police force, and all municipal police and fire forces located in the county.

(d) The sheriff may permit a special deputy to wear the uniform of the regular county police force if the special deputy:

(1) has successfully completed the minimum basic training requirements under IC 5-2-1;

(2) is periodically assigned by the sheriff to duties of a regular county police officer; and

(3) is an employee of the department.

The sheriff may revoke permission for the special deputy to wear the uniform of the regular county police force at any time without cause or notice.

(e) The sheriff may also appoint one (1) legal deputy, who must be a member of the Indiana bar. The legal deputy does not have police powers. The legal deputy may continue to practice law. However, neither the legal deputy nor any attorney in partnership with ~~him~~ **the legal deputy** may represent a defendant in a criminal case.

(f) The sheriff, for the purpose of guarding prisoners in the county jail,

~~(1) in counties not having a consolidated city,~~ may appoint special deputies to serve as county jail guards. ~~and~~

~~(2) in counties having a consolidated city, shall appoint only special deputies to serve as county jail guards.~~

This subsection does not affect the rights or liabilities accrued by any county police officer assigned to guard the jail before August 31, 1982.

SECTION 213. IC 36-8-10-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 12. (a) The department and a trustee may establish and operate an actuarially sound pension trust as a retirement plan for the exclusive benefit of the employee beneficiaries. However, a department and a trustee may not establish or modify a retirement plan after June 30, 1989, without the approval of the county fiscal body which shall not reduce or diminish any benefits of the employee beneficiaries set forth in any retirement plan that was in effect on January 1, 1989.

(b) The normal retirement age may be earlier but not later than the age of seventy (70). However, the sheriff may retire an employee who is otherwise eligible for retirement if the board finds that the employee is not physically or mentally capable of performing the employee's

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duties.

(c) Joint contributions shall be made to the trust fund:

(1) either by:

(A) the department through a general appropriation provided to the department;

(B) a line item appropriation directly to the trust fund; or

(C) both; and

(2) by an employee beneficiary through authorized monthly deductions from the employee beneficiary's salary or wages. However, the employer may pay all or a part of the contribution for the employee beneficiary.

Contributions through an appropriation are not required for plans established or modifications adopted after June 30, 1989, unless the establishment or modification is approved by the county fiscal body.

(d) ~~For a county not having a consolidated city,~~ The monthly deductions from an employee beneficiary's wages for the trust fund may not exceed six percent (6%) of the employee beneficiary's average monthly wages. ~~For a county having a consolidated city, the monthly deductions from an employee beneficiary's wages for the trust fund may not exceed seven percent (7%) of the employee beneficiary's average monthly wages.~~

(e) The minimum annual contribution by the department must be sufficient, as determined by the pension engineers, to prevent deterioration in the actuarial status of the trust fund during that year. If the department fails to make minimum contributions for three (3) successive years, the pension trust terminates and the trust fund shall be liquidated.

(f) If during liquidation all expenses of the pension trust are paid, adequate provision must be made for continuing pension payments to retired persons. Each employee beneficiary is entitled to receive the net amount paid into the trust fund from the employee beneficiary's wages, and any remaining sum shall be equitably divided among employee beneficiaries in proportion to the net amount paid from their wages into the trust fund.

(g) If a person ceases to be an employee beneficiary because of death, disability, unemployment, retirement, or other reason, the person, the person's beneficiary, or the person's estate is entitled to receive at least the net amount paid into the trust fund from the person's wages, either in a lump sum or monthly installments not less than the person's pension amount.

(h) If an employee beneficiary is retired for old age, the employee beneficiary is entitled to receive a monthly income in the proper

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amount of the employee beneficiary's pension during the employee beneficiary's lifetime.

(i) To be entitled to the full amount of the employee beneficiary's pension classification, an employee beneficiary must have contributed at least twenty (20) years of service to the department before retirement. Otherwise, the employee beneficiary is entitled to receive a pension proportional to the length of the employee beneficiary's service.

(j) This subsection does not apply to a county that adopts an ordinance under section 12.1 of this chapter. For an employee beneficiary who retires before January 1, 1985, a monthly pension may not exceed by more than twenty dollars ($20) one-half (1/2) the amount of the average monthly wage received during the highest paid five (5) years before retirement. However, in counties where the fiscal body approves the increases, the maximum monthly pension for an employee beneficiary who retires after December 31, 1984, may be increased by no more or no less than two percent (2%) of that average monthly wage for each year of service over twenty (20) years to a maximum of seventy-four percent (74%) of that average monthly wage plus twenty dollars ($20). For the purposes of determining the amount of an increase in the maximum monthly pension approved by the fiscal body for an employee beneficiary who retires after December 31, 1984, the fiscal body may determine that the employee beneficiary's years of service include the years of service with the sheriff's department that occurred before the effective date of the pension trust. For an employee beneficiary who retires after June 30, 1996, the average monthly wage used to determine the employee beneficiary's pension benefits may not exceed the monthly minimum salary that a full-time prosecuting attorney was entitled to be paid by the state at the time the employee beneficiary retires.

(k) The trust fund may not be commingled with other funds, except as provided in this chapter, and may be invested only in accordance with statutes for investment of trust funds, including other investments that are specifically designated in the trust agreement.

(l) The trustee receives and holds as trustee all money paid to it as trustee by the department, the employee beneficiaries, or by other persons for the uses stated in the trust agreement.

(m) The trustee shall engage pension engineers to supervise and assist in the technical operation of the pension trust in order that there is no deterioration in the actuarial status of the plan.

(n) Within ninety (90) days after the close of each fiscal year the trustee, with the aid of the pension engineers, shall prepare and file an

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annual report with the department and the state insurance department. The report must include the following:

(1) Schedule 1. Receipts and disbursements.

(2) Schedule 2. Assets of the pension trust listing investments by book value and current market value as of the end of the fiscal year.

(3) Schedule 3. List of terminations, showing the cause and amount of refund.

(4) Schedule 4. The application of actuarially computed "reserve factors" to the payroll data properly classified for the purpose of computing the reserve liability of the trust fund as of the end of the fiscal year.

(5) Schedule 5. The application of actuarially computed "current liability factors" to the payroll data properly classified for the purpose of computing the liability of the trust fund as of the end of the fiscal year.

(o) No part of the corpus or income of the trust fund may be used or diverted to any purpose other than the exclusive benefit of the members and the beneficiaries of the members.

SECTION 214. IC 36-8-10.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 10.1. Metropolitan Law Enforcement Agency in a Consolidated City

Sec. 1. This chapter applies to a county having a consolidated city.

Sec. 2. As used in this chapter, "board" refers to the sheriff's merit board established by section 20 of this chapter.

Sec. 3. As used in this chapter, "chief" refers to the chief of the metropolitan law enforcement agency appointed by the sheriff under section 29 of this chapter.

Sec. 4. As used in this chapter, "commission" refers to the metropolitan police commission established by section 21 of this chapter.

Sec. 5. As used in this chapter, "department" refers to the sheriff's department.

Sec. 6. As used in this chapter, "eligible employee" means:

(1) the sheriff; or

(2) a county police officer;

before January 1, 2006.

Sec. 7. As used in this chapter, "employee beneficiary" means an eligible employee who, before January 1, 2006, completed an

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application to become an employee beneficiary and who has had the proper deductions made from the eligible employee's wages as required in the pension trust agreement.

Sec. 8. As used in this chapter, "member of the metropolitan law enforcement agency" or "member of the agency" means an individual performing law enforcement services as a full-time fully paid employee of the metropolitan law enforcement agency.

Sec. 9. As used in this chapter, "metropolitan law enforcement agency" or "agency" refers to the metropolitan law enforcement agency established by section 16 of this chapter as the law enforcement division of the department.

Sec. 10. As used in this chapter, "net amount paid into the trust fund from wages of an employee beneficiary" means the amount of money actually paid in from the wages of the employee beneficiary, plus interest at the rate of three percent (3%) compounded annually and less a sum including interest at the same rate, paid from the trust fund to the employee beneficiary or to a governmental fund for the credit or benefit of the employee beneficiary.

Sec. 11. As used in this chapter, "pension engineers" means technical consultants qualified to:

(1) supervise; and

(2) assist in the:

(A) maintenance of; and

(B) operation of;

a pension trust on an actuarially sound basis.

Sec. 12. As used in this chapter, "pension trust" means the trust established by the department before January 1, 2006, under IC 36-8-10-12.

Sec. 13. As used in this chapter, "trust fund" means the assets of the pension trust and consists of:

(1) voluntary contributions from the department;

(2) money paid from the wages of employee beneficiaries;

(3) income and proceeds derived from the investment of subdivisions (1) and (2); and

(4) other payments or contributions made to the pension trust.

Sec. 14. As used in this chapter, "trustee" refers to the trustee of the pension trust who may be:

(1) one (1) or more corporate trustees; or

(2) the treasurer of the county;

serving under bond.

Sec. 15. The department is responsible for providing all the

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following functions for the consolidated city and the county:

(1) County jail operations and facilities.

(2) Emergency communications.

(3) Law enforcement.

(4) Security for buildings and property owned by:

(A) the consolidated city;

(B) the county; or

(C) both the consolidated city and county.

(5) Service of court documents.

Sec. 16. (a) The metropolitan law enforcement agency is established.

(b) After December 31, 2005, the metropolitan law enforcement agency is the law enforcement division of the department.

(c) Except as provided by section 18 of this chapter, after December 31, 2005, the metropolitan law enforcement agency shall provide law enforcement services for the following:

(1) The consolidated city.

(2) The county.

(3) The territory in which an airport authority established for a consolidated city under IC 8-22-3 may provide law enforcement services.

(d) After December 31, 2005:

(1) the members of the police department of the consolidated city cease employment with the consolidated city;

(2) the county police officers cease employment as county police officers; and

(3) the officers providing law enforcement services for:

(A) the airport authority; or

(B) any agent of the airport authority;

cease employment with the airport authority; and become members of the metropolitan law enforcement agency under this chapter.

(e) A member of the police department of a consolidated city who:

(1) was a member of the 1925 fund, the 1953 fund, or the 1977 fund before January 1, 2006; and

(2) after December 31, 2005, becomes a member of the metropolitan law enforcement agency under this chapter;

remains a member of the 1925 fund, the 1953 fund, or the 1977 fund. The member retains, after December 31, 2005, credit in the 1925 fund, the 1953 fund, or the 1977 fund for service earned while a member of the police department of the consolidated city, and

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continues to earn service credit in the 1925 fund, the 1953 fund, or the 1977 fund as a member of the metropolitan law enforcement agency.

(f) A member of the county police force who:

(1) was an employee beneficiary of the sheriff's pension trust before January 1, 2006; and

(2) after December 31, 2005, becomes a member of the metropolitan law enforcement agency under this chapter;

remains an employee beneficiary of the pension trust under this chapter. The member retains, after December 31, 2005, credit in the pension trust for service earned while a member of the county police force, and continues to earn service credit in the pension trust as a member of the metropolitan law enforcement agency.

(g) For purposes of this chapter, whenever a certain length of service with the metropolitan law enforcement agency is required for a particular appointment, a member of the agency with service as:

(1) a member of the police department of the consolidated city;

(2) a county police officer; or

(3) an officer providing law enforcement services for:

(A) the airport authority; or

(B) an agent of the airport authority;

before January 1, 2006, shall have that service included in determining the member's total length of service with the agency.

(h) This subsection does not apply to an individual who becomes a member of the metropolitan law enforcement agency under subsection (d). An individual may not be appointed or reappointed as a member of the metropolitan law enforcement agency after December 31, 2005, unless the individual:

(1) is less than thirty-six (36) years of age; and

(2) passes:

(A) the aptitude, physical agility, and physical examination required by the local board; and

(B) the statewide baseline standards required by IC 36-8-8-19.

A person who is appointed or reappointed to the metropolitan law enforcement agency after December 31, 2005, is a member of the 1977 fund.

Sec. 17. (a) Subject to commission review, the sheriff shall recommend the number and salary of the members of the metropolitan law enforcement agency. The city-county legislative

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body shall finally determine the budget and salaries of the agency.

(b) The expenses of the metropolitan law enforcement agency are a part of the department's budget, and the consolidated city and the county may levy property taxes to provide for the payment of the expenses for the operation of the metropolitan law enforcement agency.

(c) To provide for the payment of the expenses for the operation of the metropolitan law enforcement agency, the consolidated city may levy property taxes on taxable property located within the area served by the agency as described in section 16(c) of this chapter.

(d) The police special service district established under IC 36-3-1-6 may levy property taxes to provide for the payment of expenses for the operation of the metropolitan law enforcement agency:

(1) within; or

(2) that directly benefit:

the territory of the police special service district. These amounts are in addition to the amounts levied by the police special service district to fund pension obligations under IC 36-8-7.5-10.

Sec. 18. (a) After December 31, 2005, the metropolitan law enforcement agency may not provide law enforcement services to an excluded city unless the law enforcement services are provided under an interlocal agreement under IC 36-1-7 or the conditions in subsection (b) are met.

(b) For the metropolitan law enforcement agency to provide law enforcement services to an excluded city other than under an interlocal agreement under IC 36-1-7, all the following must occur:

(1) The legislative body of the excluded city and the city-county legislative body must adopt substantially similar ordinances authorizing:

(A) the extension of the territory of the metropolitan law enforcement agency to include the excluded city; and

(B) the consolidation of the police department of the excluded city into the metropolitan law enforcement agency.

(2) The ordinances described in subdivision (1) must:

(A) specify the effective date of the consolidation; and

(B) set forth the conditions of the consolidation, including a transition plan for the consolidation approved by the commission.

(c) After the effective date of the consolidation described in

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subsection (b), the metropolitan law enforcement agency shall provide law enforcement services within the territory of the excluded city.

(d) Whenever an excluded city consolidates its police department into the metropolitan law enforcement agency under subsection (b), the local board for the 1925 fund of the excluded city is abolished and its services are terminated not later than the effective date of the consolidation. The duties performed by the local board under IC 36-8-6 are assumed by the local board created under IC 36-8-7.6.

(e) Whenever an excluded city consolidates its police department into the metropolitan law enforcement agency under subsection (b), the merit board and merit system of the police department of the excluded city are abolished, and the duties of the merit board of the excluded city are transferred to and assumed by the board established by section 20 of this chapter.

(f) After the effective date of the consolidation described in subsection (b), all the property, equipment, records, rights, and contracts of the police department of the excluded city are transferred to and assumed by the consolidated city.

(g) After the effective date of the consolidation described in subsection (b), the employees of the police department of the excluded city cease employment with the excluded city and become employees of the metropolitan law enforcement agency. The consolidated city shall assume all agreements with labor organizations that:

(1) are in effect after the effective date of the consolidation described in subsection (b); and

(2) apply to employees of the police department of the excluded city who become members of the metropolitan law enforcement agency.

(h) Whenever an excluded city consolidates its police department into the metropolitan law enforcement agency under subsection (b), for property taxes first due and payable in the calendar year following the effective date of the consolidation, the maximum permissible ad valorem property tax levy under IC 6-1.1-18.5:

(1) is increased for a consolidated city by the amount levied in the prior calendar year for police protection and related services by the excluded city; and

(2) is reduced for the excluded city by the amount levied in the prior calendar year for police protection and related services

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by the excluded city.

Sec. 19. (a) The members of the metropolitan law enforcement agency shall perform law enforcement duties as:

(1) assigned by the sheriff; or

(2) required by law.

(b) A member of the agency shall reside within:

(1) the county; or

(2) a county contiguous to the county.

(c) Subsection (b) does not apply to a member of the agency who:

(1) before January 1, 2006, was a member of the police department of a consolidated city;

(2) after December 31, 2005, became a member of the agency; and

(3) resided outside the county on January 1, 1975.

(d) The county shall furnish the sheriff and the members of the metropolitan law enforcement agency with the uniforms or other clothing that they need to perform their duties. However, after one (1) year of service in the metropolitan law enforcement agency, a member of the agency may be required by the county to furnish and maintain the member's own uniform clothing upon payment to the member by the county of an annual cash allowance of at least two hundred dollars ($200).

Sec. 20. (a) The sheriff's merit board is established.

(b) After December 31, 2005, the merit board and merit system of:

(1) the department; and

(2) the police department of a consolidated city;

are abolished, and the duties of those boards are transferred to and assumed by the board, unless otherwise provided in this chapter.

(c) The board consists of seven (7) members as follows:

(1) Four (4) members appointed by the sheriff.

(2) One (1) member appointed by the commission.

(3) Two (2) members elected by a majority vote of the active members of the metropolitan law enforcement agency.

(d) An active member of the metropolitan law enforcement agency may not serve on the board.

(e) The term of office for a member:

(1) appointed; or

(2) elected;

to the board is four (4) years, beginning on the date the member is qualified and assumes office, or for the remainder of an unexpired

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term. Members of the board serve during their respective terms and until their successors have been appointed and qualified. Before January 1, 2006, the initial members of the board must be appointed or elected as provided in subsection (c).

(f) Not more than:

(1) two (2) of the members appointed by the sheriff; or

(2) one (1) of the members elected by the active members of the metropolitan law enforcement agency;

may belong to the same political party.

(g) A member of the board must reside in the county.

(h) A member of the board may be removed for cause duly adjudicated by declaratory judgment of the superior court of the county.

(i) A member of the board is entitled to receive reimbursement from the county for actual expenses incurred while serving as a member.

(j) As soon as practicable after they are appointed and elected, the members of the board shall meet upon the call of the sheriff and organize by electing a president and a secretary from among their membership.

(k) Five (5) members of the board constitute a quorum for the transaction of business.

(l) The board must hold regular monthly meetings throughout the year as is necessary to transact the business of the department.

Sec. 21. (a) The metropolitan police commission is established.

(b) The commission consists of the following four (4) members:

(1) The director of the department of public safety who serves as the commission's president.

(2) One (1) member appointed annually by the mayor who serves at the pleasure of the mayor.

(3) One (1) member appointed annually by the city-county legislative body who serves at the pleasure of the city-county legislative body.

(4) The sheriff who serves as a nonvoting member of the commission.

(c) The initial members of the commission must be appointed not later than August 1, 2005.

(d) The commission is a public agency for purposes of IC 5-14-1.5 and IC 5-14-3.

Sec. 22. (a) Before January 1, 2006, the commission shall undertake the following:

(1) Approve a metropolitan law enforcement agency

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transition plan to integrate the law enforcement functions and personnel of:

(A) the sheriff's department;

(B) the police department of the consolidated city; and

(C) the officers providing law enforcement services for the airport authority;

into the metropolitan law enforcement agency.

(2) Approve the following for the metropolitan law enforcement agency:

(A) The management and organizational structure of the agency.

(B) A system of regulations and orders for the agency.

(C) The agency's patrol areas.

(D) The agency's patrol levels.

(E) The agency's investigative units and special details.

(3) Serve on the transition advisory board established by section 24 of this chapter and approve the items listed in that section.

(4) Exercise all powers necessary, convenient, or appropriate to perform:

(A) the duties listed in subdivisions (1) through (3); or

(B) any other duties necessary to complete the transition to the metropolitan law enforcement agency by January 1, 2006.

Sec. 23. (a) After December 31, 2005, the commission has the following powers and duties:

(1) Serve as a permanent oversight body for the metropolitan law enforcement agency.

(2) Approve large procurements for the metropolitan law enforcement agency.

(3) Approve the chief of the metropolitan law enforcement agency appointed by the sheriff under section 29 of this chapter.

(4) Approve the initiation and implementation of resource allocation studies for the metropolitan law enforcement agency.

(5) Consult with:

(A) the sheriff; and

(B) the chief of the metropolitan law enforcement agency;

concerning the creation and operation of an internal affairs division for the metropolitan law enforcement agency.

(6) Exercise all powers necessary, convenient, or appropriate

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to:

(A) perform the duties listed in subdivisions (1) through (5);

(B) provide oversight for the metropolitan law enforcement agency.

(b) In addition to the powers and duties under subsection (a), the commission may do the following:

(1) For any matter relating to the operation of the metropolitan law enforcement agency:

(A) hold public meetings or public hearings; and

(B) make recommendations.

(2) Review and comment on any regulation or order promulgated by the sheriff concerning the metropolitan law enforcement agency.

Sec. 24. (a) The transition advisory board is established.

(b) The transition advisory board consists of the following members:

(1) The members of the commission who serve as ex officio members of the advisory board.

(2) Other members as determined and appointed by the sheriff.

(c) The members of the transition advisory board must be appointed not later than September 1, 2005.

(d) Before January 1, 2006, the sheriff must consult with the transition advisory board and determine the following for the metropolitan law enforcement agency:

(1) The design and color of the agency's uniforms.

(2) The design and color of vehicle markings for all vehicles used by the agency.

(3) The standard equipment issued to members of the agency.

(4) The official name of the agency.

(e) The sheriff's determinations under subsection (d) are subject to the approval of the commission.

Sec. 25. (a) The sheriff may appoint a prison matron for the county. The sheriff sets the qualifications for the position. Except as provided in subsection (b), the sheriff has complete hiring authority over the position of prison matron.

(b) A person who is a member of the metropolitan law enforcement agency immediately before being appointed as prison matron is entitled to the discipline and removal procedures under section 34 of this chapter before:

(1) being reduced in grade to a rank below the rank that the

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person held before being appointed as prison matron; or

(2) removal from the department.

(c) The sheriff may employ assistant prison matrons, if necessary.

(d) The prison matron and the assistant prison matrons, if any, receive, search, and care for all:

(1) female prisoners; and

(2) boys less than fourteen (14) years of age;

who are committed to or detained in the county jail, municipal lockup, or other detention center in the county.

(e) The prison matron and assistant matrons:

(1) are members of the department;

(2) have the powers and duties of members of the department; and

(3) are entitled to the same salary that other members of the department of the same rank, grade, or position are paid.

Sec. 26. (a) Except as provided in subsection (b), the sheriff has complete hiring authority over the position of chief deputy.

(b) A chief deputy who was a member of the metropolitan law enforcement agency immediately before being hired as chief deputy is entitled to the discipline and removal procedures under section 34 of this chapter before:

(1) being reduced in grade to a rank below the rank that the person held before being hired as chief deputy; or

(2) removal from the department.

Sec. 27. (a) A sheriff may appoint additional deputy sheriffs or assistants if an emergency arises that requires them for:

(1) promoting public safety and conserving the peace;

(2) repressing, preventing, and detecting crime; and

(3) apprehending criminals.

(b) The mayor shall determine the number and salaries of deputy sheriffs or assistants to be appointed in an emergency. The mayor shall provide compensation and necessary expenses for deputy sheriffs or assistants from the general fund of the county without a specific appropriation. Expenses shall be paid after the appointed persons file sworn vouchers with the mayor detailing their expenses.

(c) The deputies or assistants have the same powers that sheriffs have under statute.

(d) When the emergency ends, the mayor may reduce the number of deputy sheriffs or assistants to the number that the circumstances require for the public welfare.

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Sec. 28. (a) If a person who is a member of the metropolitan law enforcement agency becomes sheriff, either by election or by appointment, upon the expiration of the person's term as sheriff and upon the person's written application, the board shall appoint the person to the rank in the agency that the person held at the time of the person's election or appointment as sheriff, if there is a vacancy in the agency.

(b) If the person, during the person's tenure as sheriff, has qualified, in accordance with the promotion procedure prescribed by the board in its rules, for a rank in the agency that is higher than the rank the person held before election or appointment as sheriff, the board shall, upon the expiration of the person's term as sheriff, appoint the person to the rank for which the person has qualified under the promotion procedure, if there is a vacancy in that rank.

Sec. 29. (a) Subject to the approval of the commission, the sheriff shall appoint the chief of the metropolitan law enforcement agency who serves at the pleasure of the sheriff.

(b) To qualify for appointment, the chief must meet the requirements under IC 36-8-4-6.5.

(c) If a person was a member of the metropolitan law enforcement agency before the person's appointment as the chief of the metropolitan law enforcement agency, upon the expiration of the person's term as chief and the person's written application, the board shall appoint the person to the rank in the agency that the person held at the time of the person's appointment as chief, if there is a vacancy in the agency.

(d) If the person, during the person's tenure as chief, has qualified, in accordance with the promotion procedure prescribed by the board in its rules, for a rank in the agency that is higher than the rank the person held before the person's appointment as chief, the board shall, upon the expiration of the person's term as the chief, appoint the person to the rank for which the person has qualified under the promotion procedure, if there is a vacancy in that rank.

Sec. 30. (a) Each member of the metropolitan law enforcement agency has:

(1) the powers set forth in IC 36-8-3-6; and

(2) the powers set forth in IC 36-8-10-9 that are not set forth in IC 36-8-3-6.

(b) A person who:

(1) refuses to be photographed;

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(2) refuses to be fingerprinted;
(3) withholds information; or
(4) gives false information;

as prescribed in IC 36-8-10-9(a)(9), commits a Class C misdemeanor.

(c) Members of the department who are not members of the metropolitan law enforcement agency have the powers:
(1) prescribed by the sheriff; or
(2) as set forth in this chapter.

Sec. 31. (a) Except for:
(1) the chief deputy;
(2) the prison matron; and
(3) temporary administrative ranks or positions established and appointed by the sheriff;

the sheriff, with the approval of the commission, shall establish a classification of ranks, grades, and positions for members of the metropolitan law enforcement agency.

(b) For each rank, grade, and position, the sheriff, with the approval of the board, shall:
(1) set reasonable standards of qualifications; and
(2) fix the prerequisites of:
(A) training;
(B) education; and
(C) experience.

(c) The sheriff, with the approval of the board, shall devise and administer examinations designed to test applicants for the qualifications required for the respective ranks, grades, or positions. After these examinations, the sheriff and the board shall jointly prepare a list naming only those applicants who, in the opinion of both the sheriff and the board, best meet the prescribed standards and prerequisites. The sheriff only appoints members of the metropolitan law enforcement agency from among the persons whose names appear on this list. All members appointed to the metropolitan law enforcement agency under this chapter are on probation for one (1) year after the date of appointment.

(d) The sheriff, in the sheriff's sole discretion, may:
(1) establish a temporary administrative rank or position within the agency; and
(2) appoint to and remove from a temporary administrative rank or position a member of the metropolitan law enforcement agency who meets the requirements in subsection (e).

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(e) Except as provided by section 16 of this chapter, a member who has served as a member of the agency at least five (5) years before the appointment and holds the merit rank of at least lieutenant is eligible for appointment to a temporary administrative rank or position described in subsection (d). A member retains the rank, grade, or position awarded under subsection (c) while serving in a temporary administrative rank or position. A temporary administrative rank or position established under subsection (d) does not diminish or reduce the number and classifications of the existing merit ranks within the metropolitan law enforcement agency. Subsection (d) and this subsection may not be construed to limit, modify, annul, or otherwise affect a collective bargaining agreement.

(f) The sheriff, with the approval of the board, shall establish written rules and regulations governing the discipline of members of the metropolitan law enforcement agency. Rules and regulations established by a sheriff under this subsection must conform to the disciplinary procedure required by section 34 of this chapter.

Sec. 32. (a) Except as provided in subsection (b), the board shall give a preference for employment according to the following priority:

(1) A war veteran who has been honorably discharged from the United States armed forces.

(2) A person whose mother or father was a:

(A) firefighter of a unit;

(B) municipal police officer;

(C) county police officer; or

(D) member of the metropolitan law enforcement agency;

who died in the line of duty (as defined in IC 5-10-10-2).

(b) A person described in subsection (a) may not receive a preference for employment unless the person:

(1) applies; and

(2) meets all employment requirements prescribed by:

(A) law, including physical and age requirements; and

(B) the metropolitan law enforcement agency.

Sec. 33. (a) The sheriff may appoint as a special deputy any person who is employed by:

(1) a governmental entity (as defined in IC 35-41-1); or

(2) a private employer;

if the nature of the employment necessitates that the person have the powers of a law enforcement officer.

(b) During the term of a special deputy's appointment and while

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the special deputy is fulfilling the specific responsibilities for which the appointment is made, a special deputy has the powers, privileges, and duties of a member of the metropolitan law enforcement agency under this chapter, subject to any written limitations and specific requirements imposed by the sheriff and signed by the special deputy.

(c) A special deputy is subject to the direction of the sheriff and shall obey the rules and orders of the department.

(d) A special deputy may be removed by the sheriff at any time, without the sheriff providing notice or assigning any cause.

(e) The sheriff shall fix the prerequisites of training, education, and experience for special deputies, subject to the minimum requirements prescribed by this subsection. Applicants must:

(1) be at least twenty-one (21) years of age;

(2) never have been convicted of:

(A) a felony; or

(B) a misdemeanor involving moral turpitude;

(3) be of good moral character; and

(4) have sufficient training to insure the proper performance of their authorized duties.

(f) Except as provided in subsection (g), a special deputy shall wear a uniform the design and color of which is easily distinguishable from the uniforms of the Indiana state police, the metropolitan law enforcement agency, and all municipal police and fire forces located in the county.

(g) The sheriff may permit a special deputy to wear the uniform of the metropolitan law enforcement agency if the special deputy:

(1) has successfully completed the minimum basic training requirements under IC 5-2-1;

(2) is periodically assigned by the sheriff to duties of a member of the metropolitan law enforcement agency; and

(3) is an employee of the metropolitan law enforcement agency.

The sheriff may revoke permission for the special deputy to wear the uniform of the metropolitan law enforcement agency at any time without cause or notice.

(h) The sheriff may also appoint one (1) legal deputy, who must be a member of the Indiana bar. The legal deputy does not have police powers. The legal deputy may continue to practice law. Neither the legal deputy nor any attorney in partnership with the legal deputy may represent a defendant in a criminal case.

(i) The sheriff, for the purpose of guarding prisoners in the

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county jail, shall appoint only special deputies to serve as county jail guards. This subsection does not affect the rights or liabilities accrued by any county police officer assigned to guard the jail before August 31, 1982.

Sec. 34. (a) The sheriff may dismiss, demote, or temporarily suspend a member of the metropolitan law enforcement agency for cause after giving the member written notice of the charges and after a fair public hearing before the board. The decision of the board is reviewable in the superior court of the county. Written notice of the charges and hearing must be delivered by certified mail to the member to be disciplined at least fourteen (14) days before the date set for the hearing. The member may be represented by counsel. The board shall make specific findings of fact in writing to support its decision.

(b) The sheriff may temporarily suspend a member with or without pay for a period not to exceed fifteen (15) days without a hearing before the board. Before suspending a member under this subsection, the sheriff shall give the member written notice of the charges of misconduct.

(c) A member of the metropolitan law enforcement agency may not be dismissed, demoted, or temporarily suspended because of political affiliation nor after the member's probationary period, except as provided in this section.

(d) A member of the metropolitan law enforcement agency may:

(1) be a candidate for elective office and serve in that office if elected;

(2) be appointed to an office and serve in that office if appointed; and

(3) except when in uniform or on duty, solicit votes or campaign funds for the member or others.

(e) A member on probation may be dismissed by the sheriff without the right to a hearing.

(f) The board has subpoena powers enforceable by the superior court of the county for hearings under this section.

(g) An appeal under subsection (a) is taken by filing in court, not later than thirty (30) days after the date the decision is rendered, a verified complaint stating in a concise manner the general nature of the charges against the member of the metropolitan law enforcement agency, the decision of the board, and a demand for the relief asserted by the member.

(h) The member must also file a bond that:

(1) guarantees the appeal will be prosecuted to a final

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determination; and

(2) the plaintiff will pay all costs only if the court finds that the board's decision should be affirmed.

The bond must be approved as bonds for costs are approved in other cases.

(i) The county must be named as the sole defendant and the plaintiff shall have a summons issued as in other cases against the county. The:

(1) board;

(2) members of the board individually;

(3) commission; or

(4) members of the commission individually;

are not parties defendant to the complaint, but all are bound by service upon the county and the judgment rendered by the court.

(j) The court tries all appeals. An appeal is heard de novo only if there are new issues related to the charges upon which the board based its decision. Within ten (10) days after the service of summons, the board shall file in court a complete written transcript of the papers, entries, and other parts of the record relating to the case being appealed. The board, if requested to do so, must permit the person affected, or the person's agent, to inspect these documents before the appeal is filed. The court shall review the record and decision of the board on appeal.

(k) The court shall make specific findings and state the conclusions of law upon which its decision is made. If the court finds that the decision of the board should in all respects be affirmed, its judgment should state the court's finding. If the court finds that the decision of the board should not, in all respects, be affirmed, the court shall make a general finding, setting out sufficient facts to show the nature of the proceeding and the court's decision. The court shall either:

(1) reverse the decision of the board; or

(2) order the decision of the board to be modified.

(l) The final judgment of the court may be appealed by either party. Upon the final disposition of the appeal by the courts, the clerk shall certify to the board the final judgment of the court and file a copy of the judgment with the board, which shall conform its decisions and records to the order and judgment of the court. If the decision is reversed or modified, the board shall pay to the prevailing party any salary or wages:

(1) that were withheld from the party pending the appeal; and

(2) to which the party is entitled under the judgment of the

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court.

(m) Either party is allowed a change of venue from the court or a change of judge in the same manner as those changes are allowed in civil cases. The rules of trial procedure govern in all matters of procedure during the appeal that are not otherwise provided for by this section.

(n) An appeal takes precedence over other pending litigation, and the court shall try and determine the appeal as soon as practical.

Sec. 35. (a) As used in this section, "appointing authority" means the sheriff and the board.

(b) When it is necessary for financial reasons for the appointing authority to reduce by layoff the number of members of the metropolitan law enforcement agency, members are laid off in reverse hiring order, with the last member appointed to the agency being the first to be laid off, until the desired level of employment is achieved.

(c) If the metropolitan law enforcement agency's membership is increased, the members of the agency who have been laid off under subsection (b) are reinstated before any new member is appointed to the agency. Members are reinstated in reverse of the order in which the members were laid off with the last member laid off from the agency being the first to be reinstated.

(d) A member who is laid off shall keep the appointing authority advised of the member's current address. The appointing authority shall inform a member of the member's reinstatement by written notice sent by certified mail to the member's last known address.

(e) Not later than twenty (20) calendar days after the date the notice of reinstatement is sent under subsection (d), the member shall advise the appointing authority whether the member:

(1) accepts reinstatement; and

(2) will commence employment on the date specified in the notice.

(f) All reinstatement rights granted to a member under this section terminate on the earlier of:

(1) the date the member fails to accept reinstatement within the time specified in subsection (e); or

(2) three (3) years after the date on which a member's layoff begins.

Sec. 36. (a) As used in this section, "care" includes:

(1) medical and surgical care;

(2) medicines and laboratory, curative, and palliative agents

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and means;

(3) X-ray, diagnostic, and therapeutic service, including service during the recovery period; and

(4) hospital and special nursing care if the physician or surgeon in charge considers it necessary for proper recovery.

(b) After deducting expenditures paid by an insurance or worker's compensation program, the county shall pay for the care of the following persons:

(1) A member of the metropolitan law enforcement agency who:

(A) suffers an injury; or

(B) contracts an illness;

while the member is on duty or while the member is off duty and is responding to an offense or a reported offense.

(2) A jail employee who:

(A) suffers an injury; or

(B) contracts an illness;

while the employee is on duty.

(c) The county shall pay the expenditures required by subsection (b) from the general fund of the county.

Sec. 37. (a) This section does not apply to a member of the metropolitan law enforcement agency who is appointed after December 31, 2005.

(b) Before January 1, 2006, the department shall amend the pension trust established and operated under IC 36-8-10-12 to provide that, effective January 1, 2006, the pension trust is operated under this chapter. The department and the trustee may not modify the pension trust under this section without the approval of the city-county legislative body, which shall not reduce or diminish the benefits of the employee beneficiaries set forth in the pension trust.

(c) After December 31, 2005, the department and the trustee shall continue to operate in an actuarially sound manner the pension trust for the exclusive benefit of the employee beneficiaries.

Sec. 38. (a) The normal retirement age for an employee beneficiary may not be later than seventy (70) years of age.

(b) The sheriff may retire an employee beneficiary who is otherwise eligible for retirement if the board finds that the employee beneficiary is not physically or mentally capable of performing the employee beneficiary's duties.

(c) Contributions to the trust fund are made by:

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(1) the department through:

(A) a general appropriation provided to the department;

(B) a line item appropriation directly to the trust fund; or

(C) both; and

(2) an employee beneficiary through authorized monthly deductions from the employee beneficiary's salary or wages. The department may pay all or a part of the contribution for the employee beneficiary.

Contributions through an appropriation are not required for modifications adopted after June 30, 1989, unless the modification is approved by the city-county legislative body.

(d) The monthly deductions from an employee beneficiary's wages for the trust fund may not exceed seven percent (7%) of the employee beneficiary's average monthly wages.

(e) The department's minimum annual contribution must be sufficient, as determined by the pension engineers, so that the actuarial status of the trust fund does not deteriorate during that year. If the minimum contributions are not made for three (3) successive years, the pension trust terminates and the trust fund is liquidated.

(f) If all expenses of the pension trust are paid during liquidation, adequate provision must be made for continuing pension payments to retired employee beneficiaries. Each employee beneficiary is entitled to receive the net amount paid into the trust fund from the employee beneficiary's wages. Any remaining amount must be equitably divided among employee beneficiaries in proportion to the net amount each employee beneficiary paid into the trust fund from the employee beneficiary's wages.

(g) If a person is no longer an employee beneficiary because the person dies, becomes disabled, leaves employment with the department before retirement, retires, or is no longer an employee beneficiary for any other reason:

(1) the person;

(2) the person's beneficiary; or

(3) the person's estate;

is entitled to receive at least the net amount paid into the trust fund from the person's wages, either in a lump sum or in monthly installments not less than the amount the person is entitled to receive as a pension.

(h) If an employee beneficiary reaches the normal retirement age for the employee beneficiary, the employee beneficiary is entitled to receive during the employee beneficiary's lifetime a

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pension in a monthly amount calculated under subsections (i) through (m).

(i) To receive an unreduced pension amount, an employee beneficiary must have contributed at least twenty (20) years of service to the department before retirement. If the employee beneficiary's service to the department is less than twenty (20) years, the employee beneficiary is entitled to receive a pension proportional to the length of the employee beneficiary's service.

(j) For an employee beneficiary who retired before January 1, 1985, a monthly pension may not exceed by more than twenty dollars ($20) one-half (1/2) the amount of the average monthly wage received by the employee beneficiary during the highest paid five (5) years before retirement.

(k) For an employee beneficiary who retires after December 31, 1984, the monthly pension described in subsection (j) may be increased by two percent (2%) of the employee beneficiary's average monthly wage for each year of service over twenty (20) years contributed by the employee beneficiary to a maximum of seventy-four percent (74%) of the employee beneficiary's average monthly wage plus twenty dollars ($20).

(l) For purposes of determining the amount of an increase in the monthly pension under subsection (k) approved by the city-county legislative body for an employee beneficiary who retires after December 31, 1984, the city-county legislative body may determine that the employee beneficiary's years of service include the years of service with the department that occurred before the effective date of the pension trust.

(m) For an employee beneficiary who retires after June 30, 1996, the average monthly wage used to determine the employee beneficiary's pension benefits may not exceed the monthly minimum salary paid by the state to a full-time prosecuting attorney at the time the employee beneficiary retires.

(n) For an employee beneficiary who retires after June 30, 1997, an employee beneficiary's monthly pension may not exceed twenty dollars ($20) plus one-half (1/2) the amount of the average monthly wage. As used in this subsection, "average monthly wage" means the lesser of:

(1) the average monthly wage received by the employee beneficiary during the highest paid three (3) years before retirement; or

(2) the monthly minimum salary that a full-time prosecuting attorney is entitled to be paid by the state at the time the

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employee beneficiary retires.

(o) For an employee beneficiary who retires after June 30, 1997, the county fiscal body may approve an increase in the maximum monthly pension described in subsection (n). The maximum monthly pension may:

(1) be increased by one percent (1%) of the average monthly wage for each six (6) months of service after twenty (20) years; and

(2) not exceed seventy-four percent (74%) of the average monthly wage plus twenty dollars ($20).

(p) The trust fund may not be commingled with other funds, except as provided in this chapter, and may be invested only in accordance with statutes for investment of trust funds, including other investments that are specifically designated in the trust agreement.

(q) The trustee receives and holds as trustee all money paid to it as trustee by the department, the employee beneficiaries, or by other persons for the uses stated in the trust agreement.

(r) The trustee shall engage pension engineers to supervise and assist in the technical operation of the pension trust in order that there is no deterioration in the actuarial status of the trust fund.

(s) Not later than ninety (90) days after the close of each fiscal year, the trustee, with the aid of the pension engineers, shall prepare and file an annual report with the department and the state insurance department. The report must include the following:

(1) Schedule 1. Receipts and disbursements.

(2) Schedule 2. Assets of the pension trust listing investments by book value and current market value as of the end of the fiscal year.

(3) Schedule 3. List of terminations, showing the cause and amount of refund.

(4) Schedule 4. The application of actuarially computed "reserve factors" to the payroll data properly classified for the purpose of computing the reserve liability of the trust fund as of the end of the fiscal year.

(5) Schedule 5. The application of actuarially computed "current liability factors" to the payroll data properly classified for the purpose of computing the liability of the trust fund as of the end of the fiscal year.

(t) No part of the corpus or income of the trust fund may be used or diverted to any purpose other than the exclusive benefit of the members and the beneficiaries of the members.

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Sec. 39. This section applies to a sheriff who is an eligible employee under this chapter and is not a member of the 1977 fund. The sheriff may participate in the pension trust in the same manner as a county police officer who is an eligible employee under this chapter. In addition, a sheriff who does not participate in the pension trust may make a payment to the pension trust equal to the total contributions the sheriff would have paid had the sheriff been participating in the pension trust while a sheriff, plus interest at three percent (3%) compounded annually. A sheriff who makes this payment is entitled to credit for the years of service as sheriff for all purposes of the pension trust.

Sec. 40. (a) The department may establish and operate a death benefit program for the payment of death benefits to deceased employee beneficiaries. The department may provide these benefits by:

(1) creating a reserve account;

(2) obtaining group life insurance; or

(3) both subdivisions (1) and (2).

The department may not establish or modify a death benefit program without the approval of the city-county legislative body.

(b) Benefits payable under a group life insurance policy established under subsection (a) must be in reasonable amounts. Benefits payable from a reserve account established under subsection (a) may not exceed twenty-five thousand dollars ($25,000).

Sec. 41. (a) The department may establish and operate a disability benefit program for the payment of disability expense reimbursement and pensions to disabled employee beneficiaries. The department may provide these benefits by:

(1) creating a reserve account;

(2) obtaining disability insurance coverage; or

(3) both subdivisions (1) and (2).

The department may not establish or modify a disability benefit program without the approval of the city-county legislative body.

(b) Benefits payable as a result of line of duty activities, including a disability presumed incurred in the line of duty under IC 5-10-13, must be in reasonable amounts. Monthly benefits payable as a result of other activities may not exceed the amount of the pension to which the employee beneficiary would have been entitled had the employee beneficiary been employed by the department until normal retirement age.

Sec. 42. (a) The department may establish and operate a

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dependent's pension benefit for the payment of pensions to dependent parents, surviving spouses, and dependent children less than eighteen (18) years of age of former employee beneficiaries. The department may provide these benefits by:

(1) creating a reserve account;

(2) obtaining appropriate insurance coverage; or

(3) both subdivisions (1) and (2).

The department may not establish or modify a dependent's pension benefit without the approval of the city-county legislative body, which shall not reduce or diminish any dependent's pension benefits that were in effect on January 1, 1989.

(b) This subsection applies to survivors of employee beneficiaries who:

(1) died before January 1, 1990; and

(2) were covered by a dependent's pension benefit plan.

The maximum monthly pension payable to dependent parents or surviving spouses may not exceed two hundred dollars ($200) per month during the parent's or the spouse's lifetime if the spouse did not remarry before September 1, 1984. If the surviving spouse remarried before September 1, 1984, benefits ceased on the date of remarriage. The maximum monthly pension payable to dependent children is thirty dollars ($30) per child and ceases with the last payment before the child becomes eighteen (18) years of age. The county fiscal body may by ordinance provide an increase in the monthly pension of survivors, but the monthly pension that is provided under this subsection may not exceed the monthly pension that is provided to survivors whose monthly pensions are determined under subsection (c).

(c) This subsection applies to survivors of employee beneficiaries who:

(1) died after December 31, 1989; and

(2) were covered by a dependent's pension benefit plan.

The monthly pension payable to dependent parents or surviving spouses must be at least two hundred dollars ($200) for each month during the parent's or the spouse's lifetime or until the spouse remarries. The monthly pension payable to each dependent child must be at least thirty dollars ($30) for each child and ceases with the last payment made in the month before the child becomes eighteen (18) years of age.

(d) To be eligible for a benefit under this section, the surviving spouse of an employee beneficiary who dies after August 31, 1984, must have been married to the employee beneficiary at the time of

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the employee beneficiary's retirement or death in service.

Sec. 43. (a) The city-county legislative body may provide to eligible retired employee beneficiaries or eligible disabled employee beneficiaries, or both:

(1) an annual cost of living payment; or

(2) an ad hoc cost of living payment. The amount of the ad hoc cost of living payment under this subdivision is not an increase in the base pension benefit calculated under section 38 of this chapter.

(b) In the case of an annual cost of living payment granted under subsection (a)(1), the pension engineers shall determine each year the amount of the payment under this subsection. The pension engineers shall determine if there has been an increase in the Consumer Price Index (United States city average) prepared by the United States Department of Labor by comparing the arithmetic mean of the Consumer Price Index for January, February, and March of the payment year with the same three (3) month period of the preceding year. If there has been an increase, the increase is stated as a percentage of the arithmetic mean for the three (3) month period for the year preceding the payment year (the adjustment percentage). The adjustment percentage is rounded to the nearest one-tenth of one percent (0.1%) and may not exceed three percent (3%).

(c) In the case of a cost of living payment granted under subsection (a)(2), the amount of the cost of living payment is determined by the city-county legislative body and may be:

(1) a percentage increase, not to exceed the percentage determined under subsection (b); or

(2) a fixed dollar amount.

(d) A payment authorized under this section is made to each authorized retired or disabled employee beneficiary and may be made annually, semiannually, quarterly, or monthly.

(e) A cost of living payment granted under this section must be funded by a direct appropriation or by maintaining a fully funded actuarially sound trust fund.

(f) A cost of living payment granted under this section is applicable only to retired or disabled employee beneficiaries who are at least fifty-five (55) years of age.

(g) No provision of this section may be part of an ordinance or agreement concerning collective bargaining. No provision of this section may be subject to bargaining under any statute, ordinance, or agreement.

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Sec. 44. (a) As used in this section, "dies in the line of duty" has the meaning set forth in IC 5-10-10-2.

(b) This section applies to the survivors of an eligible employee who dies in the line of duty.

(c) The department shall offer to provide and pay for health insurance coverage for the eligible employee's surviving spouse and for each natural child, stepchild, or adopted child of the eligible employee:

(1) until the child becomes eighteen (18) years of age;

(2) until the child becomes twenty-three (23) years of age, if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental disability;

whichever period is longest. If health insurance coverage is offered by the county to an eligible employee, the health insurance provided to a surviving spouse or child under this subsection must be equal in coverage to that offered to an eligible employee. The offer to provide and pay for health insurance coverage must remain open for as long as there is a surviving spouse or as long as a natural child, a stepchild, or an adopted child of the eligible employee is eligible for coverage under subdivision (1), (2), or (3).

Sec. 45. (a) The death benefit, the disability benefit, and the dependents' pension may be operated as one (1) fund, known as the police benefit fund, under the terms of a supplementary trust agreement between the department and the trustee for the exclusive benefit of employee beneficiaries and their dependents.

(b) The trustee receives and holds as trustee for the uses and purposes set out in the supplementary trust agreement all money paid to it as trustee by the department or by other persons.

(c) The trustee may, under the terms of the supplementary trust agreement, pay the necessary premiums for insurance, pay benefits, or pay both as provided by this chapter.

(d) The trustee shall hold, invest, and reinvest the police benefit fund in investments that are permitted by statute for the investment of trust funds and other investments that are specifically designated in the supplementary trust agreement.

(e) Within ninety (90) days after the close of the fiscal year, the trustee, with the assistance of the pension engineers, shall prepare and file with the department and the state insurance department a detailed annual report showing receipts, disbursements, and case

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histories, and making recommendations regarding the necessary contributions required to keep the program in operation. Contributions by:

(1) the county police force before January 1, 2006; and

(2) the metropolitan law enforcement agency after December 31, 2005;

are provided in the general appropriations to the department. However, these contributions are not required for modifications made after January 1, 1989, unless the modifications were approved by the city-county legislative body.

Sec. 46. (a) A person entitled to an interest in or a share of a pension or benefit from the trust funds may not, before the actual payment:

(1) anticipate;

(2) sell;

(3) assign;

(4) pledge;

(5) mortgage; or

(6) otherwise dispose of or encumber;

the person's interest or share.

(b) In addition, a person's interest, share, pension, or benefit is not, before the actual payment:

(1) liable for the debts or liabilities of the person;

(2) subject to attachment, garnishment, levy, or sale on judicial proceedings; or

(3) transferable, voluntarily or involuntarily.

(c) The trustee may expend the sums from the funds that the trustee considers proper for necessary expenses.

Sec. 47. (a) The state examiner of the state board of accounts shall fix the exact amount per meal that the sheriff receives for feeding the prisoners in the sheriff's custody. Subject to the maximum meal allowance provided in this section, the state examiner shall increase the amount per meal that the sheriff receives as follows:

(1) Increase the amount per meal by a percentage that does not exceed the percent of increase in the United States Department of Labor Consumer Price Index during the year preceding the year in which an increase is established.

(2) Increase the amount per meal above the amount determined under subdivision (1) if the sheriff furnishes to the state examiner sufficient documentation to prove that the sheriff cannot provide meals at the amount per meal that is

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determined under subdivision (1).

The amount must be fixed by April 15 each year and takes effect immediately upon approval. The allowance may not exceed two dollars ($2) per person per meal. The allowance shall be paid out of the general fund of the county after the sheriff submits to the mayor an itemized statement, under oath, showing the names of the prisoners, the date that each was imprisoned in the county jail, and the number of meals served to each prisoner.

(b) Notwithstanding subsection (a), IC 36-2-13-2.5(b)(4) through IC 36-2-13-2.5(b)(5), and IC 36-2-13-2.8(b), the county shall pay to feed the county prisoners through an appropriation in the usual manner by the city-county legislative body. The appropriation shall be expended by the sheriff under the direction of the mayor. Neither the sheriff nor the sheriff's officers, deputies, or employees may make a profit as a result of the appropriation.

Sec. 48. (a) A jail commissary fund is established, referred to in this section as "the fund". The fund is separate from the general fund, and money in the fund does not revert to the general fund.

(b) The sheriff, or the sheriff's designee, shall deposit all money from commissary sales into the fund, which the sheriff shall keep in a depository designated under IC 5-13-8.

(c) The sheriff, or the sheriff's designee, at the sheriff's discretion and without appropriation by the city-county legislative body, may disburse money from the fund for:

(1) merchandise for resale to inmates through the commissary;

(2) expenses of operating the commissary, including, but not limited to, facilities and personnel;

(3) special training in law enforcement for employees of the department;

(4) equipment installed in the county jail;

(5) equipment, including vehicles and computers, computer software, communication devices, office machinery and furnishings, cameras and photographic equipment, animals, animal training, holding and feeding equipment and supplies, or attire used by a member of the metropolitan law enforcement agency in the course of the member's official duties;

(6) an activity provided to maintain order and discipline among the inmates of the county jail;

(7) an activity or program of the department intended to reduce or prevent occurrences of criminal activity, including

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the following:

(A) substance abuse;

(B) child abuse;

(C) domestic violence;

(D) drinking and driving; and

(E) juvenile delinquency;

(8) expenses related to the establishment, operation, or maintenance of the sex offender web site under IC 36-2-13-5.5; or

(9) any other purpose that benefits the department that is mutually agreed upon by the city-county legislative body and the sheriff.

Money disbursed from the fund under this subsection must be supplemental or in addition to, rather than a replacement for, regular appropriations made to carry out the purposes listed in subdivisions (1) through (8).

(d) The sheriff shall maintain a record of the fund's receipts and disbursements. The state board of accounts shall prescribe the form for this record. The sheriff shall semiannually provide a copy of this record of receipts and disbursements to the city-county legislative body. The semiannual reports are due on July 1 and December 31 of each year.

Sec. 49. (a) The sheriff shall hold in trust separately for each inmate any money received from that inmate or from another person on behalf of that inmate.

(b) If the inmate or the inmate's legal guardian requests a disbursement from the inmate's trust fund, the sheriff may make a disbursement for the personal benefit of the inmate, including a disbursement to the county jail commissary.

(c) Upon discharge or release of an inmate from the county jail, the sheriff shall pay to that inmate or the inmate's legal guardian any balance remaining in the inmate's trust fund.

(d) If an inmate is found guilty of intentionally destroying or losing county property after a hearing conducted under IC 11-11-5-5, the sheriff may disburse from the inmate's trust fund or commissary account sums of money as reimbursement to the county for the inmate's intentional destruction or loss of county property, including but not limited to clothing, bedding, and other nondisposable items issued by the county to the inmate. Before disbursing money under this subsection, the sheriff shall adopt rules to administer this procedure.

(e) The sheriff shall maintain a record of each trust fund's

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receipts and disbursements. The state board of accounts shall prescribe the form for this record.

SECTION 215. IC 36-8-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. This chapter applies to all townships, **except townships located in a county having a consolidated city.**

SECTION 216. IC 36-8-19-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. **Except as provided in section 1.5 of this chapter,** this chapter applies to any geographic area that is established as a fire protection territory.

SECTION 217. IC 36-8-19-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 1.5. (a) After December 31, 2005, in a county having a consolidated city, only:**

(1) a consolidated city; or

(2) an excluded city;

may establish fire protection territory under this chapter.

(b) A fire protection territory that is established before January 1, 2006, by a unit that is consolidated under IC 36-3-1-6.1 becomes part of the geographic area in which the fire department of a consolidated city provides fire protection services.

SECTION 218. IC 36-9-11.1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 11. (a) All property of every kind, including air rights, acquired for off-street parking purposes, and all its funds and receipts, are exempt from taxation for all purposes. When any real property is acquired by the consolidated city, the county auditor shall, upon certification of that fact by the board, cancel all taxes then a lien. The certificate of the board must specifically describe the real property, including air rights, and the purpose for which acquired.

(b) A lessee of the city may not be assessed any tax upon any land, air rights, or improvements leased from the city, but the separate leasehold interest has the same status as leases on taxable real property, notwithstanding any other law. Whenever the city sells any such property to anyone for private use, the property becomes liable for all taxes after that, as other property is so liable and is assessed, and the board shall report all such sales to the ~~township~~ **county** assessor, who shall cause the property to be upon the proper tax records.

SECTION 219. IC 36-9-17.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. **(a) Except as provided in subsection (b),** this chapter applies to ~~all townships.~~ **a township.**

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(b) This chapter does not apply to a township or township district in a county having a consolidated city.

SECTION 220. IC 36-10-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. **(a) Except as provided in subsection (b),** this chapter applies to the townships indicated in each section.

(b) After December 31, 2005:

(1) this chapter does not apply to a township in a county having a consolidated city; and

(2) all powers and duties related to parks and recreation of the townships in a county having a consolidated city are transferred to the consolidated city.

SECTION 221. IC 36-10-7.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. **(a) Except as provided in subsection (b),** this chapter applies to ~~all townships.~~ **a township.**

(b) After December 31, 2005:

(1) this chapter does not apply to a township in a county having a consolidated city; and

(2) all powers and duties related to parks and recreation of the townships in a county having a consolidated city are transferred to the consolidated city.

SECTION 222. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2005]: IC 3-11-1.5-32.5; IC 33-34; IC 36-6-6-2.5.

SECTION 223. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2006]: IC 36-8-4.3; IC 36-8-7.5-3; IC 36-8-7.5-6; IC 36-8-7.5-7; IC 36-8-7.5-11.

SECTION 224. [EFFECTIVE JULY 1, 2005] **The general assembly finds the following:**

(1) A consolidated city faces unique budget challenges due to a high demand for services combined with the large number of tax exempt properties located in a consolidated city as the seat of state government, home to several institutions of higher education, and home to numerous national, state, and regional nonprofit corporations.

(2) By virtue of its size and population density, a consolidated city has unique overlapping territories of county, city, and township government and an absence of unincorporated areas within its county.

(3) By virtue of its size, population, and absence of unincorporated areas, development extends to and across the

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boundaries of the contiguous governmental territories located within a county having a consolidated city, thus giving less meaning to boundaries of the governmental territories located within the county.

(4) By virtue of its size, population, absence of unincorporated areas, overlapping territories, and development to and across the boundaries of contiguous governmental territories, there is less need for differentiation of local governmental services within the separate governmental territories located within a county having a consolidated city, but rather the local governmental service needs are similar and more uniform within and across a county having a consolidated city.

(5) The provision of local governmental services by multiple governmental entities with overlapping territories, and by governmental entities with contiguous territories with less meaningful boundaries, results in disparate levels of local government services within a county having a consolidated city and results in the inefficient and poor use of taxpayer dollars.

(6) As the state capital and a center for professional sporting events, tourism, and culture in central Indiana, the consolidated city faces unique demands for protecting governmental property and securing the safety of large numbers of residents and visitors, which require innovative approaches to public safety resources.

(7) If public safety resources are consolidated, residual services provided by townships are limited and can more effectively and uniformly be performed through consolidation at the city or county level.

(8) By virtue of its size and population patterns, township assistance needs in a consolidated city are greatest in its urban center and differ from the township assistance needs outside the urban center, and the lesser township assistance services outside the urban center can be more effectively and uniformly delivered through a consolidated district.

(9) By virtue of its size and population, a consolidated city has a larger number of public safety employees than other municipalities resulting in more significant pension obligations, and through consolidation of public safety resources, there is greater need for coordinated fiscal oversight of pension funding.

(10) Substantial operational efficiencies, reduction of

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administrative costs, and economies of scale may be obtained in a consolidated city through further consolidation of county, city, and township services and operations.

(11) Consolidation of county, city, and township services and operations in the consolidated city will serve the public purpose by allowing the consolidated city to:

(A) eliminate duplicative services;

(B) provide better coordinated and more uniform delivery of local governmental services;

(C) provide uniform oversight and accountability for the budgets for local governmental services;

(D) provide uniform oversight of pension funds for public safety employees;

(E) simplify the system of property taxation;

(F) provide more unified tax rates; and

(G) allow local government services to be provided more efficiently and at a lower cost than without consolidation.

(12) Efficient and fiscally responsible operation of local government benefits the health and welfare of the citizens of a consolidated city and is of public utility and benefit.

(13) The public purpose of this act is to provide a consolidated city with the means to perform essential governmental services for its citizens in an effective, efficient, and fiscally responsible manner.

SECTION 225. [EFFECTIVE JANUARY 1, 2007] **For property taxes first due and payable in 2007, the maximum permissible ad valorem property tax levy under IC 6-1.1-18.5 of a county having a consolidated city is increased by the amount levied in 2006 for assessor and related services by each township in the county.**

SECTION 226. [EFFECTIVE JANUARY 1, 2006] **Each township district shall refer the township district's proposed budget, ad valorem property tax levy, and property tax rate for 2007 to the local government tax control board, which shall review and set the budget, levy, and rate as though the township district is covered by IC 6-1.1-18.5-7. For property taxes first due and payable in 2007, the maximum permissible ad valorem property tax limits and any other limits on ad valorem property taxes set forth in IC 6-1.1-18.5 of:**

(1) a central township district shall be based upon:

(A) the amount levied in 2006 for the general fund;

(B) the amount levied in 2006 for township assistance, including reasonable administrative costs, in the central

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township district in a county having a consolidated city; plus

(C) thirty-five percent (35%) of the amount levied in 2006 for township assistance, including reasonable administrative costs, by each other township located in the county containing a consolidated city; and

(2) a consolidated township district shall be based upon sixty-five percent (65%) of the amount levied in 2006 for township assistance, including reasonable administrative costs, by each township located in a county having a consolidated city, other than the central township district in a county having a consolidated city.

SECTION 227. [EFFECTIVE JULY 1, 2006] **(a) Any case pending in a township small claims court established by IC 33-34, as repealed by this act, after the close of business on December 31, 2005, is transferred on January 1, 2006, to the corresponding township division of the small claims division of the Marion superior court established by IC 33-33-49-14(c)(5) and IC 33-33-49-14.1, both as added by this act. A case transferred under this SECTION shall be treated as if the case were filed in the corresponding township division of the small claims division of the Marion superior court.**

(b) On January 1, 2006, all property and obligations of a township small claims court established by IC 33-34, as repealed by this act, become the property and obligations of the corresponding township division of the small claims division of the Marion superior court established by IC 33-33-49-14(c)(5) and IC 33-33-49-14.1, both as added by this act.

(c) This SECTION expires January 2, 2006.

SECTION 228. [EFFECTIVE JULY 1, 2006] **(a) Notwithstanding the amendment and repeal by this act of provisions in IC 33-33-49 and IC 33-34, the term of a judge in office in a township small claims court established by IC 33-34, as repealed by this act, does not terminate until the date that the term would have terminated under the law in effect on December 31, 2005. The election for the initial small claims judges to be elected to the township divisions of the small claims division of the Marion superior court under IC 33-33-49-13.1, as added by this act, is the election to be held in the November immediately preceding the date that the corresponding term of the judge in office in a township small claims court established by IC 33-34, as repealed by this act, on December 31, 2005, would have terminated under the law in effect**

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on December 31, 2005.

(b) Notwithstanding the amendment and repeal by this act of provisions in IC 33-33-49 and IC 33-34, the term of a constable for a township small claims court established by IC 33-34, as repealed by this act, does not terminate until the date that the term would have terminated under the law in effect on December 31, 2005. The election for the initial small claims constables to be elected under IC 33-33-49-14.2, as added by this act, is the election to be held in the November immediately preceding the date that the corresponding term of the constable for a township small claims court established by IC 33-34, as repealed by this act, on December 31, 2005, would have terminated under the law in effect on December 31, 2005.

(c) This SECTION expires January 2, 2011.

SECTION 229. [EFFECTIVE JANUARY 1, 2006] **(a) For property taxes first due and payable in 2007, the maximum permissible ad valorem property tax levy under IC 6-1.1-18.5:**

(1) is increased for a consolidated city by the amount levied in 2006 for fire protection and related services by each:

(A) township;

(B) airport authority;

(C) fire protection territory; or

(D) excluded city;

whose fire department is consolidated into the fire department of a consolidated city under IC 36-3-1-6.1 or IC 36-3-1-6.3; and

(2) is reduced for:

(A) a township;

(B) an airport authority;

(C) a fire protection territory; or

(D) an excluded city;

whose fire department is consolidated into the fire department of a consolidated city under IC 36-3-1-6.1 or IC 36-3-1-6.3 by the amount levied in 2006 for fire protection and related services by each township, airport authority, fire protection territory, or excluded city whose fire department is consolidated into the fire department of a consolidated city under IC 36-3-1-6.1 or IC 36-3-1-6.3.

(b) This SECTION expires January 1, 2007.

SECTION 230. [EFFECTIVE JANUARY 1, 2006] **For property taxes first due and payable in 2007, the amount levied in 2006 by each:**

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(1) township;
(2) airport authority;
(3) fire protection territory; or
(4) excluded city;

whose fire department is consolidated into the fire department of a consolidated city under IC 36-3-1-6.1 or IC 36-3-1-6.3, both as added by this act, for its cumulative building and equipment fund for fire protection and related services is transferred to the consolidated city's cumulative building and equipment fund for fire protection and related services, which is hereby established. The consolidated city is exempted from the requirements of IC 36-8-14 and IC 6-1.1-41 regarding establishment of the cumulative building and equipment fund for fire protection and related services.

SECTION 231. [EFFECTIVE UPON PASSAGE] **The legislative services agency shall prepare legislation for introduction in the 2006 regular session of the general assembly to organize and correct statutes affected by this act, if necessary.**

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SENATE MOTION

Madam President: I move that Senator Clark be added as second author of Senate Bill 638.

FORD

COMMITTEE REPORT

Madam President: The Senate Committee on Governmental Affairs and Interstate Cooperation, to which was referred Senate Bill No. 638, 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 1, between lines 4 and 5, begin a new paragraph and insert:

"**Sec. 1. This chapter does not apply to a township in a county containing a consolidated city.**".

Page 1, line 5, delete "1." and insert "**2.**".

Page 1, line 8, delete "2." and insert "**3.**".

Page 1, line 11, delete "3." and insert "**4.**".

Page 2, delete lines 3 through 8, begin a new paragraph and insert:

"**Sec. 5. (a) The township trustees, with the approval of a majority of the members of the township legislative body of each township that wants to merge township governments under this chapter must comply with this section.**

(b) The township trustees must present identical resolutions approving the township government merger to the trustees' respective township legislative bodies. A township legislative body may adopt a resolution under this chapter only after the legislative body has held a public hearing concerning the proposed merger. The township legislative body shall hold the hearing not earlier than thirty (30) days after the date the resolution is introduced. The hearing shall be conducted in accordance with IC 5-14-1.5 and notice of the hearing shall be published in accordance with IC 5-3-1.

(c) The township legislative bodies may adopt the identical resolutions approving the township government merger under this chapter not later than ninety (90) days after the legislative body has held the public hearing under subsection (b). The townships shall submit the resolutions to the county legislative body of the county within which the townships are located.".

Page 2, line 9, delete "(b)" and insert "**(d)**".

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Page 2, line 15, delete "(c)" and insert ""**(e)**".
Page 2, line 19, delete "(d)" and insert "**(f)**".
Page 2, line 22, delete "(e)" and insert "**(g)**".
Page 2, line 24, delete "5." and insert "**6.**".
Page 2, line 25, after "qualified." insert "**An officer elected to represent the merged township government shall be considered to be a resident of the territory comprising the new township government unless the township merger is dissolved under IC 36-6-1.6.**".
Page 2, line 26, delete "6." and insert "**7.**".
Page 2, line 31, delete "7." and insert "**8.**".
Page 3, line 12, delete "8." and insert "**9.**".
Page 3, line 41, delete "9." and insert "**10.**".
Page 4, line 13, delete "10." and insert "**11.**".
Page 4, line 30, delete "11." and insert "**12.**".
Page 5, between lines 12 and 13, begin a new paragraph and insert:
"**Sec. 3. (a) Freeholders may initiate proceedings to reestablish a township government by filing a petition in the office of the county auditor of the county where the freeholder's land is located. The petition must be signed by the lesser of:**
(1) at least ten percent (10%) of; or
(2) at least fifty (50);
freeholders owning land within the proposed reestablished township. A petition may also be filed with the county auditor by a merged township government under a resolution adopted by the legislative body of the township government.".
Page 5, line 13, delete "Sec. 3. (a)" and insert "**(b)**".
Page 5, line 19, delete "(b)" and insert "**(c)**".

and when so amended that said bill do pass.

(Reference is to SB 638 as introduced.)

RIEGSECKER, Chairperson

Committee Vote: Yeas 8, Nays 2.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred Senate Bill 638, 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 3-5-2-49.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 49.1. "Township" means the following:**

(1) A township in a county not having a consolidated city.

(2) Before January 1, 2006, a township in a county having a consolidated city.

(3) After December 31, 2005, a township district (as defined in IC 36-6-4.1-5) in a county having a consolidated city.

SECTION 2. IC 3-6-5-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 28. The:

(1) sheriff of a county, for a general election **or for a municipal election in a consolidated city;** and ~~the~~

(2) chief law enforcement officer of a municipality, for a municipal election **in a municipality other than a consolidated city;**

shall serve all processes issued by a county election board.

SECTION 3. IC 3-8-1-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 30. A candidate for the office of **small claims** judge ~~of a small claims court~~ **(as defined in IC 33-33-49-5.2)** must:

(1) be a United States citizen upon taking office;

(2) either:

(A) have resided in the township from which the candidate is elected for at least one (1) year upon taking office; or

(B) have been elected as a small claims court judge in the township before 1999;

(3) be of high moral character and reputation; and

(4) be admitted to the practice of law in Indiana upon filing a declaration of candidacy or petition of nomination or upon the filing of a certificate of candidate selection under IC 3-13-1-15 or IC 3-13-2-8.

SECTION 4. IC 3-8-1-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 31. A candidate for the office of **small claims** constable ~~of a small claims court~~ must:

(1) have resided in the township for more than one (1) year upon

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taking office; and

(2) be at least twenty-one (21) years old upon taking office.

SECTION 5. IC 3-8-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 5. A declaration of candidacy for:

(1) a federal office;

(2) a state office;

(3) a legislative office; or

(4) the local office of:

(A) judge of a circuit, superior, probate, **or** county ~~or small claims~~ court; or

(B) prosecuting attorney of a judicial circuit;

shall be filed with the secretary of state.

SECTION 6. IC 3-10-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 19. (a) The ballot for a primary election shall be printed in substantially the following form for all the offices for which candidates have qualified under IC 3-8:

OFFICIAL PRIMARY BALLOT

_____ Party

To vote for a person make a voting mark (X or ✓) on or in the box before the person's name in the proper column.

Vote for one only

Representative in Congress

[] (1) AB_____

[] (2) CD_____

[] (3) EF _____

[] (4) GH_____

(b) The offices with candidates for nomination shall be placed on the primary election ballot in the following order:

(1) Federal and state offices:

(A) President of the United States.

(B) United States Senator.

(C) Governor.

(D) United States Representative.

(2) Legislative offices:

(A) State senator.

(B) State representative.

(3) Circuit offices and county judicial offices:

(A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the circuit court.

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(B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the superior court.
(C) Judge of the probate court.
(D) Judge of the county court, with each division separate, as required by IC 33-30-3-3.
(E) Prosecuting attorney.
(F) Clerk of the circuit court.

(4) County offices:
(A) County auditor.
(B) County recorder.
(C) County treasurer.
(D) County sheriff.
(E) County coroner.
(F) County surveyor.
(G) County assessor.
(H) County commissioner.
(I) County council member.

(5) Township offices:
(A) Township assessor.
(B) Township trustee.
(C) Township board member.
(D) **Small claims** judge. ~~of the small claims court.~~
(E) **Small claims** constable. ~~of the small claims court.~~

(6) City offices:
(A) Mayor.
(B) Clerk or clerk-treasurer.
(C) Judge of the city court.
(D) City-county council member or common council member.

(7) Town offices:
(A) Clerk-treasurer.
(B) Judge of the town court.
(C) Town council member.

(c) The political party offices with candidates for election shall be placed on the primary election ballot in the following order after the offices described in subsection (b):
(1) Precinct committeeman.
(2) State convention delegate.

(d) The following offices and public questions shall be placed on the primary election ballot in the following order after the offices described in subsection (c):
(1) School board offices to be elected at the primary election.

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(2) Other local offices to be elected at the primary election.

(3) Local public questions.

(e) The offices and public questions described in subsection (d) shall be placed in a separate column on the ballot if voting is by paper ballot, ballot card voting system, or electronic voting system or in a separate column of ballot labels if voting is by voting machine.

(f) A public question shall be placed on the primary election ballot in the following form:

(The explanatory text for the public question,
if required by law.)
"Shall (insert public question)?"

[] YES
[] NO

SECTION 7. IC 3-10-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 13. The following public officials shall be elected at the general election before their terms of office expire and every four (4) years thereafter:

(1) Clerk of the circuit court.
(2) County auditor.
(3) County recorder.
(4) County treasurer.
(5) County sheriff.
(6) County coroner.
(7) County surveyor.
(8) County assessor.
(9) County commissioner.
(10) County council member.
(11) Township trustee.
(12) Township board member.
(13) Township assessor.
(14) **Small claims** judge. ~~of a small claims court.~~
(15) **Small claims** constable. ~~of a small claims court.~~

SECTION 8. IC 3-11-2-12, AS AMENDED BY P.L.14-2004,SECTION 98, AND AS AMENDED BY P.L.98-2004, SECTION 37, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 12. The following offices shall be placed on the general election ballot in the following order:

(1) Federal and state offices:
(A) President and Vice President of the United States.
(B) United States Senator.
(C) Governor and lieutenant governor.

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(D) Secretary of state.
(E) Auditor of state.
(F) Treasurer of state.
(G) Attorney general.
(H) Superintendent of public instruction.
~~*(I) Clerk of the supreme court.*~~
~~*(J)*~~ *(I)* United States Representative.
(2) Legislative offices:
(A) State senator.
(B) State representative.
(3) Circuit offices and county judicial offices:
(A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the circuit court.
(B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the superior court.
(C) Judge of the probate court.
(D) Judge of the county court, with each division separate, as required by IC 33-30-3-3.
(E) Prosecuting attorney.
(F) Clerk of the circuit court.
(4) County offices:
(A) County auditor.
(B) County recorder.
(C) County treasurer.
(D) County sheriff.
(E) County coroner.
(F) County surveyor.
(G) County assessor.
(H) County commissioner.
(I) County council member.
(5) Township offices:
(A) Township assessor.
(B) Township trustee.
(C) Township board member.
(D) **Small claims** judge. ~~of the small claims court.~~
(E) **Small claims** constable. ~~of the small claims court.~~
(6) City offices:
(A) Mayor.
(B) Clerk or clerk-treasurer.
(C) Judge of the city court.

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(D) City-county council member or common council member.

(7) Town offices:

(A) Clerk-treasurer.

(B) Judge of the town court.

(C) Town council member.

SECTION 9. IC 3-13-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 15. (a) A county chairman filling a candidate vacancy under section 6(a)(2) of this chapter or the chairman of a meeting filling a candidate vacancy under this chapter shall file a written certificate of candidate selection on a form prescribed by the commission stating the following information for each candidate selected:

(1) The name of each candidate as:

(A) the candidate wants the candidate's name to appear on the ballot; and

(B) the candidate's name is permitted to appear on the ballot under IC 3-5-7.

(2) The residence address of each candidate.

(b) The certificate shall be filed with:

(1) the election division for:

(A) a committee acting under section 3, 4, 5, or 6(b) of this chapter; or

(B) a committee acting under section 6(a) of this chapter to fill a candidate vacancy in the office of judge **or small claims judge** of a circuit, superior, probate, **or** county ~~or small claims~~ court or prosecuting attorney; or

(2) the circuit court clerk, for a committee acting under section 6(a) of this chapter to fill a candidate vacancy for a local office not described in subdivision (1).

(c) This subsection applies to a candidate vacancy resulting from a vacancy on the primary election ballot as described in section 2 of this chapter. The certificate required by subsection (a) shall be filed not later than noon July 3 before election day.

(d) This subsection applies to all candidate vacancies not described by subsection (c). The certificate required by subsection (a) shall be filed not more than three (3) days (excluding Saturdays and Sundays) after selection of the candidates.

SECTION 10. IC 3-13-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 8. (a) The chairman or chairmen filling a candidate vacancy under this chapter shall immediately file a written certificate of candidate selection on a form prescribed by the commission stating the following information

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for each candidate selected:

(1) The name of each candidate as:

(A) the candidate wants the candidate's name to appear on the ballot; and

(B) the candidate's name is permitted to appear on the ballot under IC 3-5-7.

(2) The residence address of each candidate.

(b) The certificate shall be filed with:

(1) the election division for:

(A) one (1) or more chairmen acting under section 2, 3, 4, or 5(b) of this chapter; or

(B) a committee acting under section 5(b) of this chapter to fill a candidate vacancy for the office of judge **or small claims judge** of a circuit, superior, probate, **or** county ~~or small claims~~ court or prosecuting attorney; or

(2) the circuit court clerk of the county in which the greatest percentage of the population of the election district is located, for a chairman acting under section 5(a) of this chapter to fill a candidate vacancy for a local office not described in subdivision (1).

(c) The certificate required by section (a) shall be filed not more than three (3) days (excluding Saturdays and Sundays) after selection of the candidate.

SECTION 11. IC 3-13-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 5. A vacancy in the office of **small claims** judge ~~of a small claims court~~ or small claims ~~court~~ constable not covered by section 1 of this chapter shall be filled by the ~~township board at a regular or special meeting. The chairman of the township board shall give notice of the meeting, which shall be held within thirty (30) days after the vacancy occurs. The notice must:~~

~~(1) be in writing;~~

~~(2) state the purpose of the meeting;~~

~~(3) state the date, time, and place of the meeting; and~~

~~(4) be sent by first class mail to each board member at least ten (10) days before the meeting.~~ **mayor of the consolidated city.**

SECTION 12. IC 4-4-6.1-2.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 2.6. (a) This section applies to records and other information, including records and information that are otherwise confidential, maintained by the following:

(1) The board.

(2) An urban enterprise association.

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(3) The department of state revenue.
(4) The department of commerce.
(5) The department of local government finance.
(6) A county auditor.
(7) A controller for a consolidated city.
~~(7)~~ **(8)** A township **or county** assessor.

(b) A person listed in subsection (a) may request a second person described in subsection (a) to provide any records or other information maintained by the second person that concern an individual or business that is receiving a tax deduction, exemption, or credit related to an enterprise zone. Notwithstanding any other law, the person to whom the request is made under this section must comply with the request. A person receiving records or information under this section that are confidential must also keep the records or information confidential.

(c) A person who receives confidential records or information under this section and knowingly or intentionally discloses the records or information to an unauthorized person commits a Class A misdemeanor.

SECTION 13. IC 5-2-1-9, AS AMENDED BY P.L.62-2004, SECTION 1, AND AS AMENDED BY P.L.85-2004, SECTION 40, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The board shall adopt in accordance with IC 4-22-2 all necessary rules to carry out the provisions of this chapter. Such rules, which shall be adopted only after necessary and proper investigation and inquiry by the board, shall include the establishment of the following:

(1) Minimum standards of physical, educational, mental, and moral fitness which shall govern the acceptance of any person for training by any law enforcement training school or academy meeting or exceeding the minimum standards established pursuant to this chapter.
(2) Minimum standards for law enforcement training schools administered by towns, cities, counties, the northwest Indiana law enforcement training center, agencies, or departments of the state.
(3) Minimum standards for courses of study, attendance requirements, equipment, and facilities for approved town, city, county, and state law enforcement officer, police reserve officer, and conservation reserve officer training schools.
(4) Minimum standards for a course of study on cultural diversity awareness that must be required for each person accepted for training at a law enforcement training school or academy.
(5) Minimum qualifications for instructors at approved law

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enforcement training schools.

(6) Minimum basic training requirements which law enforcement officers appointed to probationary terms shall complete before being eligible for continued or permanent employment.

(7) Minimum basic training requirements which law enforcement officers not appointed for probationary terms but appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment.

(8) Minimum basic training requirements which law enforcement officers appointed on a permanent basis shall complete in order to be eligible for continued employment.

(9) Minimum basic training requirements for each person accepted for training at a law enforcement training school or academy that include six (6) hours of training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the law enforcement training board.

(b) Except as provided in subsection (l), a law enforcement officer appointed after July 5, 1972, and before July 1, 1993, may not enforce the laws or ordinances of the state or any political subdivision unless the officer has, within one (1) year from the date of appointment, successfully completed the minimum basic training requirements established under this chapter by the board. If a person fails to successfully complete the basic training requirements within one (1) year from the date of employment, the officer may not perform any of the duties of a law enforcement officer involving control or direction of members of the public or exercising the power of arrest until the officer has successfully completed the training requirements. This subsection does not apply to any law enforcement officer appointed before July 6, 1972, or after June 30, 1993.

(c) Military leave or other authorized leave of absence from law enforcement duty during the first year of employment after July 6, 1972, shall toll the running of the first year, which in such cases shall be calculated by the aggregate of the time before and after the leave, for the purposes of this chapter.

(d) Except as provided in subsections (e) and (l), a law enforcement officer appointed to a law enforcement department or agency after June 30, 1993, may not:

(1) make an arrest;

(2) conduct a search or a seizure of a person or property; or

(3) carry a firearm;

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unless the law enforcement officer successfully completes, at a board certified law enforcement academy, *at the southwest Indiana law enforcement training academy under section 10.5 of this chapter,* or at the northwest Indiana law enforcement training center under section 15.2 of this chapter, the basic training requirements established by the board under this chapter.

(e) Before a law enforcement officer appointed after June 30, 1993, completes the basic training requirements, the law enforcement officer may exercise the police powers described in subsection (d) if the officer successfully completes the pre-basic course established in subsection (f). Successful completion of the pre-basic course authorizes a law enforcement officer to exercise the police powers described in subsection (d) for one (1) year after the date the law enforcement officer is appointed.

(f) The board shall adopt rules under IC 4-22-2 to establish a pre-basic course for the purpose of training:

(1) law enforcement officers;

(2) police reserve officers (as described in IC 36-8-3-20); and

(3) conservation reserve officers (as described in IC 14-9-8-27);

regarding the subjects of arrest, search and seizure, use of force, and firearm qualification. The pre-basic course must be offered on a periodic basis throughout the year at regional sites statewide. The pre-basic course must consist of forty (40) hours of course work. The board may prepare a pre-basic course on videotape that must be used in conjunction with live instruction. The board shall provide the course material, the instructors, and the facilities at the regional sites throughout the state that are used for the pre-basic course. In addition, the board may certify pre-basic courses that may be conducted by other public or private training entities, including colleges and universities.

(g) The board shall adopt rules under IC 4-22-2 to establish a mandatory inservice training program for police officers. After June 30, 1993, a law enforcement officer who has satisfactorily completed the basic training and has been appointed to a law enforcement department or agency on either a full-time or part-time basis is not eligible for continued employment unless the officer satisfactorily completes a minimum of sixteen (16) hours each year of inservice training in any subject area included in the law enforcement academy's basic training course or other job related subjects that are approved by the board as determined by the law enforcement department's or agency's needs. *Inservice training must include training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the*

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secretary of family and social services and the law enforcement training board. In addition, a certified academy staff may develop and make available inservice training programs on a regional or local basis. The board may approve courses offered by other public or private training entities, including colleges and universities, as necessary in order to ensure the availability of an adequate number of inservice training programs. The board may waive an officer's inservice training requirements if the board determines that the officer's reason for lacking the required amount of inservice training hours is due to any of the following:

(1) An emergency situation.

(2) The unavailability of courses.

(h) The board shall also adopt rules establishing a town marshal basic training program, subject to the following:

(1) The program must require fewer hours of instruction and class attendance and fewer courses of study than are required for the mandated basic training program.

(2) Certain parts of the course materials may be studied by a candidate at the candidate's home in order to fulfill requirements of the program.

(3) Law enforcement officers successfully completing the requirements of the program are eligible for appointment only in towns employing the town marshal system (IC 36-5-7) and having ~~no~~ **not** more than one (1) marshal and two (2) deputies.

(4) The limitation imposed by subdivision (3) does not apply to an officer who has successfully completed the mandated basic training program.

(5) The time limitations imposed by subsections (b) and (c) for completing the training are also applicable to the town marshal basic training program.

(i) The board shall adopt rules under IC 4-22-2 to establish a police chief executive training program. The program must include training in the following areas:

(1) Liability.

(2) Media relations.

(3) Accounting and administration.

(4) Discipline.

(5) Department policy making.

(6) Firearm policies.

(7) Department programs.

(j) A police chief shall apply for admission to the police chief executive training program within two (2) months of the date the police

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chief initially takes office. A police chief must successfully complete the police chief executive training program within six (6) months of the date the police chief initially takes office. However, if space in the program is not available at a time that will allow the police chief to complete the program within six (6) months of the date the police chief initially takes office, the police chief must successfully complete the next available program that is offered to the police chief after the police chief initially takes office.

(k) A police chief who fails to comply with subsection (j) may not serve as the police chief until the police chief has completed the police chief executive training program. For the purposes of this subsection and subsection (j), "police chief" refers to:

(1) the police chief of any city; ~~and~~

(2) the police chief of any town having a metropolitan police department; **and**

(3) after December 31, 2005, the chief of a metropolitan law enforcement agency established under IC 36-8-10.1.

A town marshal is not considered to be a police chief for these purposes, but a town marshal may enroll in the police chief executive training program.

(l) An investigator in the arson division of the office of the state fire marshal appointed:

(1) before January 1, 1994, is not required; or

(2) after December 31, 1993, is required;

to comply with the basic training standards established under this section.

(m) The board shall adopt rules under IC 4-22-2 to establish a program to certify handgun safety courses, including courses offered in the private sector, that meet standards approved by the board for training probation officers in handgun safety as required by IC 11-13-1-3.5(3).

SECTION 14. IC 5-2-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 5. (a) Subject to section 13 of this chapter, the following persons must register under this chapter:

(1) An offender who resides in Indiana. An offender resides in Indiana if either of the following applies:

(A) The offender spends or intends to spend at least seven (7) days (including part of a day) in Indiana during a one hundred eighty (180) day period.

(B) The offender owns real property in Indiana and returns to Indiana at any time.

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(2) An offender not described in subdivision (1) who works or carries on a vocation or intends to work or carry on a vocation full-time or part-time for a period of time:

(A) exceeding fourteen (14) consecutive days; or

(B) for an aggregate period of time exceeding thirty (30) days; during any calendar year in Indiana, whether the offender is financially compensated, volunteered, or is acting for the purpose of government or educational benefit.

(3) An offender not described in subdivision (1) who is enrolled or intends to be enrolled on a full-time or part-time basis in any public or private educational institution, including any secondary school, trade, or professional institution, or institution of higher education in Indiana.

(b) Except as provided in subsection (e), an offender who resides in Indiana shall register with the sheriff of the county where the offender resides. If an offender resides in more than one (1) county, the offender shall register with the sheriff of each county in which the offender resides. ~~However, if an offender resides in a county having a consolidated city, the offender shall register with the police chief of the consolidated city.~~

(c) An offender described in subsection (a)(2) shall register with the sheriff of the county where the offender is or intends to be employed or carry on a vocation. ~~However, an offender described in subsection (a)(2) who is employed or intends to be employed or to carry on a vocation in a consolidated city shall register with the police chief of the consolidated city.~~ If an offender is or intends to be employed or carry on a vocation in more than one (1) county, the offender shall register with the sheriff of each county. ~~However, if an offender is employed or intends to be employed or to carry on a vocation in a county containing a consolidated city and another county, the offender shall register with the police chief of the consolidated city and the sheriff of the other county.~~

(d) An offender described in subsection (a)(3) shall register with the sheriff of the county where the offender is enrolled or intends to be enrolled as a student. ~~However, if an offender described in subsection (a)(3) is enrolled or intends to be enrolled as a student in a county containing a consolidated city, the offender shall register with the police chief of the consolidated city.~~

(e) An offender described in subsection (a)(1)(B) shall register with the sheriff in the county in which the real property is located. ~~However, if the offender owns real property in a county containing a consolidated city, the offender shall register with the police chief of the consolidated~~

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~~city.~~

(f) An offender shall complete a registration form. Each sheriff ~~or police chief of a consolidated city~~ shall make the registration forms available to registrants.

(g) The offender shall register not more than seven (7) days after the offender:

(1) is released from a penal facility (as defined in IC 35-41-1-21);

(2) is released from a secure private facility (as defined in IC 31-9-2-115);

(3) is released from a juvenile detention facility;

(4) is transferred to a community transition program;

(5) is placed on parole;

(6) is placed on probation;

(7) is placed on home detention; or

(8) arrives at the place where the offender is required to register under subsection (b), (c), or (d);

whichever occurs first.

(h) Whenever an offender registers with a sheriff, ~~or the police chief of a consolidated city,~~ the sheriff ~~or police chief~~ shall immediately notify the institute of the offender's registration by forwarding a copy of the registration form to the institute.

(i) The sheriff with whom an offender registers under this section shall make and publish a photograph of an offender on the Indiana sheriffs' sex offender registry web site established under IC 36-2-13-5.5. ~~The police chief of a consolidated city with whom an offender registers under this section shall make a photograph of the offender that complies with the requirements of IC 36-2-13-5.5 and transmit the photograph (and other identifying information required by IC 36-2-13-5.5) to the Indiana sheriffs' sex offender registry web site established under IC 36-2-13-5.5. Every time a sex offender submits a new registration form to the police chief of a consolidated city, but at least once per year, the police chief shall make a photograph of the sex offender that complies with the requirements of IC 36-2-13-5.5. The police chief of a consolidated city shall transmit the photograph and a copy of the registration form to the Indiana sheriffs' sex offender registry web site established under IC 36-2-13-5.5. The sheriff of a county containing a consolidated city shall provide the police chief of a consolidated city with all photographic and computer equipment necessary to enable the police chief of the consolidated city to transmit sex offender photographs (and other identifying information required by IC 36-2-13-5.5) to the Indiana sheriffs' sex offender registry web site established under IC 36-2-13-5.5. In addition, the sheriff of a county~~

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~~containing a consolidated city shall provide all funding for the county's financial obligation for the establishment and maintenance of the Indiana sheriff's sex offender registry web site established under IC 36-2-13-5.5.~~

(j) When an offender completes a new registration form, the sheriff ~~or police chief of a consolidated city~~ shall:

(1) forward a copy of the new registration form to the institute; and

(2) notify every law enforcement agency having jurisdiction in the area where the offender resides.

SECTION 15. IC 5-2-12-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 7. (a) Not more than fourteen (14) days before an Indiana offender who is required to register under this chapter is scheduled to be released from a correctional facility, transferred to a community transition or community corrections program, transferred to the jurisdiction of a sentencing court or probation office for a term of probation after being confined in a facility, released from any other penal facility (as defined in IC 35-41-1-21), released from a secure private facility (as defined in IC 31-9-2-115), or released from a juvenile detention facility, an official of the facility shall do the following:

(1) Orally inform the offender of the offender's duty to register under this chapter and require the offender to sign a written statement that the offender was orally informed or, if the offender refuses to sign the statement, certify that the offender was orally informed of the duty to register.

(2) Deliver a registration form advising the offender of the offender's duty to register under this chapter and require the offender to sign a written statement that the offender received the written notice or, if the offender refuses to sign the statement, certify that the offender was given the written notice of the duty to register.

(3) Obtain the address where the offender expects to reside after the offender's release.

(4) Inform in writing on a form or in the form prescribed or approved by the institute the sheriff having jurisdiction in the county ~~or the police chief having jurisdiction in the consolidated city~~ where the offender expects to reside of the offender's name, date of release or transfer, new address, and the offense or delinquent act committed by the offender.

(b) Not more than three (3) days after an offender who is required to register under this chapter is released or transferred as described in

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subsection (a), an official of the facility shall transmit to the state police the following:

(1) The offender's fingerprints, photograph, and identification factors.

(2) The address where the offender expects to reside after the offender's release.

(3) The complete criminal history data (as defined in IC 10-13-3-5) or, if the offender committed a delinquent act, juvenile history data (as defined in IC 10-13-4-4) of the offender.

(4) Information regarding the offender's past treatment for mental disorders.

(5) Information as to whether the offender has been determined to be a sexually violent predator.

(c) This subsection applies if an offender is placed on probation or in a community corrections program without confining the offender in a penal facility. The probation office serving the court in which the sex and violent offender is sentenced shall perform the duties required under subsections (a) and (b).

SECTION 16. IC 5-2-12-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 8. (a) If an offender who is required to register under this chapter changes:

(1) home address; or

(2) if section 5(a)(2) or 5(a)(3) of this chapter applies, the place where the offender stays in Indiana;

the offender shall complete and submit a new registration form not more than seven (7) days after the address change to the sheriff ~~or the police chief~~ with whom the offender last registered.

(b) If the offender moves to a new county in Indiana, the sheriff ~~or the police chief~~ referred to in subsection (a) shall inform the sheriff in the new county ~~or the police chief of the consolidated city, if the county has a consolidated city,~~ in Indiana of the offender's residence by forwarding to the sheriff ~~or the police chief~~ in the new county a copy of the registration form. The sheriff ~~or the police chief~~ receiving the notice under this subsection shall verify the address of the offender under section 8.5 of this chapter within seven (7) days after receiving the notice.

(c) If an offender who is required to register under section 5(a)(2) or 5(a)(3) of this chapter changes the offender's principal place of employment, principal place of vocation, or campus or location where the offender is enrolled in school, the offender shall submit a new registration form not more than seven (7) days after the change to the sheriff ~~or the police chief of a consolidated city~~ with whom the offender

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last registered.

(d) If an offender moves the offender's place of employment, vocation, or enrollment to a new county in Indiana, the sheriff ~~or the police chief of a consolidated city~~ referred to in subsection (c) shall inform the sheriff in the new county in Indiana ~~or the police chief of the consolidated city, if the county has a consolidated city,~~ of the offender's new principal place of employment, vocation, or enrollment by forwarding a copy of the registration form to the sheriff ~~or the police chief of the consolidated city~~ in the new county.

(e) If an offender moves the offender's residence, place of employment, or enrollment to a new state, the sheriff ~~or the police chief of the consolidated city~~ shall inform the state police in the new state of the offender's new place of residence, employment, or enrollment.

(f) A sheriff ~~or police chief of a consolidated city~~ shall make the forms required under this section available to registrants.

(g) A sheriff ~~or police chief of a consolidated city~~ who is notified of a change under subsection (a) or (c) shall immediately notify the institute of the change by forwarding a copy of the registration form to the institute.

SECTION 17. IC 5-2-12-8.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 8.5. (a) To verify an offender's current residence, the sheriff ~~(or the police chief of a consolidated city)~~ shall do the following:

(1) Mail each offender a registration form to the offender's listed address at least one (1) time per year, beginning seven (7) days after the sheriff ~~(or the police chief of a consolidated city)~~ receives a notice under section 14 of this chapter or the date the offender is:

(A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;

(B) placed in a community transition program;

(C) placed in a community corrections program;

(D) placed on parole; or

(E) placed on probation;

whichever occurs first.

(2) Mail a registration form to each offender who is designated a sexually violent predator under IC 35-38-1-7.5 at least once every ninety (90) days, beginning seven (7) days after the sheriff ~~(or the police chief of a consolidated city)~~ receives a notice under section 14 of this chapter or the date the offender is:

(A) released from a penal facility (as defined in

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IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;

(B) placed in a community transition program;

(C) placed in a community corrections program;

(D) placed on parole; or

(E) placed on probation;

whichever occurs first.

(b) If an offender fails to return a signed registration form either by mail or in person, the sheriff ~~(or the police chief of a consolidated city)~~ shall immediately notify the institute and the prosecuting attorney.

SECTION 18. IC 5-2-12-8.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 8.6. (a) An offender who is required to register under this chapter may not petition for a change of name under IC 34-28-2.

(b) If an offender who is required to register under this chapter changes the offender's name due to marriage, the offender must notify the county sheriff ~~(or the police chief of a consolidated city)~~ by completing a registration form not more than thirty (30) days after the name change.

SECTION 19. IC 5-2-12-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 14. (a) The governor may enter into a compact with one (1) or more jurisdictions outside Indiana to exchange notifications concerning the release, transfer, or change of address, employment, vocation, or enrollment of an offender between Indiana and the other jurisdiction or the other jurisdiction and Indiana.

(b) The compact must provide for the designation of a state agency to coordinate the transfer of information.

(c) If the state agency receives information that an offender has relocated to Indiana to reside, engage in employment or a vocation, or enroll in school, the state agency shall inform in writing the sheriff of the county ~~(or the police chief of the consolidated city)~~ where the offender is required to register in Indiana of:

(1) the offender's name, date of relocation, and new address; and

(2) the sex and violent offense or delinquent act committed by the offender.

SECTION 20. IC 5-4-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 4. (a) As used in this section, "political subdivision" has the meaning set forth in IC 36-1-2-13.

(b) The copy of the oath under section 2 of this chapter shall be deposited by the person as follows:

(1) Of all officers whose oath is endorsed on or attached to the

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commission and whose duties are not limited to a particular county or of a justice, judge, or prosecuting attorney, in the office of the secretary of state.

(2) Of the circuit court clerk, officers of a political subdivision or school corporation, and **small claims** constables, ~~of a small claims court~~, in the circuit court clerk's office of the county containing the greatest percentage of the population of the political subdivision or school corporation.

(3) Of a deputy prosecuting attorney, in the office of the clerk of the circuit court of the county in which the deputy prosecuting attorney resides or serves.

SECTION 21. IC 5-8-3.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. (a) An officer who wants to resign shall give written notice of the officer's resignation as follows:

(1) The governor and lieutenant governor shall notify the principal clerk of the house of representatives and the principal secretary of the senate to act in accordance with Article 5, Section 10 of the Constitution of the State of Indiana. The clerk and the secretary shall file a copy of the notice with the office of the secretary of state.

(2) A member of the general assembly shall notify the following, whichever applies:

(A) A member of the senate shall notify the president pro tempore of the senate.

(B) A member of the house of representatives shall notify the speaker of the house of representatives.

(3) The following officers commissioned by the governor under IC 4-3-1-5 shall notify the governor:

(A) An elector or alternate elector for President and Vice President of the United States.

(B) The secretary of state, auditor of state, treasurer of state, superintendent of public instruction, or attorney general.

(C) An officer elected by the general assembly, the senate, or the house of representatives.

(D) A justice of the Indiana supreme court, judge of the Indiana court of appeals, or judge of the Indiana tax court.

(E) A judge **or small claims judge** of a circuit, city, county, probate, superior, **or** town ~~or township small claims~~ court.

(F) A prosecuting attorney.

(G) A circuit court clerk.

(H) A county auditor, county recorder, county treasurer,

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county sheriff, county coroner, or county surveyor.

(4) An officer of a political subdivision (as defined by IC 36-1-2-13) other than an officer listed in subdivision (3) shall notify the circuit court clerk of the county containing the largest percentage of population of the political subdivision.

(5) An officer not listed in subdivisions (1) through (4) shall notify the person or entity from whom the officer received the officer's appointment.

(b) A person or an entity that receives notice of a resignation and does not have the power to fill the vacancy created by the resignation shall, not later than seventy-two (72) hours after receipt of the notice of resignation, give notice of the vacancy to the person or entity that has the power to:

(1) fill the vacancy; or

(2) call a caucus for the purpose of filling the vacancy.

SECTION 22. IC 5-10-8-2.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2.2. (a) As used in this section, "dependent" means a natural child, stepchild, or adopted child of a public safety employee who:

(1) is less than eighteen (18) years of age;

(2) is eighteen (18) years of age or older and physically or mentally disabled (using disability guidelines established by the Social Security Administration); or

(3) is at least eighteen (18) and less than twenty-three (23) years of age and is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university.

(b) As used in this section, "public safety employee" means a full-time firefighter, police officer, county police officer, or sheriff.

(c) This section applies only to local unit public employers and their public safety employees.

(d) A local unit public employer may provide programs of group health insurance for its active and retired public safety employees through one (1) of the following methods:

(1) By purchasing policies of group insurance.

(2) By establishing self-insurance programs.

(3) By electing to participate in the local unit group of local units that offer the state employee health plan under section 6.6 of this chapter.

A local unit public employer may provide programs of group insurance other than group health insurance for the local unit public employer's active and retired public safety employees by purchasing policies of

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group insurance and by establishing self-insurance programs. However, the establishment of a self-insurance program is subject to the approval of the unit's fiscal body.

(e) A local unit public employer may pay a part of the cost of group insurance for its active and retired public safety employees. However, a local unit public employer that provides group life insurance for its active and retired public safety employees shall pay a part of the cost of that insurance.

(f) A local unit public employer may not cancel an insurance contract under this section during the policy term of the contract.

(g) After June 30, 1989, a local unit public employer that provides a group health insurance program for its active public safety employees shall also provide a group health insurance program to the following persons:

(1) Retired public safety employees.

(2) Public safety employees who are receiving disability benefits under IC 36-8-6, IC 36-8-7, IC 36-8-7.5, IC 36-8-8, ~~or~~ IC 36-8-10, **or IC 36-8-10.1.**

(3) Surviving spouses and dependents of public safety employees who die while in active service or after retirement.

(h) A retired or disabled public safety employee who is eligible for group health insurance coverage under subsection (g)(1) or (g)(2):

(1) may elect to have the person's spouse, dependents, or spouse and dependents covered under the group health insurance program at the time the person retires or becomes disabled;

(2) must file a written request for insurance coverage with the employer within ninety (90) days after the person retires or begins receiving disability benefits; and

(3) must pay an amount equal to the total of the employer's and the employee's premiums for the group health insurance for an active public safety employee (however, the employer may elect to pay any part of the person's premiums).

(i) Except as provided in IC 36-8-6-9.7(f), IC 36-8-6-10.1(h), IC 36-8-7-12.3(g), IC 36-8-7-12.4(j), IC 36-8-7.5-13.7(h), IC 36-8-7.5-14.1(i), IC 36-8-8-13.9(d), ~~IC 38-8-8-14.1(h), and~~ **IC 36-8-8-14.1(h),** IC 36-8-10-16.5, **and IC 36-8-10.1-44** for a surviving spouse or dependent of a public safety employee who dies in the line of duty, a surviving spouse or dependent who is eligible for group health insurance under subsection (g)(3):

(1) may elect to continue coverage under the group health insurance program after the death of the public safety employee;

(2) must file a written request for insurance coverage with the

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employer within ninety (90) days after the death of the public safety employee; and

(3) must pay the amount that the public safety employee would have been required to pay under this section for coverage selected by the surviving spouse or dependent (however, the employer may elect to pay any part of the surviving spouse's or dependents' premiums).

(j) A retired or disabled public safety employee's eligibility for group health insurance under this section ends on the earlier of the following:

(1) When the public safety employee becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the employer terminates the health insurance program for active public safety employees.

(k) A surviving spouse's eligibility for group health insurance under this section ends on the earliest of the following:

(1) When the surviving spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the unit providing the insurance terminates the health insurance program for active public safety employees.

(3) The date of the surviving spouse's remarriage.

(4) When health insurance becomes available to the surviving spouse through employment.

(l) A dependent's eligibility for group health insurance under this section ends on the earliest of the following:

(1) When the dependent becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the unit providing the insurance terminates the health insurance program for active public safety employees.

(3) When the dependent no longer meets the criteria set forth in subsection (a).

(4) When health insurance becomes available to the dependent through employment.

(m) A public safety employee who is on leave without pay is entitled to participate for ninety (90) days in any group health insurance program maintained by the local unit public employer for active public safety employees if the public safety employee pays an amount equal to the total of the employer's and the employee's premiums for the insurance. However, the employer may pay all or part of the employer's premium for the insurance.

(n) A local unit public employer may provide group health insurance for retired public safety employees or their spouses not

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covered by subsections (g) through (l) and may provide group health insurance that contains provisions more favorable to retired public safety employees and their spouses than required by subsections (g) through (l). A local unit public employer may provide group health insurance to a public safety employee who is on leave without pay for a longer period than required by subsection (m), and may continue to pay all or a part of the employer's premium for the insurance while the employee is on leave without pay.

SECTION 23. IC 5-10-10-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1.5. As used in this chapter, "correctional officer" includes:

(1) a county jail officer under IC 11-12-4-4;

(2) a person who has received a correctional officer training certificate under IC 11-8-2-8;

(3) a prison matron or an assistant prison matron under IC 36-8-10-5 **or IC 36-8-10.1-25;** and

(4) any other person whose duties include the daily or ongoing supervision and care of persons who are lawfully detained (as defined in IC 35-41-1-18) in a facility operated by the state or a political subdivision of the state.

SECTION 24. IC 5-10-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 4. As used in this chapter, "public safety officer" means any of the following:

(1) A state police officer.

(2) A county sheriff.

(3) A county police officer.

(4) A correctional officer.

(5) An excise police officer.

(6) A county police reserve officer.

(7) A city police reserve officer.

(8) A conservation enforcement officer.

(9) A town marshal.

(10) A deputy town marshal.

(11) A probation officer.

(12) A state university police officer appointed under IC 20-12-3.5.

(13) An emergency medical services provider (as defined in IC 16-41-10-1) who is:

(A) employed by a political subdivision (as defined in IC 36-1-2-13); and

(B) not eligible for a special death benefit under IC 36-8-6-20, IC 36-8-7-26, IC 36-8-7.5-22, or IC 36-8-8-20.

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(14) A firefighter who is employed by the fire department of a state university.

(15) A member of the metropolitan law enforcement agency (as defined in IC 36-8-10.1-8).

SECTION 25. IC 5-10-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2. As used in this chapter, "employee" means an individual who:

(1) is employed full time by the state or a political subdivision of the state as:

(A) a member of a fire department (as defined in IC 36-8-1-8);

(B) an emergency medical services provider (as defined in IC 16-41-10-1);

(C) a member of a police department (as defined in IC 36-8-1-9);

(D) a correctional officer (as defined in IC 5-10-10-1.5);

(E) a state police officer;

(F) a county police officer;

(G) a county sheriff;

(H) an excise police officer;

(I) a conservation enforcement officer;

(J) a town marshal; ~~or~~

(K) a deputy town marshal; **or**

(L) a member of the metropolitan law enforcement agency (as defined in IC 36-8-10.1-8);

(2) in the course of the individual's employment is at high risk for occupational exposure to an exposure risk disease; and

(3) is not employed elsewhere in a similar capacity.

SECTION 26. IC 5-10.1-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 6. "Governing body" means the fiscal body of a county, city, town, ~~or~~ township, **or township district, a** trustee, the township board, board of school commissioners, library board, or any board which by law is authorized to fix a rate of taxation on property of a political subdivision, or any other board which is empowered to administer the affairs of any department of, or associated with, a political subdivision, which department receives revenue independently of, or in addition to, funds obtained from taxation.

SECTION 27. IC 5-10.1-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 7. Political Subdivision. "Political subdivision" as used in this article means a county, city, town, township, **township district**, political body corporate, political entity, local housing authority, public school

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corporation, public library, public utility of a county, city, town, or township whether the public utility is operated by the city or town or under the terms of a trusteeship for the benefit of the city or town, and a department of, or associated with, a county, city, town, or township, which department receives revenue independently of, or in addition to, funds obtained through taxation. A state agency or a judicial circuit may not be construed as a political subdivision.

SECTION 28. IC 6-1.1-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]:

Chapter 1.5. County Assessor Performs Township Assessor Duties

Sec. 1. In a county having a consolidated city, the county assessor has the same duties and responsibilities for the county that the township assessor in a county that does not have a consolidated city has for the township.

SECTION 29. IC 6-1.1-3-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 17. (a) On or before June 1 of each year, each township assessor of a county **not having a consolidated city** shall deliver to the county assessor a list which states by taxing district the total of the personal property assessments as shown on the personal property returns filed with the **township** assessor on or before the filing date of that year. ~~and in a county with a township assessor under IC 36-6-5-1 in every township the township assessor shall deliver the lists to the county auditor as prescribed in subsection (b).~~

(b) On or before July 1 of each year, each county assessor shall certify to the county auditor the assessment value of the personal property in every taxing district.

(c) The department of local government finance shall prescribe the forms required by this section.

SECTION 30. IC 6-1.1-4-13.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 13.8. (a) As used in this section, "commission" refers to a county land valuation commission established under subsection (b).

(b) A county land valuation commission is established in each county for the purpose of determining the value of commercial, industrial, and residential land (including farm homesites) in the county.

(c) The county assessor is chairperson of the commission.

(d) The following are members of the commission:

(1) The county assessor. The county assessor shall cast a vote

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only to break a tie.

(2) **Except in a county having a consolidated city,** each township assessor, when the respective township land values for that township assessor's township are under consideration. A township assessor serving under this subdivision shall vote on all matters relating to the land values of that township assessor's township.

(3) **Except in a county having a consolidated city,** one (1) township assessor from the county to be appointed by a majority vote of all the township assessors in the county.

(4) One (1) county resident who:

(A) holds a license under IC 25-34.1-3 as a salesperson or broker; and

(B) is appointed by:

(i) the board of commissioners (as defined in IC 36-3-3-10) for a county having a consolidated city; or

(ii) the county executive (as defined in IC 36-1-2-5) for a county not described in item (i).

(5) Four (4) individuals who:

(A) are appointed by the county executive (as defined in IC 36-1-2-5); and

(B) represent one (1) of the following four (4) kinds of land in the county:

(i) Agricultural.

(ii) Commercial.

(iii) Industrial.

(iv) Residential.

Each of the four (4) kinds of land in the county must be represented by one (1) individual appointed under this subdivision.

(6) One (1) individual who:

(A) represents financial institutions in the county; and

(B) is appointed by:

(i) the board of commissioners (as defined in IC 36-3-3-10) for a county having a consolidated city; or

(ii) the county executive (as defined in IC 36-1-2-5) for a county not described in item (i).

(e) The term of each member of the commission begins November 1 of the year that precedes by two (2) years the year in which a general reassessment begins under IC 6-1.1-4-4, and ends January 1 of the year in which the general reassessment begins under IC 6-1.1-4-4. The appointing authority may fill a vacancy for the remainder of the vacated

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term.

(f) The commission shall determine the values of all classes of commercial, industrial, and residential land (including farm homesites) in the county using guidelines determined by the department of local government finance. Not later than November 1 of the year preceding the year in which a general reassessment begins, the commission determining the values of land shall submit the values, all data supporting the values, and all information required under rules of the department of local government finance relating to the determination of land values to the county property tax assessment board of appeals and the department of local government finance. Not later than January 1 of the year in which a general reassessment begins, the county property tax assessment board of appeals shall hold a public hearing in the county concerning those values. The property tax assessment board of appeals shall give notice of the hearing in accordance with IC 5-3-1 and shall hold the hearing after March 31 of the year preceding the year in which the general reassessment begins and before January 1 of the year in which the general reassessment under IC 6-1.1-4-4 begins.

(g) The county property tax assessment board of appeals shall review the values, data, and information submitted under subsection (f) and may make any modifications it considers necessary to provide uniformity and equality. The county property tax assessment board of appeals shall coordinate the valuation of property adjacent to the boundaries of the county with the county property tax assessment boards of appeals of the adjacent counties using the procedures adopted by rule under IC 4-22-2 by the department of local government finance. If the commission fails to submit land values under subsection (f) to the county property tax assessment board of appeals before January 1 of the year the general reassessment under IC 6-1.1-4-4 begins, the county property tax assessment board of appeals shall determine the values.

(h) The county property tax assessment board of appeals shall give notice to the county and township assessors, **if any,** of its decision on the values. The notice must be given before March 1 of the year the general reassessment under IC 6-1.1-4-4 begins. Not later than twenty (20) days after that notice, the county assessor or a township assessor, **if any,** in the county may request that the county property tax assessment board of appeals reconsider the values. The county property tax assessment board of appeals shall hold a hearing on the reconsideration in the county. The county property tax assessment board of appeals shall give notice of the hearing under IC 5-3-1.

(i) Not later than twenty (20) days after notice to the county **assessor** and township assessor, **if any,** is given under subsection (h),

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a taxpayer may request that the county property tax assessment board of appeals reconsider the values. The county property tax assessment board of appeals may hold a hearing on the reconsideration in the county. The county property tax assessment board of appeals shall give notice of the hearing under IC 5-3-1.

(j) A taxpayer may appeal the value determined under this section as applied to the taxpayer's land as part of an appeal filed under IC 6-1.1-15 after the taxpayer has received a notice of assessment. If a taxpayer that files an appeal under IC 6-1.1-15 requests the values, data, or information received by the county property tax assessment board of appeals under subsection (f), the county property tax assessment board of appeals shall satisfy the request. The department of local government finance may modify the taxpayer's land value and the value of any other land in the township, the county where the taxpayer's land is located, or the adjacent county if the department of local government finance determines it is necessary to provide uniformity and equality.

(k) The county assessor shall notify all township assessors, **if any,** in the county of the values as determined by the commission and as modified by the county property tax assessment board of appeals or department of local government finance under this section. Township assessors shall use the values determined under this section.

SECTION 31. IC 6-1.1-4-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 25. (a) Each township assessor shall keep the assessor's reassessment data and records current by securing the necessary field data and by making changes in the assessed value of real property as changes occur in the use of the real property. The township assessor's records shall at all times show the assessed value of real property in accordance with the provisions of this chapter. The township assessor shall ensure that the county assessor has full access to the assessment records maintained by the township assessor.

(b) The ~~township assessor in a county having a consolidated city, or the~~ county assessor ~~in every other county,~~ shall:

(1) maintain an electronic data file of:

(A) the parcel characteristics and parcel assessments of all parcels; and

(B) the personal property return characteristics and assessments by return;

for each township in the county as of each assessment date;

(2) maintain the file in the form required by:

(A) the legislative services agency; and

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(B) the department of local government finance; and

(3) transmit the data in the file with respect to the assessment date of each year before October 1 of the year to:

(A) the legislative services agency; and

(B) the department of local government finance.

SECTION 32. IC 6-1.1-4-28.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 28.5. (a) Money assigned to a property reassessment fund under section 27.5 of this chapter may be used only to pay the costs of:

(1) the general reassessment of real property, including the computerization of assessment records;

(2) payments to county assessors, members of property tax assessment boards of appeals, or assessing officials under IC 6-1.1-35.2;

(3) the development or updating of detailed soil survey data by the United States Department of Agriculture or its successor agency;

(4) the updating of plat books; and

(5) payments for the salary of permanent staff or for the contractual services of temporary staff who are necessary to assist county assessors, members of a county property tax assessment board of appeals, and assessing officials.

(b) All counties shall use modern, detailed soil maps in the general reassessment of agricultural land.

(c) The county treasurer of each county shall, in accordance with IC 5-13-9, invest any money accumulated in the property reassessment fund until the money is needed to pay general reassessment expenses. Any interest received from investment of the money shall be paid into the property reassessment fund.

(d) An appropriation under this section must be approved by the fiscal body of the county after the review and recommendation of the county assessor. ~~However, in a county with an elected township assessor under IC 36-6-5-1 in every township, the county assessor does not review an appropriation under this section, and only the fiscal body must approve an appropriation under this section.~~

SECTION 33. IC 6-1.1-5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 14. Not later than May 15, each assessing official **in a county not having a consolidated city** shall prepare and deliver to the county assessor a detailed list of the real property listed for taxation in the township. On or before July 1 of each year, each county assessor shall, under oath, prepare and deliver to the county auditor a detailed list of the real property listed for

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taxation in the county. ~~In a county with an elected township assessor under IC 36-6-5-1 in every township the township assessor shall prepare the real property list.~~ The assessing officials and the county assessor shall prepare the list in the form prescribed by the department of local government finance. The township assessor shall ensure that the county assessor has full access to the assessment records maintained by the township assessor.

SECTION 34. IC 6-1.1-5.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. (a) Before filing a conveyance document with the county auditor under IC 6-1.1-5-4, all the parties to the conveyance must complete and sign a sales disclosure form as prescribed by the department of local government finance under section 5 of this chapter. All the parties may sign one (1) form, or if all the parties do not agree on the information to be included on the completed form, each party may sign and file a separate form.

(b) ~~Except as provided in subsection (c),~~ The auditor shall forward each sales disclosure form to the county assessor. The county assessor shall retain the forms for five (5) years. The county assessor shall forward the sales disclosure form data to the department of local government finance and the legislative services agency:

(1) before January 1, 2005, in an electronic format, if possible; and

(2) after December 31, 2004, in an electronic format specified jointly by the department of local government finance and the legislative services agency.

The county assessor shall forward a copy of the sales disclosure forms to the township assessors in the county, **if any.** The forms may be used by the county assessing officials, the department of local government finance, and the legislative services agency for the purposes established in IC 6-1.1-4-13.6, sales ratio studies, equalization, adoption of rules under IC 6-1.1-31-3 and IC 6-1.1-31-6, and any other authorized purpose.

~~(c) In a county containing a consolidated city, the auditor shall forward the sales disclosure form to the appropriate township assessor. The township assessor shall forward the sales disclosure form to the department of local government finance and the legislative services agency:~~

~~(1) before January 1, 2005, in an electronic format, if possible, and~~

~~(2) after December 31, 2004, in an electronic format specified jointly by the department of local government finance and the~~

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~~legislative services agency.~~

~~The forms may be used by the county assessing officials, the department of local government finance, and the legislative services agency for the purposes established in IC 6-1.1-4-13.6, sales ratio studies, equalization, adoption of rules under IC 6-1.1-31-3 and IC 6-1.1-31-6, and any other authorized purpose.~~

~~(d)~~ **(c)** If a sales disclosure form includes the telephone number or Social Security number of a party, the telephone number or Social Security number is confidential.

SECTION 35. IC 6-1.1-5.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 12. (a) A party to a conveyance who:

(1) is required to file a sales disclosure form under this chapter; and

(2) fails to file a sales disclosure form at the time and in the manner required by this chapter;

is subject to a penalty in the amount determined under subsection (b).

(b) The amount of the penalty under subsection (a) is the greater of:

(1) one hundred dollars ($100); or

(2) twenty-five thousandths percent (0.025%) of the sale price of the real property transferred under the conveyance document.

(c) The ~~township assessor in a county containing a consolidated city, or the~~ county assessor ~~in any other county,~~ shall:

(1) determine the penalty imposed under this section;

(2) assess the penalty to the party to a conveyance; and

(3) notify the party to the conveyance that the penalty is payable not later than thirty (30) days after notice of the assessment.

(d) The county auditor shall:

(1) collect the penalty imposed under this section;

(2) deposit penalty collections as required under section 4 of this chapter; and

(3) notify the county prosecuting attorney of delinquent payments.

(e) The county prosecuting attorney shall initiate an action to recover a delinquent penalty under this section. In a successful action against a person for a delinquent penalty, the court shall award the county prosecuting attorney reasonable attorney's fees.

SECTION 36. IC 6-1.1-8-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 24. (a) Each year a township assessor shall assess the fixed property which as of the assessment date of that year is:

(1) owned or used by a public utility company; and

(2) located in the township the township assessor serves.

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(b) The township assessor shall determine the assessed value of fixed property. **Except as provided in subsection (c),** the township assessor shall certify the assessed values to the county assessor on or before April 1 of the year of assessment. ~~However,~~

(c) In a county ~~with an elected township assessor under IC 36-6-5-1 in every township the township~~ **having a consolidated city, the county** assessor shall certify the list to the department of local government finance.

(d) The county assessor shall review the assessed values and shall certify the assessed values to the department of local government finance on or before April 10 of the year of assessment.

SECTION 37. IC 6-1.1-18.5-21 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 21. (a) The ad valorem property tax levy limits imposed by this chapter do not apply to ad valorem property taxes imposed by a consolidated city to pay or fund any indebtedness assumed, defeased, paid, or refunded under IC 36-3-1-6.1, IC 36-3-1-6.3, or IC 36-6-1.1-4.**

(b) For property taxes first due and payable each year beginning in 2007, the maximum permissible ad valorem property tax levy for a consolidated city is increased each year by an amount equal to the lesser of:

(1) the difference between:

(A) the maximum permissible ad valorem property tax levy under section 3 of this chapter for the current year for the consolidated city's fire special service district created under IC 36-3-1-6; and

(B) the amount levied that year for the fire special service district; or

(2) ten percent (10%) of the maximum permissible ad valorem property tax levy under section 3 of this chapter for property taxes first due and payable in 2006 for the consolidated city's fire special service district created under IC 36-3-1-6.

(c) For property taxes first due and payable in each year beginning in 2007, the maximum permissible ad valorem property tax levy for a consolidated city is increased in each year by an amount equal to the lesser of:

(1) the difference between:

(A) the maximum permissible ad valorem property tax levy under section 3 of this chapter for the current year for the consolidated city's police special service district created under IC 36-3-1-6; and

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(B) the amount levied that year for the police special service district; or

(2) ten percent (10%) of the maximum permissible ad valorem property tax levy under section 3 of this chapter for property taxes first due and payable in 2006 for the consolidated city's police special service district created under IC 36-3-1-6.

SECTION 38. IC 6-1.1-28-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) **This section applies to all counties except a county having a consolidated city.** Each county shall have a county property tax assessment board of appeals composed of individuals who are at least eighteen (18) years of age and knowledgeable in the valuation of property. In addition to the county assessor, only one (1) other individual who is an officer or employee of a county or township may serve on the board of appeals in the county in which the individual is an officer or employee. The fiscal body of the county shall appoint two (2) individuals to the board. At least one (1) of the members appointed by the county fiscal body must be a certified level two assessor-appraiser. The board of commissioners of the county shall appoint two (2) freehold members so that not more than three (3) of the five (5) members ~~may be~~ **are** of the same political party and so that at least three (3) of the five (5) members are residents of the county. At least one (1) of the members appointed by the board of county commissioners must be a certified level two assessor-appraiser. However, if the county assessor is a certified level two assessor-appraiser, the board of county commissioners may waive the requirement in this subsection that one (1) of the freehold members appointed by the board of county commissioners must be a certified level two assessor-appraiser. A person appointed to a property tax assessment board of appeals may serve on the property tax assessment board of appeals of another county at the same time. The members of the board shall elect a president. The employees of the county assessor shall provide administrative support to the property tax assessment board of appeals. The county assessor is a voting member of the property tax assessment board of appeals. The county assessor shall serve as secretary of the board. The secretary shall keep full and accurate minutes of the proceedings of the board. A majority of the board that includes at least one (1) certified level two assessor-appraiser constitutes a quorum for the transaction of business. Any question properly before the board may be decided by the agreement of a majority of the whole board.

(b) The county assessor, county fiscal body, and board of county commissioners may agree to waive the requirement in subsection (a)

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that not more than three (3) of the five (5) members of the county property tax assessment board of appeals may be of the same political party if it is necessary to waive the requirement due to the absence of certified level two Indiana assessor-appraisers:

(1) who are willing to serve on the board; and

(2) whose political party membership status would satisfy the requirement in subsection ~~(c)(1).~~ **(a).**

(c) If the board of county commissioners is not able to identify at least two (2) prospective freehold members of the county property tax assessment board of appeals who are:

(1) residents of the county;

(2) certified level two Indiana assessor-appraisers; and

(3) willing to serve on the county property tax assessment board of appeals;

it is not necessary that at least three (3) of the five (5) members of the county property tax assessment board of appeals be residents of the county.

SECTION 39. IC 6-1.1-28-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 1.5. (a) This section applies to a county having a consolidated city. The county property tax assessment board of appeals is established, composed of individuals who are at least eighteen (18) years of age and knowledgeable in the valuation of property. In addition to the county assessor, who serves as a nonvoting member, only one (1) other individual who is an officer or employee of the county may serve on the board of appeals. The fiscal body of the county shall appoint two (2) individuals to the board. At least one (1) of the members appointed by the county fiscal body must be a certified level two Indiana assessor-appraiser. The board of commissioners of the county shall appoint three (3) freehold members so that not more than three (3) of the five (5) voting members are of the same political party and so that at least three (3) of the five (5) voting members are residents of the county. At least one (1) of the members appointed by the board of county commissioners must be a certified level two Indiana assessor-appraiser. One (1) of the members appointed by the board of county commissioners must be a representative of a neighborhood or taxpayer organization located in the county. A person appointed to a property tax assessment board of appeals may serve on the property tax assessment board of appeals of another county at the same time. The members of the board shall elect a president. The employees of the county assessor shall**

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provide administrative support to the property tax assessment board of appeals. The county assessor shall serve as secretary of the board. The secretary shall keep full and accurate minutes of the proceedings of the board. A majority of the voting members of the board that includes at least one (1) certified level two Indiana assessor-appraiser constitutes a quorum for the transaction of business. Any question properly before the board may be decided by the agreement of a majority of the voting members of the board.

(b) The county fiscal body and board of commissioners of the county may agree to waive the requirement in subsection (a) that not more than three (3) of the five (5) members of the county property tax assessment board of appeals are of the same political party if it is necessary to waive the requirement due to the absence of certified level two Indiana assessor-appraisers:

(1) who are willing to serve on the board; and

(2) whose political party membership status would satisfy the requirement in subsection (a).

(c) If the board of county commissioners is not able to identify at least two (2) prospective freehold members of the county property tax assessment board of appeals who are:

(1) residents of the county;

(2) certified level two Indiana assessor-appraisers; and

(3) willing to serve on the county property tax assessment board of appeals;

it is not necessary that at least three (3) of the five (5) members of the county property tax assessment board of appeals be residents of the county.

SECTION 40. IC 6-1.1-31.5-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3.5. (a) After December 31, 1998, each county shall maintain a state certified computer system that has the capacity to:

(1) process and maintain assessment records;

(2) process and maintain standardized property tax forms;

(3) process and maintain standardized property assessment notices;

(4) maintain complete and accurate assessment records for the county; and

(5) process and compute complete and accurate assessments in accordance with Indiana law.

In a county not having a consolidated city, the county assessor with the recommendation of the township assessors shall select the computer system used by township assessors and the county assessor

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in the county. ~~except in a county with a township assessor elected under IC 36-6-5-1 in every township.~~ In a county ~~with an elected township assessor under IC 36-6-5-1 in every township,~~ **having a consolidated city,** the ~~elected township assessors~~ **county assessor** shall select a computer system. ~~based on a majority vote of the township assessors in the county.~~

(b) All information on the computer system shall be readily accessible to:

(1) township assessors;

(2) the county assessor;

(3) the department of local government finance; and

(4) members of the county property tax assessment board of appeals.

(c) The certified system used by the counties must be compatible with the data export and transmission requirements in a standard format prescribed by the department of local government finance. The certified system must be maintained in a manner that ensures prompt and accurate transfer of data to the department.

(d) All standardized property forms and notices on the certified computer system shall be maintained by the township assessor and the county assessor in an accessible location and in a format that is easily understandable for use by persons of the county.

SECTION 41. IC 6-1.5-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5. After the hearing, the Indiana board shall give the petitioner, the township assessor, **if any**, the county assessor, the county auditor, and the department of local government finance:

(1) notice, by mail, of its final determination, findings of fact, and conclusions of law; and

(2) notice of the procedures the petitioner or the department of local government finance must follow in order to obtain court review of the final determination of the Indiana board.

SECTION 42. IC 6-2.5-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) A retail merchant may not make a retail transaction in Indiana, unless ~~he~~ **the retail merchant** has applied for a registered retail merchant's certificate.

(b) A retail merchant may obtain a registered retail merchant's certificate by filing an application with the department and paying a registration fee of twenty-five dollars ($25) for each place of business listed on the application. The retail merchant shall also provide such security for payment of the tax as the department may require under

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IC 6-2.5-6-12.

(c) The retail merchant shall list on the application the location (including the township) of each place of business where ~~he~~ **the merchant** makes retail transactions. However, if the retail merchant does not have a fixed place of business, ~~he~~ **the merchant** shall list ~~his~~ **the merchant's** residence as ~~his~~ **the merchant's** place of business. In addition, a public utility may list only its principal Indiana office as its place of business for sales of public utility commodities or service, but the utility must also list on the application the places of business where it makes retail transactions other than sales of public utility commodities or service.

(d) Upon receiving a proper application, the correct fee, and the security for payment, if required, the department shall issue to the retail merchant a separate registered retail merchant's certificate for each place of business listed on the application. Each certificate shall bear a serial number and the location of the place of business for which it is issued.

(e) If a retail merchant intends to make retail transactions during a calendar year at a new Indiana place of business, ~~he~~ **the retail merchant** must file a supplemental application and pay the fee for that place of business.

(f) A retail merchant engaged in business in Indiana as defined in IC 6-2.5-3-1(c) who makes retail transactions that are only subject to the use tax must obtain a registered retail merchant's certificate before making those transactions. The retail merchant may obtain the certificate by following the same procedure as a retail merchant under subsections (b) and (c), except that the retail merchant must also include on the application:

(1) the names and addresses of the retail merchant's principal employees, agents, or representatives who engage in Indiana in the solicitation or negotiation of the retail transactions;

(2) the location of all of the retail merchant's places of business in Indiana, including offices and distribution houses; and

(3) any other information that the department requests.

(g) The department may permit an out-of-state retail merchant to collect the use tax. However, before the out-of-state retail merchant may collect the tax, ~~he~~ **the retail merchant** must obtain a registered retail merchant's certificate in the manner provided by this section. Upon receiving the certificate, the out-of-state retail merchant becomes subject to the same conditions and duties as an Indiana retail merchant and must then collect the use tax due on all sales of tangible personal property that ~~he~~ **the retail merchant** knows is intended for use in

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Indiana.

(h) The department shall submit to the township assessor **or, in the case of a township located in a county having a consolidated city, the county assessor** before July 15 of each year:

(1) the name of each retail merchant that has newly obtained a registered retail merchant's certificate between March 2 of the preceding year and March 1 of the current year for a place of business located in the township **or county, as appropriate;** and

(2) the address of each place of business of the taxpayer in the township **or county, as appropriate.**

SECTION 43. IC 6-3.5-6-18.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 18.5. (a) This section applies to a county containing a consolidated city.

(b) Notwithstanding section 18(e) of this chapter, the distributive shares that each civil taxing unit in a county containing a consolidated city is entitled to receive during a month equals the following:

(1) For the calendar year beginning January 1, 1995, calculate the total amount of revenues that are to be distributed as distributive shares during that month multiplied by the following factor:

Center Township	.0251
Decatur Township	.00217
Franklin Township	.0023
Lawrence Township	.01177
Perry Township	.01130
Pike Township	.01865
Warren Township	.01359
Washington Township	.01346
Wayne Township	.01307
Lawrence-City	.00858
Beech Grove	.00845
Southport	.00025
Speedway	.00722
Indianapolis/Marion County	.86409

(2) Notwithstanding subdivision (1), for the calendar year beginning January 1, 1995, the distributive shares for each civil taxing unit in a county containing a consolidated city shall be not less than the following:

Center Township	$1,898,145
Decatur Township	$164,103
Franklin Township	$173,934
Lawrence Township	$890,086
Perry Township	$854,544

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Pike Township	$1,410,375
Warren Township	$1,027,721
Washington Township	$1,017,890
Wayne Township	$988,397
Lawrence-City	$648,848
Beech Grove	$639,017
Southport	$18,906
Speedway	$546,000

(3) For each year after 1995, calculate the total amount of revenues that are to be distributed as distributive shares during that month as follows:

STEP ONE: Determine the total amount of revenues that were distributed as distributive shares during that month in calendar year 1995.

STEP TWO: Determine the total amount of revenue that the department has certified as distributive shares for that month under section 17 of this chapter for the calendar year.

STEP THREE: Subtract the STEP ONE result from the STEP TWO result.

STEP FOUR: If the STEP THREE result is less than or equal to zero (0), multiply the STEP TWO result by the ratio established under subdivision (1).

STEP FIVE: Determine the ratio of:

(A) the maximum permissible property tax levy under IC 6-1.1-18.5 and IC 6-1.1-18.6 for each civil taxing unit for the calendar year in which the month falls, plus, for a county, an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund; divided by

(B) the sum of the maximum permissible property tax levies under IC 6-1.1-18.5 and IC 6-1.1-18.6 for all civil taxing units of the county during the calendar year in which the month falls, and an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund.

STEP SIX: If the STEP THREE result is greater than zero (0), the STEP ONE amount shall be distributed by multiplying the STEP ONE amount by the ratio established under subdivision (1).

STEP SEVEN: For each taxing unit determine the STEP FIVE ratio multiplied by the STEP TWO amount.

STEP EIGHT: For each civil taxing unit determine the

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difference between the STEP SEVEN amount minus the product of the STEP ONE amount multiplied by the ratio established under subdivision (1). The STEP THREE excess shall be distributed as provided in STEP NINE only to the civil taxing units that have a STEP EIGHT difference greater than or equal to zero (0).

STEP NINE: For the civil taxing units qualifying for a distribution under STEP EIGHT, each civil taxing unit's share equals the STEP THREE excess multiplied by the ratio of:

(A) the maximum permissible property tax levy under IC 6-1.1-18.5 and IC 6-1.1-18.6 for the qualifying civil taxing unit during the calendar year in which the month falls, plus, for a county, an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund; divided by

(B) the sum of the maximum permissible property tax levies under IC 6-1.1-18.5 and IC 6-1.1-18.6 for all qualifying civil taxing units of the county during the calendar year in which the month falls, and an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund.

(c) For each year after 2005:

(1) the revenues to be distributed as distributive shares during each month to Center Township are distributed as additional distributive shares to the central township district (as defined in IC 36-6-4.1-2) and the Center Township distributive shares are reduced to zero (0); and

(2) the revenues to be distributed as distributive shares during each month to the other townships listed in subsection (1) are distributed as additional distributive shares to Indianapolis/Marion County and the township distributive shares are reduced to zero (0).

SECTION 44. IC 6-6-5.5-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 18. (a) A taxpayer who owns, holds, possesses, or controls a commercial vehicle that:

(1) is subject to the commercial vehicle excise tax imposed under this chapter; and

(2) would have been subject to assessment as personal property on March 1, 2000, under the law in effect before January 1, 2000;

shall file an information return on or before May 15, 2000, with the assessor of each township in which the taxpayer's commercial vehicles would have been subject to assessment and taxation under IC 6-1.1.

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(b) The information return ~~shall be~~ **is** filed on a form prescribed by the department of local government finance and shall require the taxpayer to provide information regarding the value, nature, and location of each commercial vehicle which the taxpayer owns, holds, possesses, or controls on March 1, 2000. If a commercial vehicle is used or operated in interstate commerce, the value reported on the information return ~~shall be~~ **is** determined under the procedure set forth in 50 IAC 4.2-10-3.

(c) The information return shall be furnished to the taxpayer by the appropriate ~~township~~ assessor **for each township** in the same manner and at the same time as the taxpayer's personal property tax return.

(d) In completing an information return under this section, a taxpayer shall make a complete disclosure of all information, required by the department of local government finance, that is related to the value, nature, or location of commercial vehicles that the taxpayer owns, holds, possesses or controls on March 1, 2000. The taxpayer shall certify to the truth of all information appearing in the information return and all data accompanying the information return.

(e) The ~~township~~ assessor **for each township** shall examine and verify the accuracy of each information return filed by a taxpayer. If appropriate, the assessor **for each township** shall compare an information return with the books of the taxpayer and with commercial vehicles owned, held, possessed, or controlled by the taxpayer.

SECTION 45. IC 6-6-5.5-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 19. (a) As used in this section, "assessed value" means an amount equal to the true tax value of commercial vehicles that:

(1) are subject to the commercial vehicle excise tax under this chapter; and

(2) would have been subject to assessment as personal property on March 1, 2000, under the law in effect before January 1, 2000.

(b) For calendar year 2001, a taxing unit's base revenue ~~shall be~~ **is** determined as provided in subsection (f). For calendar years that begin after December 31, 2001, a taxing unit's base revenue ~~shall be~~ **is** determined by multiplying the previous year's base revenue by one hundred five percent (105%).

(c) The amount of commercial vehicle excise tax distributed to the taxing units of Indiana from the commercial vehicle excise tax fund ~~shall be~~ **is** determined in the manner provided in this section. On or before June 1, 2000, ~~each township~~ **the** assessor ~~of a county~~ **for each township** shall deliver to the county assessor a list that states by taxing district the total assessed value as shown on the information returns

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filed with the assessor on or before May 15, 2000.

(d) On or before July 1, 2000, each county assessor shall certify to the county auditor the assessed value of commercial vehicles in every taxing district.

(e) On or before August 1, 2000, the county auditor shall certify the following to the department of local government finance:

(1) The total assessed value of commercial vehicles in the county.

(2) The total assessed value of commercial vehicles in each taxing district of the county.

(f) The department of local government finance shall determine each taxing unit's base revenue by applying the current tax rate for each taxing district to the certified assessed value from each taxing district. The department of local government finance shall also determine the following:

(1) The total amount of base revenue to be distributed from the commercial vehicle excise tax fund in 2001 to all taxing units in Indiana.

(2) The total amount of base revenue to be distributed from the commercial vehicle excise tax fund in 2001 to all taxing units in each county.

(3) Each county's total distribution percentage. A county's total distribution percentage ~~shall be~~ **is** determined by dividing the total amount of base revenue to be distributed in 2001 to all taxing units in the county by the total base revenue to be distributed statewide.

(4) Each taxing unit's distribution percentage. A taxing unit's distribution percentage ~~shall be~~ **is** determined by dividing each taxing unit's base revenue by the total amount of base revenue to be distributed in 2001 to all taxing units in the county.

(g) The department of local government finance shall certify each taxing unit's base revenue and distribution percentage for calendar year 2001 to the auditor of state on or before September 1, 2000.

(h) The auditor of state shall keep permanent records of each taxing unit's base revenue and distribution percentage for calendar year 2001 for purposes of determining the amount of money each taxing unit in Indiana is entitled to receive in calendar years that begin after December 31, 2001.

SECTION 46. IC 6-8.1-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) This subsection does not apply to the disclosure of information concerning a conviction on a tax evasion charge. Unless in accordance with a judicial order or as otherwise provided in this chapter, the department,

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its employees, former employees, counsel, agents, or any other person may not divulge the amount of tax paid by any taxpayer, terms of a settlement agreement executed between a taxpayer and the department, investigation records, investigation reports, or any other information disclosed by the reports filed under the provisions of the law relating to any of the listed taxes, including required information derived from a federal return, except to:

(1) members and employees of the department;

(2) the governor;

(3) the attorney general or any other legal representative of the state in any action in respect to the amount of tax due under the provisions of the law relating to any of the listed taxes; or

(4) any authorized officers of the United States;

when it is agreed that the information is to be confidential and to be used solely for official purposes.

(b) The information described in subsection (a) may be revealed upon the receipt of a certified request of any designated officer of the state tax department of any other state, district, territory, or possession of the United States when:

(1) the state, district, territory, or possession permits the exchange of like information with the taxing officials of the state; and

(2) it is agreed that the information is to be confidential and to be used solely for tax collection purposes.

(c) The information described in subsection (a) relating to a person on public welfare or a person who has made application for public welfare may be revealed to the director of the division of family and children, and to any county director of family and children located in Indiana, upon receipt of a written request from either director for the information. The information shall be treated as confidential by the directors. In addition, the information described in subsection (a) relating to a person who has been designated as an absent parent by the state Title IV-D agency shall be made available to the state Title IV-D agency upon request. The information shall be subject to the information safeguarding provisions of the state and federal Title IV-D programs.

(d) The name, address, Social Security number, and place of employment relating to any individual who is delinquent in paying educational loans owed to an institution of higher education may be revealed to that institution if it provides proof to the department that the individual is delinquent in paying for educational loans. This information shall be provided free of charge to approved institutions of higher learning (as defined by IC 20-12-21-3(2)). The department shall

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establish fees that all other institutions must pay to the department to obtain information under this subsection. However, these fees may not exceed the department's administrative costs in providing the information to the institution.

(e) The information described in subsection (a) relating to reports submitted under IC 6-6-1.1-502 concerning the number of gallons of gasoline sold by a distributor, and IC 6-6-2.5 concerning the number of gallons of special fuel sold by a supplier and the number of gallons of special fuel exported by a licensed exporter or imported by a licensed transporter may be released by the commissioner upon receipt of a written request for the information.

(f) The information described in subsection (a) may be revealed upon the receipt of a written request from the administrative head of a state agency of Indiana when:

(1) the state agency shows an official need for the information; and

(2) the administrative head of the state agency agrees that any information released will be kept confidential and will be used solely for official purposes.

(g) The name and address of retail merchants, including township, as specified in IC 6-2.5-8-1(h) may be released solely for tax collection purposes to ~~township~~ assessors **for each township**.

(h) The department shall notify the appropriate innkeepers' tax board, bureau, or commission that a taxpayer is delinquent in remitting innkeepers' taxes under IC 6-9.

(i) All information relating to the delinquency or evasion of the motor vehicle excise tax may be disclosed to the bureau of motor vehicles in Indiana and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.

(j) All information relating to the delinquency or evasion of commercial vehicle excise taxes payable to the bureau of motor vehicles in Indiana may be disclosed to the bureau and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

(k) All information relating to the delinquency or evasion of commercial vehicle excise taxes payable under the International Registration Plan may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

(l) This section does not apply to:

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(1) the beer excise tax (IC 7.1-4-2);
(2) the liquor excise tax (IC 7.1-4-3);
(3) the wine excise tax (IC 7.1-4-4);
(4) the hard cider excise tax (IC 7.1-4-4.5);
(5) the malt excise tax (IC 7.1-4-5);
(6) the motor vehicle excise tax (IC 6-6-5);
(7) the commercial vehicle excise tax (IC 6-6-5.5); and
(8) the fees under IC 13-23.

(m) The name and business address of retail merchants within each county that sell tobacco products may be released to the division of mental health and addiction and the alcohol and tobacco commission solely for the purpose of the list prepared under ~~IC 6-2.5-6-14.~~ **IC 6-2.5-6-14.2.**

SECTION 47. IC 8-22-3-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 11.5. (a) This section applies only to an airport authority established for a county having a consolidated city.**

(b) After December 31, 2005, the fire department of the airport authority is consolidated into the fire department of the consolidated city under IC 36-3-1-6.1, and the fire department of the consolidated city shall provide fire protection services for the airport authority.

(c) Notwithstanding section 11 of this chapter, after December 31, 2005, the law enforcement services of the airport authority are consolidated into the metropolitan law enforcement agency under IC 36-8-10.1, and the metropolitan law enforcement agency shall provide law enforcement services for the airport authority.

SECTION 48. IC 9-13-2-92 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 92. (a) "Law enforcement officer", except as provided in subsection (b), includes the following:

(1) A state police officer.
(2) A city, town, or county police officer.
(3) A sheriff.
(4) A county coroner.
(5) A conservation officer.
(6) A member of the metropolitan law enforcement agency (as defined in IC 36-8-10.1-8).

(b) "Law enforcement officer", for purposes of IC 9-30-5, IC 9-30-6, IC 9-30-7, IC 9-30-8, and IC 9-30-9, has the meaning set forth in IC 35-41-1.

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SECTION 49. IC 9-22-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. The following officers may act for their respective units of government under this chapter:

(1) The sheriff, for a county **or a consolidated city**.

(2) The chief of police, for a city **other than a consolidated city**.

(3) A town marshal, for a town.

(4) A township trustee, for a township **in a county not having a consolidated city**.

(5) A state police officer, for the state.

SECTION 50. IC 10-14-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 5. (a) For purposes of this section, "member of the military or public safety officer" means an individual who is:

(1) a member of a fire department (as defined in IC 36-8-1-8);

(2) an emergency medical service provider (as defined in IC 16-41-10-1);

(3) a member of a police department (as defined in IC 36-8-1-9);

(4) a correctional officer (as defined in IC 5-10-10-1.5);

(5) a state police officer;

(6) a county police officer;

(7) a police reserve officer;

(8) a county sheriff;

(9) a deputy sheriff;

(10) an excise police officer;

(11) a conservation enforcement officer;

(12) a town marshal;

(13) a deputy town marshal;

(14) a university policy officer appointed under IC 20-12-3.5;

(15) a probation officer;

(16) a paramedic;

(17) a volunteer firefighter (as defined in IC 36-8-12-2);

(18) an emergency medical technician or a paramedic working in a volunteer capacity;

(19) a member of the armed forces of the United States;

(20) a member of the Indiana Air National Guard; ~~or~~

(21) a member of the Indiana Army National Guard; **or**

(22) a member of the metropolitan law enforcement agency (as defined in IC 36-8-10.1-8)

(b) For purposes of this section, "dies in the line of duty" refers to a death that occurs as a direct result of personal injury or illness resulting from any action that a member of the military or public safety

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officer, in the member of the military's or public safety officer's official capacity, is obligated or authorized by rule, regulation, condition of employment or services, or law to perform in the course of performing the member of the military's or public safety officer's duty.

(c) If a member of the military or public safety officer dies in the line of duty, a state flag shall be presented to:

(1) the surviving spouse;

(2) the surviving children if there is no surviving spouse; or

(3) the surviving parent or parents if there is no surviving spouse and there are no surviving children.

(d) The state emergency management agency shall administer this section and may adopt rules under IC 4-22-2 to implement this section.

SECTION 51. IC 10-18-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. A township trustee **for a township in a county not having a consolidated city** may receive as public property a monument or memorial built:

(1) in the township;

(2) in honor of the township's soldiers or marines; and

(3) by the people with public donations;

if the people of the township want to give the monument or memorial to the township.

SECTION 52. IC 11-13-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 4. (a) A condition to remaining on parole is that the parolee not commit a crime during the period of parole.

(b) The parole board may also adopt, under IC 4-22-2, additional conditions to remaining on parole and require a parolee to satisfy one (1) or more of these conditions. These conditions must be reasonably related to the parolee's successful reintegration into the community and not unduly restrictive of a fundamental right.

(c) If a person is released on parole the parolee shall be given a written statement of the conditions of parole. Signed copies of this statement shall be:

(1) retained by the parolee;

(2) forwarded to any person charged with the parolee's supervision; and

(3) placed in the parolee's master file.

(d) The parole board may modify parole conditions if the parolee receives notice of that action and had ten (10) days after receipt of the notice to express the parolee's views on the proposed modification. This subsection does not apply to modification of parole conditions after a revocation proceeding under section 10 of this chapter.

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(e) As a condition of parole, the parole board may require the parolee to reside in a particular parole area. In determining a parolee's residence requirement, the parole board shall:

(1) consider:

(A) the residence of the parolee prior to the parolee's incarceration; and

(B) the parolee's place of employment; and

(2) assign the parolee to reside in the county where the parolee resided prior to the parolee's incarceration unless assignment on this basis would be detrimental to the parolee's successful reintegration into the community.

(f) As a condition of parole, the parole board may require the parolee to:

(1) periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of tests to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9); and

(2) have the results of any test under this subsection reported to the parole board by the laboratory.

The parolee is responsible for any charges resulting from a test required under this subsection. However, a person's parole may not be revoked on the basis of the person's inability to pay for a test under this subsection.

(g) As a condition of parole, the parole board:

(1) may require a parolee who is a sex and violent offender (as defined in IC 5-2-12-4) to:

(A) participate in a treatment program for sex offenders approved by the parole board; and

(B) avoid contact with any person who is less than sixteen (16) years of age unless the parolee:

(i) receives the parole board's approval; or

(ii) successfully completes the treatment program referred to in clause (A); and

(2) shall:

(A) require a parolee who is an offender (as defined in IC 5-2-12-4) to register with a sheriff ~~(or the police chief of a consolidated city)~~ under IC 5-2-12-5;

(B) prohibit the offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of parole, unless the offender obtains written approval from the parole board; and

(C) prohibit a parolee who is an offender convicted of a sex offense (as defined in IC 35-38-2-2.5) from residing within

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one (1) mile of the victim of the offender's sex offense unless the offender obtains a waiver under IC 35-38-2-2.5.

If the parole board allows the offender to reside within one thousand (1,000) feet of school property under subdivision (2)(B), the parole board shall notify each school within one thousand (1,000) feet of the offender's residence of the order.

(h) The address of the victim of a parolee who is an offender convicted of a sex offense (as defined in IC 35-38-2-2.5) is confidential, even if the offender obtains a waiver under IC 35-38-2-2.5.

SECTION 53. IC 12-7-2-192.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 192.6. "Township" for purposes of IC 12-20 and IC 12-30-4, means a:**

(1) civil township; or

(2) township district (as defined in IC 36-6-4.1-5) for a county having a consolidated city after December 31, 2006.

SECTION 54. IC 14-21-1-13.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 13.5. (a) The division may conduct a program to survey and register in a registry of Indiana cemeteries and burial grounds that the division establishes and maintains all cemeteries and burial grounds in each county in Indiana. The division may conduct the program alone or by entering into an agreement with one (1) or more of the following entities:

(1) The Indiana Historical Society established under IC 23-6-3.

(2) A historical society as defined in IC 20-5-17.5-1(a).

(3) The Historic Landmarks Foundation of Indiana.

(4) A professional archeologist or historian associated with a college or university.

(5) A township trustee **in a county not having a consolidated city.**

(6) Any other entity that the division selects.

(b) In conducting a program under subsection (a), the division may receive gifts and grants under terms, obligations, and liabilities that the director considers appropriate. The director shall use a gift or grant received under this subsection:

(1) to carry out subsection (a); and

(2) according to the terms of the gift or grant.

(c) At the request of the director, the auditor of state shall establish a trust fund for purposes of holding money received under subsection (b).

(d) The director shall administer a trust fund established by

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subsection (c). The expenses of administering the trust fund shall be paid from money in the trust fund.

(e) The treasurer of state shall invest the money in the trust fund established by subsection (c) that is not currently needed to meet the obligations of the trust fund in the same manner as other public trust funds may be invested. The treasurer of state shall deposit in the trust fund the interest that accrues from the investment of the trust fund.

(f) Money in the trust fund at the end of a state fiscal year does not revert to the state general fund.

(g) Nothing in this section may be construed to authorize violation of the confidentiality of information requirements of 16 U.S.C. 470(w) and 16 U.S.C. 470(h)(h).

(h) The division may record in each county recorder's office the location of each cemetery and burial ground located in that county.

SECTION 55. IC 15-3-4-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 0.5. (a) This section applies to a township in a county having a consolidated city.**

(b) After December 31, 2005, the duties of a township trustee under this chapter shall be transferred to the consolidated city.

SECTION 56. IC 15-3-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. (a) As used in this chapter, "detrimental plant" includes Canada thistle (cirsium arvense), Johnson grass, sorghum alumun (sorghum halrphense), bur cucumber (sicyos angulatus), shattercane (Sorghum bicolor [L.] Moench spp. drummondii [Steud.] deWet), and, in residential areas only, noxious weeds and rank vegetation. The term does not include agricultural crops.

(b) As used in this chapter, "person" means an individual, an incorporated or unincorporated organization or association, a trustee or legal representative, the state a political subdivision (as defined in IC 36-1-2-13), an agency of the state or a political subdivision, or a group of those persons acting in concert.

(c) As used in this chapter, "fund" means:

(1) the township fund for a township in a county not having a consolidated city; or

(2) the appropriate fund of the consolidated city for a county having a consolidated city.

(d) As used in this chapter, "township trustee" or "trustee" means:

(1) A township trustee for a township in a county not having a consolidated city; or

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(2) The consolidated city for a township in a county having a consolidated city.

~~(c)~~ **(e)** A person owning or possessing real estate in Indiana shall destroy detrimental plants by cutting or mowing and, if necessary, by plowing, cultivating, or smothering, or by the use of chemicals in the bud stage of growth or earlier, to prevent those detrimental plants from maturing on any such real estate.

SECTION 57. IC 15-3-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2. (a) A township trustee who has reason to believe that detrimental plants may be on real estate may, after giving forty-eight (48) hours notice to the owner or person in possession of the property, enter the real estate to investigate.

(b) Except as provided in subsection (c), if the township trustee determines after investigating the property or by visual inspection without entering the property that a person has detrimental plants growing on real estate in ~~the~~ **a** township **that comprises all or a part of the township trustee's jurisdiction** that have not been destroyed as described in section 1 of this chapter, the ~~trustee of the township in which the real estate is located~~ **township trustee** shall notify, in writing, the owner or person in possession of the real estate to destroy the detrimental plants in a manner provided in section 1 of this chapter within five (5) days after the notice is given. If the detrimental plants are not destroyed as provided in section 1 of this chapter within five (5) days after notice is given, the trustee shall cause the detrimental plants to be destroyed in a manner seeming most practical to the trustee within three (3) additional days. The trustee may hire a person to destroy the detrimental plants. The trustee or the person employed to destroy the detrimental plants may enter upon the real estate where the detrimental plants are growing to destroy the detrimental plants, and are not civilly or criminally liable for damage to crops, livestock, or other property occurring while carrying out such work, except for gross negligence or willful or wanton destruction.

(c) If the county has established a county weed control board under IC 15-3-4.6 the township trustee may notify the county weed control board of the real estate containing detrimental plants, and the board shall either assume jurisdiction to control the detrimental plants or decline jurisdiction and refer the matter back to the township trustee. The county weed control board shall notify the township trustee of the board's decision.

(d) Notice required in subsection (a) or (b) may be given:

(1) by mail, using certified mail; or

(2) by personal service.

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(e) Notice under subsection (d) is considered received by the owner or person in possession of the real estate:

(1) if sent by mail, on the earlier of:

(A) the date of signature of receipt of the mailing; or

(B) three (3) business days after the date of mailing; or

(2) if served personally, on the date of delivery.

SECTION 58. IC 15-3-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 3. (a) The township trustee may pay for the chemicals, work, and labor performed in cutting or destroying detrimental plants under this chapter at a rate per hour to be fixed by the township trustee commensurate with local hourly wages.

(b) In all cases in which the infestation of the land with detrimental plants is so great and widespread as in the opinion of the trustee to render such cutting or eradication by hand methods impractical, the trustee shall engage the necessary power machinery or equipment and may pay for the work at a rate per hour fixed by the township trustee commensurate with the local hourly rate.

(c) When the work has been performed, the person doing the work shall file an itemized bill for the work ~~in the office of~~ **with** the trustee ~~of the township~~, and when the bill has been approved the trustee shall pay the bill out of the ~~township~~ fund. The trustee of the township shall certify the cost or expense of the work, and the cost of the chemicals, adding to such bill twenty dollars ($20) per day for each day that the trustee or the trustee's agent supervises the performance of the services required under this chapter as compensation for services, with a description of the real estate on which the labor was performed.

(d) The certified statement of costs prepared under subsection (c) shall be mailed using certificate of mailing to, or personally served on, the owner or person possessing the real estate. The certified statement shall be mailed to the auditor of state for any real estate owned by the state or to the fiscal officer of another municipality (as defined in IC 5-11-1-16) for real estate owned by the municipality. The statement shall request that the person pay the cost of performing the service under subsection (c) to the township trustee.

(e) If the owner or person in possession of the property does not pay the amount set forth in the statement within ten (10) days after receiving the notice under subsection (d), the township trustee shall file a copy of the certified statement in the office of the county auditor of the county where the real estate is located **or, if the township is in a county having a consolidated city, the office of the city controller.**

(f) The auditor **or the city controller** shall place the amount

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claimed in the certified statement on the tax duplicate of the real estate. Except as provided in subsections (j) through (l), the amount claimed shall be collected as taxes are collected.

(g) After an amount described in subsection (f) is collected, the funds shall be deposited in the ~~trustee's township funds~~ **fund** for use at the discretion of the trustee.

(h) If there is no money available in **a** ~~the township~~ fund for that purpose, ~~the township board~~ upon finding an emergency exists:

(1) the township legislative body shall act under IC 36-6-6-14(b) or IC 36-6-6-15; **or**

(2) a consolidated city shall act under IC 36-3-4;

to borrow a sum of money sufficient to meet the emergency.

(i) The trustee, when submitting estimates to the ~~township board~~ **legislative body** for action, shall include in the estimates an item sufficient to cover those expenditures.

(j) This subsection applies to real estate owned by the state. The auditor of state shall issue a warrant to pay the amount set forth in the certified statement of costs for real estate owned by the state and shall charge the appropriate fund for the amount.

(k) This subsection applies to real estate owned by a municipality (as defined in IC 5-11-1-16) other than the township **or a consolidated city.** The fiscal officer of the municipality shall make the necessary appropriation from the appropriate fund to pay the township the amount set forth in the certified statement of costs for real estate owned by the municipality.

(l) This subsection applies to real estate that is exempt from property taxation. The owner of the tax exempt real estate shall pay the amount set forth in the certified statement of costs for the tax exempt real estate. If the owner of the tax exempt real estate fails to pay the amount required by this chapter, the owner is ineligible for the property tax exemption and the department of local government finance shall deny the property tax exemption for the real estate.

SECTION 59. IC 15-3-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 4. Except as provided in section 3 of this chapter, the county auditor **or, if a township is in a county having a consolidated city, the city controller**, upon receiving and filing such trustee's certificate as prescribed in this chapter, shall immediately place said amounts on the tax duplicate of the county and such amounts shall be due at the next tax paying time, and shall be collected for the proper township, ~~or~~ townships, **or consolidated city,** the same as other state, county, or township taxes are collected, including penalties, forfeitures, and sales,

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and when so collected shall be paid to the proper trustee and placed in the ~~township~~ fund.

SECTION 60. IC 15-3-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 5. (a) A person who:

(1) knowingly allows detrimental plants to grow and mature on land owned or possessed by the person;

(2) knowing of the existence of detrimental plants on land owned or possessed by the person, fails to cut them down or eradicate them by chemicals each year, as prescribed in this chapter;

(3) having charge of or control over any highway, knowingly allows detrimental plants to grow or mature on the right-of-way of the highway, or, knowing of the existence of the detrimental plants fails to cut them down or eradicate them by chemicals, as prescribed in this chapter;

(4) having charge of or control over the right-of-way of a railroad or interurban company, knowingly allows detrimental plants to grow and mature thereon, or knowing of the existence of the detrimental plants, fails to cut them down or eradicate them by chemicals, as prescribed in this chapter; or

(5) knowingly sells Canada thistle (cirsium arvense) seed;

commits a Class C infraction. Each day this section is violated constitutes a separate infraction.

(b) All judgments collected under this section shall be paid to the trustee and placed in the ~~trustee's township funds~~ **fund** for use at the discretion of the trustee **or the consolidated city.**

SECTION 61. IC 15-3-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 7. When the annual budget is prepared, a sufficient amount shall be appropriated to enable the township ~~officials~~ **trustee** to comply with this chapter.

SECTION 62. IC 15-3-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 8. (a) The Purdue University cooperative extension service shall provide technical assistance to township trustees for the control of detrimental plants.

(b) All law enforcement agencies having jurisdiction in a township **or a consolidated city** shall assist the township trustee in carrying out the duties imposed on the trustee under this chapter.

SECTION 63. IC 15-3-4.6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 3. The weed control board consists of the following members to be appointed by the authorizing body:

(1) One (1) **member appointed as follows:**

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(A) In a county not having a consolidated city, a township trustee of **a township in** the county.

(B) In a county having a consolidated city, the director of the department of the consolidated city that is responsible for the destruction of detrimental plants described in this chapter or the director's designee.

(2) One (1) soil and water conservation district supervisor.

(3) A representative from the agricultural community of the county.

(4) A representative from the county highway department or an appointee of the county commissioners. ~~and~~

(5) A cooperative extension service agent from the county to serve in non-voting advisory capacity.

Each board member shall be appointed for a term of four (4) years. All vacancies in the membership of the board shall be filled for the unexpired term in the same manner as initial appointments. The board shall elect a chairman, and a secretary. The members of the board are not entitled to receive any compensation, but are entitled to such traveling and other expenses as may be necessary in the discharge of their duties. The board may appoint an executive director and employ necessary technical, professional, and other assistants and it shall fix the qualifications, duties, and salaries of these employees subject to the permission of the county council. The county highway supervisor and the soil and water conservation district supervisor or employee serving the county shall serve as inspectors for the board. They shall make periodic inspections and report their findings to the board and the executive director, if any.

SECTION 64. IC 15-3-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. The Indiana department of transportation, railroads, drainage districts, township boards, **except township boards of townships in a county having a consolidated city**, public utilities, and other public and quasi-public corporations shall, between July 1 and September 15, do anything possible to restrict the growth and seed production of all Johnson grass growing on lands for which they are responsible in a municipality or township of this state.

SECTION 65. IC 15-5-9-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 0.5. As used in this chapter, "assessor" means:**

(1) for a township located in a county not having a consolidated city:

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(A) the township assessor elected under IC 36-6-5-1; or

(B) the township trustee who is required by law to act as the assessor for the township the trustee serves; or

(2) for a township located in a county having a consolidated city, the controller of the consolidated city or the controller's designee.

SECTION 66. IC 15-5-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) The ~~township~~ assessor shall make a diligent census as to the number of dogs owned, harbored, or kept by any person. A person owning or harboring a dog shall pay immediately to the ~~township~~ assessor a tax for each dog owned, harbored, or kept on the same premises, whether owned by that person or some other person, as follows:

(1) Except as provided in subsection (d), for each neutered dog, two dollars ($2).

(2) For each nonneutered dog, four dollars ($4).

(3) For each additional dog, six dollars ($6).

No dog under six (6) months of age is subject to any tax under this chapter. Whoever becomes the owner or harborer of a dog after the dog census by the township assessor or any owner or harborer of a dog for which for any reason the assessor failed to collect the tax, shall, within thirty (30) days after becoming the owner or harborer of a dog, apply to the assessor, or the assessor's designee pay the required fee, and procure a tag for the dog.

(b) Dogs kept in kennels for breeding, boarding, or training purposes or for sale shall not be assessed an individual license fee, but the owner or keeper shall pay a kennel license fee according to the following schedule:

(1) For a major kennel, consisting of fifteen (15) or more dogs, a fee of thirty dollars ($30).

(2) For a minor kennel, consisting of less than fifteen (15) dogs, a fee of twenty dollars ($20).

For each individual dog tag or kennel license issued under this chapter, the ~~township~~ assessor ~~(or trustee who collects the fee)~~ shall retain from the fee described in this section, an administrative fee of fifty cents ($0.50). Administrative fees collected by ~~the~~ **an** assessor **other than a township trustee** shall be deposited in the county general fund, and administrative fees collected by ~~the~~ **a township** trustee shall be deposited in the township general fund.

(c) Upon the payment of the license fee required by subsection (b), the ~~township~~ assessor shall deliver to the owner or keeper of the kennel a proper license together with a metallic tag for each dog in such

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kennel. The license shall be dated and numbered and shall bear the name of the county issuing it and the name and address of the owner of the kennel licensed, and a description of the breed, number, sex, and age of the dogs kept in such kennel. Any person becoming the owner of a dog kennel shall, within thirty (30) days after becoming the owner, apply to the ~~township~~ assessor, township trustee, or assessor's designee and, upon payment of the required fee, procure a license and a metallic tag for all dogs kept in the kennel.

(d) A county council may increase the tax on neutered dogs imposed under subsection (a) from two dollars ($2) to three dollars ($3).

(e) ~~A township~~ **An** assessor ~~(or a township trustee who has the duties of a township assessor)~~ may designate one (1) or more licensed veterinarians or humane societies in the assessor's township **or county, as the case may be,** to collect the dog taxes and kennel license fees and issue the licenses under this chapter. A designee may retain seventy-five cents ($0.75) as a fee for that service and remit the balance of the money collected to the ~~township trustee~~ **assessor who designated the designee** by the tenth day of each month. As used in this subsection, "humane society" includes an animal shelter, animal control center, or other animal impounding facility that has as its purpose the humane treatment of animals.

SECTION 67. IC 15-5-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 2. (a) The ~~township~~ assessor shall give to each person a receipt for the money paid the assessor, which ~~shall be~~ **is** designated for dog tax. The receipt shall show the person's name who owns, harbors, or keeps the dog, the amount paid, and the number, description, and kind of dogs paid for, whether male or female, and the number of each. The receipt relieves the person owning, keeping, or harboring dogs for the current year, extending one (1) year from its date. The assessor shall keep a record of persons owning dogs subject to taxation and a record of the dogs paid for. The assessor shall keep a stub record or copy of the receipts given for money paid as dog tax. The stub record shall show the amount paid, the number of dogs, both male and female, paid for, and the person's name owning the dogs paid for. At the time when the receipt is issued to the person, the assessor shall give to the person a tag, which shall be attached to the collar worn by the dog.

(b) Before July 1 each year, the ~~township~~ assessor**, except an assessor in a county having a consolidated city,** shall turn over to the township trustee all the records kept by the assessor relating to the collecting and payment of dog taxes and kennel license fees, and a copy of all receipts given by the assessor to persons having paid dog

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taxes and kennel license fees, and all money received by the assessor as dog taxes, and all tags left in the assessor's possession. The assessor shall assess against each person who failed to pay to the assessor the amount of any license fee owed by the person, and the amount of the license fees shall be placed upon the tax duplicate by the county auditor and collected as taxes are collected.

(c) From July 1 each year until March 1 of the next year, the ~~township trustee~~ **assessor** shall receive any license fees subject to be paid under this chapter and issue any licenses under this chapter that may be received or issued by the ~~township~~ assessor under this chapter.

SECTION 68. IC 15-5-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. **This section does not apply to a township in a county having a consolidated city or to a consolidated city.** The ~~township~~ assessor shall, before July 1 each year, report the amount collected as dog tax and kennel license fees to the county auditor. The dog taxes and kennel license fees collected by ~~the~~ **a township** assessor shall be turned over by the **township** assessor to the township trustee of the **township** assessor's township. The county auditor shall make a record of the same, and charge the amount stated in the report against the township trustee as receipts from the county dog fund.

SECTION 69. IC 15-5-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4. (a) Each ~~township~~ assessor shall perform the duties imposed by this chapter. If a dog owner has failed to turn in a dog for taxation purposes, the assessor shall notify the owner that the assessor is listing the unpaid taxes within a period of ten (10) days, at which time the person will be assessed double the amount of taxes provided by this chapter unless the person owning the dog appears voluntarily within the ten (10) days and:

(1) proves to the satisfaction of the assessor that the person owned no such dog at the time the census was made; or

(2) makes an affidavit to be kept on file by the assessor to the effect that the failure to report a dog for taxation was not intentional and was not purposely omitted for the purpose of avoiding payment of taxes.

(b) Each assessor shall keep a complete list of all dogs subject to the tax under this chapter together with the names of their owners on record in the assessor's office at all times and available to the public. If any person shall acquire, own, harbor, or keep any dog after the assessor has completed the census, the person shall report the dog to and pay to the assessor the amount of dog tax as provided in this

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chapter and receive a receipt and tag for the payment. The receipt and tag exempts the person from further payment of dog tax on dogs described in the receipt for one (1) year from the date of the receipt.

SECTION 70. IC 15-5-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5. ~~A township~~ **An** assessor **or** assessor's designee ~~or township trustee~~ who:

(1) fails to perform the duties imposed by this chapter; or

(2) fails to make a complete report within the time specified in this chapter;

commits a Class C infraction.

SECTION 71. IC 15-5-9-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 6. Every person liable to taxation in any township and residing in the township when listed for taxation shall make and subscribe to an oath to the ~~township~~ assessor in which the person states the number of dogs neutered or unneutered over the age of six (6) months and owned or harbored by the person.

SECTION 72. IC 15-5-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 8. (a) All money derived by the taxing of dogs under this chapter shall constitute a fund known as the township dog fund **or, in the case of a township located in a county having a consolidated city, the county dog fund** that the township trustee **or, in the case of a township located in a county having a consolidated city, the controller of the consolidated city,** shall use in the manner provided in this chapter for the payment of the following:

(1) Damages, less insurance proceeds, sustained by owners of the following stock, fowl, or game killed, maimed, or damaged by dogs:

(A) Sheep.

(B) Cattle.

(C) Horses.

(D) Swine.

(E) Goats.

(F) Mules.

(G) Chickens.

(H) Geese.

(I) Turkeys.

(J) Ducks.

(K) Guineas.

(L) Tame rabbits.

(M) Game birds and game animals held in captivity under

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authority of a game breeder's license issued by the department of natural resources.

(N) Bison.

(O) Farm raised cervidae.

(P) Ratitae.

(2) The expense of taking the Pasteur treatment for hydrophobia incurred by any person bitten by or exposed to a dog known to have hydrophobia. ~~within any township of Indiana.~~

(b) Any person requiring the treatment described in subsection (a)(2) may select the person's own physician.

(c) No damages shall be assessed or paid under this chapter on sheep except where individual damage exists or is shown.

(d) This subsection applies to a county whose legislative body has acted under this subsection. A county legislative body may designate by ordinance one (1) humane society located in that county to receive fifty cents ($0.50) from each dog tax payment collected under this chapter.

(e) A humane society designated under subsection (d) shall use the funds disbursed to the society to maintain an animal shelter.

(f) If a county does not designate a humane society to receive payments under subsection (d), those amounts remain in the township dog fund **or, in the case of a county having a consolidated city, the county dog fund.**

SECTION 73. IC 15-5-9-9.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 9.1. (a) ~~In order~~ To qualify for payment for damages by a township trustee **or, in the case of a township located in a county having a consolidated city, the controller of the consolidated city** under this chapter, the owner of stock, fowl, or game listed in section 8(a)(1) of this chapter killed, maimed, or damaged by dogs shall do the following:

(1) Not more than seventy-two (72) hours after the time of the loss, notify one (1) of the following having jurisdiction in the location where the loss occurred:

(A) A law enforcement officer.

(B) An officer of a county or municipal animal control center, shelter, or similar impounding facility.

(2) Within twenty (20) days from the time of the loss, report the loss to the trustee ~~of his township~~ **of the owner's township or, in a township located in a county having a consolidated city, to the controller of the consolidated city** as follows:

(A) Under oath, the owner shall state:

(i) the number, age, and value of the stock, fowl, or game;

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and

(ii) the damages, less any insurance proceeds, sustained.

(B) In an affidavit, the owner must be joined by two (2) disinterested and reputable freeholders residing in the township in which the stock, fowl, or game were killed, maimed, or damaged. The affidavit must state that the freeholders are:

(i) disinterested; and

(ii) not related by blood or marriage to the claimant.

(C) No appraisement may exceed the actual cash value of the stock, fowl, or game. As it applies to ratitae, cash value is no more than the slaughter value.

(D) The owner shall provide verification of the loss by an officer under subdivision (1).

(E) No loss shall be paid for property owned by a claimant on the last property tax assessment date if the property was not reported by the owner for assessment purposes at that time.

(b) An officer who receives notice under subsection (a)(1) shall visit the scene of the loss, verify the loss in writing, and mark the animal so that the animal can support only one (1) claim under this chapter.

SECTION 74. IC 15-5-9-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 10. (a) The ~~trustees~~ **township trustee or the controller of the consolidated city** shall register and pay damages for all losses in the order in which the losses are reported.

(b) A person may not receive payment from the trustee **or the controller of the consolidated city** for stock, fowl, or game listed in section 8(a)(1) of this chapter:

(1) that are killed, maimed, or damaged by any dog or dogs owned or harbored by that person;

(2) for which the person received from another person an amount equal to the actual damages; or

(3) for which the owner has not complied with section 9.1 of this chapter.

(c) When rabies shall develop in any stock, fowl, or game listed in section 8(a)(1) of this chapter, however contracted, and when the existence of such disease ~~shall be~~ **is** proven by:

(1) laboratory diagnosis, made in the laboratory of the state department of health, or some other laboratory maintained by state, county, or municipal funds; or

(2) affidavit of an attending legally qualified graduate veterinarian;

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the owner of such animal with rabies ~~shall be~~ **is** entitled to recover in the same amount and manner as provided in sections 8 and 9.1 of this chapter.

(d) Whenever any dog not accompanied by the dog's owner or owner's agent is suspected of having rabies and found roaming at large, and the dog dies or is destroyed on said account, the **township** trustee **or controller of the consolidated city** shall do the following:

(1) Remove or have removed the head of the dog.

(2) Pay from the township dog fund **or, in the case of a township located in a county having a consolidated city, the county dog fund,** the following:

(A) A reasonable fee for the removal of the dog's head.

(B) All charges for transporting the head to a laboratory maintained by state, county, or municipal funds. If no money is available in the **appropriate** dog fund, ~~of the township,~~ then such necessary fees ~~shall be~~ **are** paid out of the township **general** fund **or, in the case of a township located in a county having a consolidated city, the county general fund,** without appropriations having been made.

(e) On the first Monday of March of each year, the township shall transfer the following to the county treasurer:

(1) Any funds in a township dog fund designated for a humane society under section 8 of this chapter.

(2) Any amount in a township dog fund exceeding three hundred dollars ($300) over and above orders drawn on the fund.

(f) The funds transferred to the county treasurer under subsection (e) ~~shall be~~ **are** deposited in the county dog fund. On the second Monday in March of each year, the money in the county dog fund ~~shall be~~ **is** distributed as follows:

(1) **Except for a township located in a county having a consolidated city,** among the townships of the county in which the orders drawn against the dog fund exceed the money on hand.

(2) To a humane society designated under section 8 of this chapter.

(g) If the funds in the county dog fund, after any distribution to a designated humane society, are insufficient to pay for all stock, fowl, or game listed in section 8(a)(1) of this chapter that are killed, maimed, or damaged by dogs ~~of all the townships~~ in the county, the distribution ~~shall be~~ **is** made**, except in a township located in a county having a consolidated city,** in the ratio of the orders drawn against the dog fund of the townships and unpaid and unprovided for. The ratio ~~shall be~~ **is** obtained from the report of the trustees of the townships made to the

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auditor of the county.

(h) The report under subsection (g) ~~shall be~~ **is** made by each township trustee of the county upon the first Monday of March of each year and must show the following:

(1) All receipts into the dog fund of the township.

(2) All orders drawn against the township fund in the order in which the orders were drawn.

(i) If the funds in the dog fund of any township and the share of the county dog fund distributed to such township during any year **or, in the case of a township located in a county having a consolidated city, the county dog fund,** are insufficient to pay for all stock, fowl, and game listed in section 8(a)(1) of this chapter that are killed, maimed, or damaged by dogs in such township **or county, as the case may be,** during such year, any such losses registered and any orders drawn which are unpaid and unprovided for ~~shall be~~ **are** paid out of the state dog account.

(j) If upon the first Monday in May of any year there is a surplus left of the county dog fund after provisions have been made for the payment of all stock, fowl, and game listed in section 8(a)(1) of this chapter that are killed, maimed, or damaged by dogs of all the townships of the county and the distribution to any designated humane society, the surplus ~~shall be:~~ **is:**

(1) paid to the auditor of state; and

(2) placed in a separate account of the general fund of the state treasury known as the state dog account.

SECTION 75. IC 15-5-9-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 11. On or before the first day of May of each year, the trustee of each township shall make a report in writing, to the county auditor, of the amount of all claims in ~~his~~ **the trustee's** township for livestock, fowls, or game which have been destroyed or damaged by dogs, and which claims have been filed before March 9, 1937, or which may be filed thereafter but have not been paid for lack of funds. On or before the second Monday in May of each year, the auditor of each county, **or in a county having a consolidated city, the controller of the consolidated city,** shall make a report, in writing, to the auditor of state, in such form as the auditor of state shall prescribe, of the amount of all such claims in ~~his~~ **the** county which have been filed and which have not been paid for lack of funds, and on or before the second Monday in July, the auditor of state shall issue ~~his~~ **the auditor's** warrant, payable to the auditor of each such county **or, in a county having a consolidated city, the controller of the consolidated city,** for the amount of the

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unpaid claims. The warrant ~~shall be~~ **is** drawn on the state dog account. Upon the receipt of the money, the auditor of the county **or, in a county having a consolidated city, the controller of the consolidated city,** shall distribute the funds to the respective townships of ~~his~~ **the** county entitled thereto **or, in the case of a county having a consolidated city, to the appropriate fund of the consolidated city**, and the trustee of the township **or controller of a consolidated city** shall pay all unpaid claims of ~~his~~ **the** township **or county** in the order in which the claims were filed. If in any year there is not sufficient money in the state dog account to pay all of the claims, the auditor of state shall make such distribution, as near as practicable, in proportion to the aggregate value of livestock, fowls, or game for the destruction of which or the damage to which claims have been filed in the respective counties, and the county auditor**, except in a county having a consolidated city,** shall distribute the money so received to the several townships in the same proportion. All money in excess of fifty thousand dollars ($50,000) remaining in the state dog account, after such annual distribution shall have been made as hereinbefore provided, ~~shall be~~ **is** distributed by the auditor of state in the manner following:

~~(a)~~ **(1)** One-half (1/2) of such excess or one hundred thousand dollars ($100,000) of such excess, whichever sum is the lesser, ~~shall be~~ **is** distributed to Purdue University for the School of Veterinary Science and Medicine to be used solely for canine disease research.

~~(b)~~ **(2)** The balance remaining of such excess, after the distribution to Purdue University is made as hereinbefore provided, ~~shall be~~ **is** distributed to the general fund of each county in direct proportion to the total amount of money paid into the dog account on the second Monday in May by the county prior to the distribution.

Of the funds returned to the respective counties the county may, with the approval of the county commissioners and the county council, construct dog pounds within said counties.

SECTION 76. IC 15-5-9-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 12. (a) At the time when the dog kennel license fee is paid to the ~~township~~ assessor, the assessor, at the time when the assessor issues a receipt, shall likewise furnish to the person a metal tag. The metal tag furnished shall be attached securely to the collar of the dog for which the license fee has been paid and the collar, with the tag attached, shall be worn continuously by the dog.

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(b) All license tags shall be of uniform design or color for any one (1) year, but the same color or shape shall not be used for any two (2) consecutive years. All tags shall be designed by the auditor of state, shall be paid for out of the state dog account, and shall be manufactured at the state prison in the same manner as motor vehicle registration plates. Each tag shall have a distinct number and the number of the tag shall appear on the receipt issued to the owner of the dog.

(c) If any dog tag is lost, it shall be replaced without cost by the assessor upon application by the owner of the dog and upon the production of the receipt and a sworn statement of the facts regarding the loss of the tag. No license tag is transferable to another dog.

SECTION 77. IC 23-14-33-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 7.5. "Cemetery fund" means the:**

(1) township fund for a township in a county not having a consolidated city; or

(2) cemetery fund of the consolidated city for a township in a county having a consolidated city.

SECTION 78. IC 23-14-33-32.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 32.5. "Township" means:**

(1) a township in a county not having a consolidated city; or

(2) the consolidated city for a township in a county having a consolidated city.

SECTION 79. IC 23-14-33-32.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 32.6. "Township trustee" or "trustee" means:**

(1) a township trustee for a township in a county not having a consolidated city; or

(2) the consolidated city for a township in a county having a consolidated city.

SECTION 80. IC 23-14-64-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 4. All expenses incurred by the trustee in administering this chapter shall be paid out of the ~~township~~ **cemetery** fund of the township.

SECTION 81. IC 23-14-68-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 4. (a) The township shall appropriate enough money to provide for the care, repair, and maintenance of each cemetery described in section 1(a) of

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this chapter that is located within the township. Funds shall be appropriated under this subsection in the same manner as other ~~township~~ appropriations.

(b) The township may levy a ~~township~~ cemetery tax to create a fund for maintenance of cemeteries under this chapter. If a fund has not been provided for maintenance of cemeteries under this chapter, part of the township fund **or other funds of the township** may be used.

SECTION 82. IC 23-14-69-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 5. (a) If:

(1) no land suitable for a public cemetery is donated to a township; and

(2) ~~if~~ the township legislative body adopts a resolution approving the purchase;

the township ~~executive~~ may purchase land for the purpose of establishing a public cemetery.

(b) When land is purchased and conveyed to the township under subsection (a), the land must be set apart, kept in repair, and used as provided in section 6 of this chapter.

SECTION 83. IC 23-14-69-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 9. All expenses incurred by the township trustee for administering this chapter shall be paid out of the ~~township~~ **cemetery** fund of the township.

SECTION 84. IC 27-10-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 12. (a) If a defendant does not appear as provided in the bond:

(1) the court shall:

(A) issue a warrant for the defendant's arrest; and

(B) order the bail agent and the surety to surrender the defendant to the court immediately;

(2) the clerk shall mail notice of the order to both:

(A) the bail agent; and

(B) the surety;

at each of the addresses indicated in the bonds; and

(3) if the defendant later is arrested or otherwise appears:

(A) the court shall order that the surety be released from the bond; and

(B) after the court issues an order under clause (A), the surety's original undertaking shall be reinstated if the surety files a written request for the reinstatement of the undertaking with the court.

This subsection may not be construed to prevent a court from revoking or resetting bail.

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(b) The bail agent or surety must:

(1) produce the defendant; or

(2) prove within three hundred sixty-five (365) days:

(A) that the appearance of the defendant was prevented:

(i) by the defendant's illness or death;

(ii) because the defendant was at the scheduled time of appearance or currently is in the custody of the United States, a state, or a political subdivision of the United States or a state; or

(iii) because the required notice was not given; and

(B) the defendant's absence was not with the consent or connivance of the sureties.

(c) If the bail agent or surety does not comply with the terms of subsection (b) within one hundred twenty (120) days after the mailing of the notice required under subsection (a)(2), a late surrender fee shall be assessed against the bail agent or surety as follows:

(1) If compliance occurs more than one hundred twenty (120) days but not more than one hundred eighty (180) days after the mailing of notice, the late surrender fee is twenty percent (20%) of the face value of the bond.

(2) If compliance occurs more than one hundred eighty (180) days but not more than two hundred ten (210) days after the mailing of notice, the late surrender fee is thirty percent (30%) of the face value of the bond.

(3) If compliance occurs more than two hundred ten (210) days but not more than two hundred forty (240) days after the mailing of notice, the late surrender fee is fifty percent (50%) of the face value of the bond.

(4) If compliance occurs more than two hundred forty (240) days but not more than three hundred sixty-five (365) days after the mailing of notice, the late surrender fee is eighty percent (80%) of the face value of the bond.

(5) If the bail agent or surety does not comply with the terms of subsection (b) within three hundred sixty-five (365) days of the mailing of notice required under subsection (a)(2), the late surrender fee is eighty percent (80%) of the face value of the bond.

All late surrender fees are due as of the date of compliance with subsection (b) or three hundred sixty-five (365) days after the mailing of notice required under subsection (a)(2), whichever is earlier, and shall be paid by the surety when due. If the surety fails to pay, then the late surrender fees shall be paid by the commissioner as provided in

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subsection (f).

(d) If the bail agent or surety does not comply with the terms of subsection (b) within three hundred sixty-five (365) days of the mailing of notice required by subsection (a)(2), the court shall declare forfeited an amount equal to twenty percent (20%) of the face value of the bond. The court shall immediately enter judgment on the forfeiture, without pleadings and without change of judge or change of venue, and assess against the bail agent or surety all actual costs resulting from the defendant's failure to appear. These costs include jury fees, witness fees, and any other documented costs incurred by the court.

(e) Proceedings relative to the bond, forfeiture of a bond, judgment on the forfeiture, execution of judgment, or stay of proceedings shall be in the court in which the bond was posted. Costs and late surrender fee assessed against a bail agent or surety under subsection (c) shall be satisfied without further order of the court as provided in subsection (f). The court may waive the late surrender fee or extend the period for payment beyond the statutorily permitted period, or both, if the following conditions are met:

(1) A written request is filed with the court and the prosecutor.

(2) The surety or bail agent provides evidence satisfactory to the court that diligent efforts were made to locate the defendant.

(f) In the case of an insurer, if the fees, costs, or judgment is not paid, then the clerk shall mail the notice to the commissioner. The commissioner shall:

(1) within ten (10) days of receipt of the notice forward a copy by certified mail to the insurer;

(2) forty-five (45) days after receipt of the notice from the clerk, if the commissioner has not been notified by the clerk that the fees or judgment or both have been paid, pay the late surrender fee assessment, costs, and any judgment of forfeiture ordered by the court from funds the insurer has on deposit with the department of insurance;

(3) upon paying the assessment, costs, and judgment, if any, from funds on deposit, immediately revoke the license of the insurer, if the satisfaction causes the deposit remaining to be less than the amount required by this article; and

(4) within ten (10) days after revoking a license, notify the insurer and the insurer's agents and the clerk of each county in Indiana of the revocation and the insurer shall be prohibited from conducting a bail bond business in Indiana until the deposit has been replenished.

(g) The notice mailed by the clerk to the commissioner pursuant to

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the terms of subsection (f) shall include:

(1) the date on which the defendant originally failed to appear as provided in the bond;

(2) the date of compliance with subsection (b), if compliance was achieved within three hundred sixty-five (365) days after the mailing of the notice required by subsection (a)(2);

(3) the amount of the bond;

(4) the dollar amount of the late surrender fee due;

(5) the amount of costs resulting from the defendant's failure to appear; and

(6) if applicable, the dollar amount of the judgment of forfeiture entered by the court.

(h) Any surety on a bond may appeal to the court of appeals as in other civil cases without moving for a new trial, and on the appeal the evidence, if any, shall be reviewed.

(i) Fifty percent (50%) of the late surrender fees collected under this chapter shall be deposited in the police pension trust fund ~~established~~ under IC 36-8-10-12 **or IC 36-8-10.1-37** and the remaining fifty percent (50%) shall be deposited in the county extradition fund established under IC 35-33-14.

SECTION 85. IC 31-37-19-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 5. (a) This section applies if a child is a delinquent child under IC 31-37-1.

(b) The juvenile court may, in addition to an order under section 6 of this chapter, enter at least one (1) of the following dispositional decrees:

(1) Order supervision of the child by:

(A) the probation department; or

(B) the county office of family and children.

As a condition of probation under this subdivision, the juvenile court shall after a determination under IC 5-2-12-4 require a child who is adjudicated a delinquent child for an act that would be an offense described in IC 5-2-12-4 if committed by an adult to register with the sheriff ~~(or the police chief of a consolidated city)~~ under IC 5-2-12.

(2) Order the child to receive outpatient treatment:

(A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or

(B) from an individual practitioner.

(3) Order the child to surrender the child's driver's license to the court for a specified period of time.

(4) Order the child to pay restitution if the victim provides

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reasonable evidence of the victim's loss, which the child may challenge at the dispositional hearing.

(5) Partially or completely emancipate the child under section 27 of this chapter.

(6) Order the child to attend an alcohol and drug services program established under IC 12-23-14.

(7) Order the child to perform community restitution or service for a specified period of time.

(8) Order wardship of the child as provided in section 9 of this chapter.

SECTION 86. IC 32-21-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 13. (a) If the auditor of the county or the ~~township~~ assessor **for a township** under IC 6-1.1-5-9 and IC 6-1.1-5-9.1 determines it necessary, an instrument transferring fee simple title to less than the whole of a tract that will result in the division of the tract into at least two (2) parcels for property tax purposes may not be recorded unless the auditor or township assessor is furnished a drawing or other reliable evidence of the following:

(1) The number of acres in each new tax parcel being created.

(2) The existence or absence of improvements on each new tax parcel being created.

(3) The location within the original tract of each new tax parcel being created.

(b) Any instrument that is accepted for recording and placed of record that bears the endorsement required by IC 36-2-11-14 is presumed to comply with this section.

SECTION 87. IC 32-26-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2. (a) The trustee of each township, the county highway superintendent, the Indiana department of transportation, or other officer in control of the maintenance of a highway shall between January 1 and April 1 of each year, examine all hedges, live fences, natural growths along highways, and other obstructions described in section 1 of this chapter in their respective jurisdictions. **However, in a county having a consolidated city, the duties and obligations of a township trustee under this chapter are the responsibility of the consolidated city.** If there are hedges, live fences, other growths, or obstructions along the highways that have not been cut, trimmed down, and maintained in accordance with this chapter, the owner shall be given written notice to cut or trim the hedge or live fence and to burn the brush trimmed from the hedge or live fence and remove any other obstructions or growths.

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(b) The notice required under subsection (a) must be served by reading the notice to the owner or by leaving a copy of the notice at the owner's usual place of residence.

(c) If the owner is not a resident of the township, county, or state where the hedge, live fence, or other obstructions or growth is located, the notice shall be served upon the owner's agent or tenant residing in the township, **county, or state.** If an agent or a tenant of the owner does not reside in the township, the notice shall be served by mailing a copy of the notice to the owner, directed to the owner's last known post office address.

(d) If the owner, agents, or tenants do not proceed to cut and trim the fences and burn the brush trimmed from the fences or remove any obstructions or growths within ten (10) days after notice is served, the township trustee, **consolidated city,** county highway superintendent, or Indiana department of transportation shall immediately:

(1) cause the fences to be cut and trimmed or obstructions or growths removed in accordance with this chapter; and

(2) burn the brush trimmed from the fences.

All expenses incurred under this subsection shall be assessed against and become a lien upon the land in the same manner as road taxes.

(e) The township trustee, **consolidated city,** county highway superintendent, or Indiana department of transportation having charge of the work performed under subsection (d) shall prepare an itemized statement of the total cost of the work of removing the obstructions or growths and shall sign and certify the statement to the county auditor of the county in which the land is located. The county auditor shall place the statement on the tax duplicates. The county treasurer shall collect the costs entered on the duplicates at the same time and in the same manner as road taxes are collected. The treasurer may not issue a receipt for road taxes unless the costs entered on the duplicates are paid in full at the same time the road taxes are paid. If the costs are not paid when due, the costs shall become delinquent, bear the same interest, be subject to the same penalties, and be collected at the same time and in the same manner as other unpaid and delinquent taxes.

SECTION 88. IC 32-26-9-0.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 0.6. As used in this chapter, "township" means:**

(1) a township in a county not having a consolidated city; or

(2) the consolidated city for a township located in a county having a consolidated city.

SECTION 89. IC 32-26-9-0.7 IS ADDED TO THE INDIANA

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CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 0.7. As used in this chapter, "township trustee" or "trustee" means:**

(1) a township trustee for a township in a county not having a consolidated city; or

(2) the consolidated city for a township in a county having a consolidated city.

SECTION 90. IC 32-26-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 3. (a) A partition fence shall be built, rebuilt, and kept in repair at the cost of the property owners whose properties are enclosed or separated by the fences proportionately according to the number of rods or proportion of the fence the property owner owns along the line of the fence, whether the property owner's title is a fee simple or a life estate.

(b) If a property owner fails or refuses to compensate for building, rebuilding, or repairing the property owner's portion of a partition fence, another property owner who is interested in the fence, after having built, rebuilt, or repaired the property owner's portion of the fence, shall give to the defaulting property owner or the defaulting property owner's agent or tenant twenty (20) days notice to build, rebuild, or repair the defaulting property owner's portion of the fence. If the defaulting property owner or the defaulting property owner's agent or tenant fails to build, rebuild, or repair the fence within twenty (20) days, the complaining property owner shall notify the township trustee of the township in which the properties are located of the default.

(c) This subsection applies if the fence sought to be established, rebuilt, or repaired is on a township line. Unless disqualified under subsection (h), the complaining property owner shall notify the trustee of the township in which the property of the complaining property owner is located of the default under subsection (b), and the trustee has jurisdiction in the matter.

(d) The township trustee who receives a complaint under this section shall:

(1) estimate the costs for building, rebuilding, or repairing the partition fence; and

(2) within a reasonable time after receiving the complaint, make out a statement and notify the defaulting property owner of the probable cost of building, rebuilding, or repairing the fence.

If twenty (20) days after receiving a notice under this subsection the defaulting property owner has not built, rebuilt, or repaired the fence, the trustee shall build or repair the fence. The trustee may use only the

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materials for the fences that are most commonly used by the farmers of the community.

(e) If the trustee ~~of a township~~ is disqualified to act under subsection (h), the trustee of an adjoining township who resides nearest to where the fence is located shall act on the complaint upon receiving a notice by a property owner who is interested in the fence.

(f) A lawful partition fence is any one (1) of the following that is sufficiently tight and strong to hold cattle, hogs, horses, mules, and sheep:

(1) A straight board and wire fence, a straight wire fence, a straight board fence, or a picket fence four (4) feet high.

(2) A straight rail fence four and one-half (4 1/2) feet high.

(3) A worm rail fence five (5) feet high.

(g) This subsection applies if a ditch or creek crosses the division line between two (2) property owners, causing additional expense in the maintenance of the part over the stream. If the property owners cannot agree upon the proportionate share of each property owner, the township trustee shall appoint three (3) disinterested citizens who shall apportion the partition fence to be built by each property owner.

(h) If a township trustee is:

(1) related to any of the interested property owners; or

(2) an interested property owner;

the ~~trustee of any other township who resides nearest to where the fence is located shall~~ **township shall appoint another official to** act under this chapter.

(i) This subsection applies if a ditch or creek forms, covers, or marks the dividing line or a part of the dividing line between the properties of separate and different property owners so that partition fences required under this chapter cannot be built and maintained on the dividing line. The partition fences shall be built and maintained under this chapter as near to the boundary line as is practical, and each property owner shall build a separate partition fence on the property owner's property and maintain the fence at the property owner's cost.

(j) This subsection applies where a partition fence required under this chapter crosses a ditch or creek and it is impracticable to construct or maintain that portion of the fence that crosses the ditch or creek as a stationary fence. Instead of the portion of the fence that would cross the ditch or creek, there shall be constructed, as a part of the partition fence, floodgates or other similar structures that are sufficiently high, tight, and strong to turn hogs, sheep, cattle, mules, and horses or other domestic animals. The floodgates or other similar structures shall be constructed to swing up in times of high water and to connect

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continuously with the partition fences.

(k) This subsection applies if the building and maintenance of the floodgates or other similar structure required under subsection (j) causes additional expenses and the property owners cannot agree upon the character of floodgates or other similar structure, or upon the proportionate share of the cost to be borne by each property owner. The township trustee, upon notice in writing from either property owner of a disagreement and the nature of the disagreement, shall appoint three (3) disinterested citizens of the township who shall determine the kind of structure and apportion the cost of the floodgate or other structure between the property owners, taking into consideration the parts of the fence being maintained by each property owner.

(l) The determination of a majority of the arbitrators of any matter or matters submitted to them under this section is final and binding on each property owner. The compensation of the arbitrators is two dollars ($2) each, which shall be paid by the property owners in the proportion each property owner is ordered to bear the expense of a gate or structure.

(m) This subsection applies if either or both of the property owners fail to construct or compensate for constructing the structure determined upon by the arbitrators in the proportion determined within thirty (30) days after the determination. The township trustee shall proceed at once to construct the gate or structure and collect the cost of the gate or structure, including the compensation of the arbitrators, from the defaulting property owner in the same manner as is provided for ordinary partition fences. The floodgate or other structure shall be repaired, rebuilt, or replaced according to the determination of the arbitrators.

SECTION 91. IC 32-28-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) A contractor, a subcontractor, a mechanic, a lessor leasing construction and other equipment and tools, whether or not an operator is also provided by the lessor, a journeyman, a laborer, or any other person performing labor or furnishing materials or machinery, including the leasing of equipment or tools, for:

(1) the erection, alteration, repair, or removal of:

(A) a house, mill, manufactory, or other building; or

(B) a bridge, reservoir, system of waterworks, or other structure;

(2) the construction, alteration, repair, or removal of a walk or sidewalk located on the land or bordering the land, a stile, a well, a drain, a drainage ditch, a sewer, or a cistern; or

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(3) any other earth moving operation;

may have a lien as set forth in this section.

(b) A person described in subsection (a) may have a lien separately or jointly upon the:

(1) house, mill, manufactory, or other building, bridge, reservoir, system of waterworks, or other structure, sidewalk, walk, stile, well, drain, drainage ditch, sewer, cistern, or earth:

(A) that the person erected, altered, repaired, moved, or removed; or

(B) for which the person furnished materials or machinery of any description; and

(2) on the interest of the owner of the lot or parcel of land:

(A) on which the structure or improvement stands; or

(B) with which the structure or improvement is connected;

to the extent of the value of any labor done or the material furnished, or both, including any use of the leased equipment and tools.

(c) All claims for wages of mechanics and laborers employed in or about a shop, mill, wareroom, storeroom, manufactory or structure, bridge, reservoir, system of waterworks or other structure, sidewalk, walk, stile, well, drain, drainage ditch, cistern, or any other earth moving operation ~~shall be~~ **are** a lien on all the:

(1) machinery;

(2) tools;

(3) stock;

(4) material; or

(5) finished or unfinished work;

located in or about the shop, mill, wareroom, storeroom, manufactory or other building, bridge, reservoir, system of waterworks, or other structure, sidewalk, walk, stile, well, drain, drainage ditch, sewer, cistern, or earth used in a business.

(d) If the person, firm, limited liability company, or corporation described in subsection (a) is in failing circumstances, the claims described in this section ~~shall be~~ **are** preferred debts whether a claim or notice of lien has been filed.

(e) Subject to subsection (f), a contract:

(1) for the construction, alteration, or repair of a Class 2 structure (as defined in IC 22-12-1-5);

(2) for the construction, alteration, or repair of an improvement on the same real estate auxiliary to a Class 2 structure (as defined in IC 22-12-1-5);

(3) for the construction, alteration, or repair of property that is:

(A) owned, operated, managed, or controlled by a:

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(i) public utility (as defined in IC 8-1-2-1);
(ii) municipally owned utility (as defined in IC 8-1-2-1);
(iii) joint agency (as defined in IC 8-1-2.2-2);
(iv) rural electric membership corporation formed under IC 8-1-13-4;
(v) rural telephone cooperative corporation formed under IC 8-1-17; or
(vi) not-for-profit utility (as defined in IC 8-1-2-125);
regulated under IC 8; and
(B) intended to be used and useful for the production, transmission, delivery, or furnishing of heat, light, water, telecommunications services, or power to the public; or
(4) to prepare property for Class 2 residential construction;
may include a provision or stipulation in the contract of the owner and principal contractor that a lien may not attach to the real estate, building, structure, or any other improvement of the owner.

(f) A contract containing a provision or stipulation described in subsection (e) must meet the requirements of this subsection to be valid against subcontractors, mechanics, journeymen, laborers, or persons performing labor upon or furnishing materials or machinery for the property or improvement of the owner. The contract must:
(1) be in writing;
(2) contain specific reference by legal description of the real estate to be improved;
(3) be acknowledged as provided in the case of deeds; and
(4) be filed and recorded in the recorder's office of the county in which the real estate, building, structure, or other improvement is situated not more than five (5) days after the date of execution of the contract.
A contract containing a provision or stipulation described in subsection (e) does not affect a lien for labor, material, or machinery supplied before the filing of the contract with the recorder.

(g) Upon the filing of a contract under subsection (f), the recorder shall:
(1) record the contract at length in the order of the time it was received in books provided by the recorder for that purpose;
(2) index the contract in the name of the:
(A) contractor; and
(B) owner;
in books kept for that purpose; and
(3) collect a fee for recording the contract as is provided for the recording of deeds and mortgages.

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(h) A person, firm, partnership, limited liability company, or corporation that sells or furnishes on credit any material, labor, or machinery for the alteration or repair of an owner occupied single or double family dwelling or the appurtenances or additions to the dwelling to:

(1) a contractor, subcontractor, mechanic; or

(2) anyone other than the occupying owner or the owner's legal representative;

must furnish to the occupying owner of the parcel of land where the material, labor, or machinery is delivered a written notice of the delivery or work and of the existence of lien rights not later than thirty (30) days after the date of first delivery or labor performed. The furnishing of the notice is a condition precedent to the right of acquiring a lien upon the lot or parcel of land or the improvement on the lot or parcel of land.

(i) A person, firm, partnership, limited liability company, or corporation that sells or furnishes on credit material, labor, or machinery for the original construction of a single or double family dwelling for the intended occupancy of the owner upon whose real estate the construction takes place to a contractor, subcontractor, mechanic, or anyone other than the owner or the owner's legal representatives must:

(1) furnish the owner of the real estate:

(A) as named in the latest entry in the transfer books described in IC 6-1.1-5-4 of the county auditor; or

(B) if IC 6-1.1-5-9 applies, as named in the transfer books of the ~~township~~ assessor **for the township;**

with a written notice of the delivery or labor and the existence of lien rights not later than sixty (60) days after the date of the first delivery or labor performed; and

(2) file a copy of the written notice in the recorder's office of the county not later than sixty (60) days after the date of the first delivery or labor performed.

The furnishing and filing of the notice is a condition precedent to the right of acquiring a lien upon the real estate or upon the improvement constructed on the real estate.

(j) A lien for material or labor in original construction does not attach to real estate purchased by an innocent purchaser for value without notice of a single or double family dwelling for occupancy by the purchaser unless notice of intention to hold the lien is recorded under section 3 of this chapter before recording the deed by which the purchaser takes title.

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SECTION 92. IC 32-28-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. (a) Except as provided in subsection (b), a person who wishes to acquire a lien upon property, whether the claim is due or not, must file in duplicate a sworn statement and notice of the person's intention to hold a lien upon the property for the amount of the claim:

(1) in the recorder's office of the county; and

(2) not later than ninety (90) days after performing labor or furnishing materials or machinery described in section 1 of this chapter.

The statement and notice of intention to hold a lien may be verified and filed on behalf of a client by an attorney registered with the clerk of the supreme court as an attorney in good standing under the requirements of the supreme court.

(b) This subsection applies to a person that performs labor or furnishes materials or machinery described in section 1 of this chapter related to a Class 2 structure (as defined in IC 22-12-1-5) or an improvement on the same real estate auxiliary to a Class 2 structure (as defined in IC 22-12-1-5). A person who wishes to acquire a lien upon property, whether the claim is due or not, must file in duplicate a sworn statement and notice of the person's intention to hold a lien upon the property for the amount of the claim:

(1) in the recorder's office of the county; and

(2) not later than sixty (60) days after performing labor or furnishing materials or machinery described in section 1 of this chapter.

The statement and notice of intention to hold a lien may be verified and filed on behalf of a client by an attorney registered with the clerk of the supreme court as an attorney in good standing under the requirements of the supreme court.

(c) A statement and notice of intention to hold a lien filed under this section must specifically set forth:

(1) the amount claimed;

(2) the name and address of the claimant;

(3) the owner's:

(A) name; and

(B) latest address as shown on the property tax records of the county; and

(4) the:

(A) legal description; and

(B) street and number, if any;

of the lot or land on which the house, mill, manufactory or other

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buildings, bridge, reservoir, system of waterworks, or other structure may stand or be connected with or to which it may be removed.

The name of the owner and legal description of the lot or land will be sufficient if they are substantially as set forth in the latest entry in the transfer books described in IC 6-1.1-5-4 of the county auditor or, if IC 6-1.1-5-9 applies, the transfer books of the ~~township~~ assessor **for the township** at the time of filing of the notice of intention to hold a lien.

(d) The recorder shall:

(1) mail, first class, one (1) of the duplicates of the statement and notice of intention to hold a lien to the owner named in the statement and notice not later than three (3) business days after recordation;

(2) post records as to the date of the mailing; and

(3) collect a fee of two dollars ($2) from the lien claimant for each statement and notice that is mailed.

The statement and notice shall be addressed to the latest address of the owner as specifically set out in the sworn statement and notice of the person intending to hold a lien upon the property.

SECTION 93. IC 32-31-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) The following courts have original and concurrent jurisdiction in cases arising under this chapter:

(1) A circuit court.

(2) A superior court.

(3) A county court.

(4) A municipal court.

~~(5) A small claims court.~~

(b) A case arising under this chapter may be filed on the small claims docket of a court that has jurisdiction.

SECTION 94. IC 33-23-11-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 7. (a) As used in this chapter, "judge" means a judge of the court of appeals, the tax court, ~~or~~ a circuit, superior, county, ~~small claims,~~ or probate court, **or a small claims judge (as defined in IC 33-33-49-5.2).**

(b) The term includes a judge pro tempore, commissioner, or hearing officer if the judge pro tempore, commissioner, or hearing officer sits more than twenty (20) days other than Saturdays, Sundays, or holidays in one (1) calendar year as a judge, commissioner, or hearing officer in any court.

SECTION 95. IC 33-23-12-2 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2. (a) As used in this chapter, "court employee" means a person employed by any of the following:

(1) The supreme court.
(2) The court of appeals.
(3) The tax court.
(4) A circuit court.
(5) A superior court.
(6) A juvenile court.
(7) A probate court.
(8) A county court.
(9) A municipal court.
(10) A city or town court.
~~(11) A small claims court.~~

(b) The term does not include a judge **or small claims judge (as defined in IC 33-33-49-5.2)** of any of the courts listed in subsection (a)(1) through ~~(a)(11).~~ **(a)(10).**

SECTION 96. IC 33-24-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2. The sheriff of the supreme court, ~~or~~ a county police officer, **or an officer of a metropolitan law enforcement agency** shall:

(1) attend the court in term time;
(2) execute the orders of the court;
(3) preserve order within the court; and
(4) execute all process issued out of the court.

SECTION 97. IC 33-30-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. A county court is established in each county, except in a county for which:

(1) IC 33-33 provides a small claims docket of the circuit court; **or**
(2) IC 33-33 provides a small claims docket of the superior court. ~~or~~
~~(3) IC 33-34 provides a small claims court.~~

SECTION 98. IC 33-33-49-5.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 5.1. (a) As used in this chapter, "judge" means a person elected under section 13 of this chapter.**

(b) The term does not include a small claims judge.

SECTION 99. IC 33-33-49-5.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 5.2. As used in this chapter,**

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"small claims judge" means a person elected under:

(1) section 13.1 of this chapter; or

(2) IC 33-34-2-1 (before its repeal).

SECTION 100. IC 33-33-49-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 6. (a) There is established a superior court in Marion County. The court consists of **the following:**

(1) Thirty-two (32) judges.

(2) Nine (9) small claims judges.

(b) To be qualified to serve as a judge of the court, a person must be, at the time a declaration of candidacy or a petition of nomination under IC 3-8-6 is filed:

(1) a resident of Marion County; and

(2) an attorney who has been admitted to the bar of Indiana for at least five (5) years.

(c) To be qualified to serve as a small claims judge, a person must meet the qualifications described in IC 3-8-1-30.

~~(c)~~ **(d)** During the term of office:

(1) a judge of the court must remain a resident of Marion County; **and**

(2) a small claims judge must remain a resident of:

(A) Marion County; and

(B) the township from which the small claims judge was elected.

SECTION 101. IC 33-33-49-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 9. **(a) Except as provided in subsection (b),** the court has the following jurisdiction:

(1) Concurrent and coextensive jurisdiction with the Marion circuit court in all cases and upon all subject matters, including civil, criminal, juvenile, probate, and statutory cases and matters, whether original or appellate.

(2) Original and exclusive jurisdiction in all matters pertaining to the following:

(A) The probate and settlement of decedents' estates, trusts, and guardianships.

(B) The probate of wills.

(C) Proceedings to resist the probate of wills.

(D) Proceedings to contest wills.

(E) The appointment of guardians, assignees, executors, administrators, and trustees.

(F) The administration and settlement of:

(i) estates of protected persons (as defined in IC 29-3-1-13)

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and deceased persons;

(ii) trusts, assignments, adoptions, and surviving partnerships; and

(iii) all other probate matters.

(3) Original jurisdiction of all violations of Indiana law. Whenever jurisdiction is by law conferred on a small claims court, the court has the appellate jurisdiction provided by law.

(4) Original and exclusive juvenile jurisdiction.

(b) The small claims division of the court established in section 14(c)(5) of this chapter has the following jurisdiction:

(1) The small claims division of the court has original and concurrent jurisdiction with the court and the Marion circuit court in all civil cases founded on contract or tort in which the debt or damage claimed does not exceed six thousand dollars ($6,000), not including interest or attorney's fees.

(2) The small claims division of the court has original and concurrent jurisdiction with the court and the Marion circuit court in possessory actions between landlord and tenant in which the past due rent at the time of filing does not exceed six thousand dollars ($6,000), not including interest or attorney's fees.

(3) The small claims division of the court has original and concurrent jurisdiction with the court and the Marion circuit court in actions for the possession of property where the value of the property sought to be recovered does not exceed six thousand dollars ($6,000), not including interest and attorney's fees.

(4) The small claims division of the court has original and concurrent jurisdiction with the court and the Marion circuit court in emergency possessory actions between a landlord and tenant under IC 32-31-6.

(5) The small claims division of the court does not have jurisdiction in the following:

(A) Actions seeking injunctive relief or involving partition of real estate.

(B) Actions to declare or enforce a lien, except as provided in section 20.5 of this chapter.

(C) Actions in which the appointment of a receiver is asked.

(D) Suits for dissolution or annulment of marriage.

SECTION 102. IC 33-33-49-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 10. **(a) Except as**

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provided in subsection (b), the court is a court of record. The court's judgments, decrees, orders, and proceedings have the same effect and shall be enforced in the same manner as those of the circuit court.

(b) The small claims division of the court is not a court of record.

SECTION 103. IC 33-33-49-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 11. (a) The court may adopt rules for conducting the business of the court. Except as provided in subsection (b), in all matters action of the court may only be taken by a vote of a majority of the judges sitting at the time the vote is taken.

(b) Action of the court to remove the presiding judge or either associate presiding judge may only be taken by a vote of two-thirds (2/3) of the judges sitting at the time the vote is taken.

(c) The court has all the powers incident to a court of record in relation to the attendance of witnesses, punishment of contempts, and enforcement of the court's orders. The judges **and small claims judges** may administer oaths, solemnize marriages, take and certify acknowledgments of deeds and all legal instruments, and ~~to~~ give all necessary certificates for the authentication of the records and proceedings in the court.

SECTION 104. IC 33-33-49-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 12. **A judge of** the court may do the following:

(1) Grant restraining orders and injunctions.
(2) Issue writs of habeas corpus.
(3) Appoint receivers, masters, and commissioners to:
  (A) convey real property;
  (B) grant commissions for the examination of witnesses; and
  (C) appoint other officers necessary to transact the business of the court.

SECTION 105. IC 33-33-49-13.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 13.1. (a) A small claims judge shall be elected for a term of four (4) years that begins January 1 after the year of the small claims judge's election and continues through December 31 in the fourth year. The small claims judge shall hold office for the four (4) year term or until the small claims judge's successor is elected and qualified.**

(b) A small claims judge shall be elected at the general election every four (4) years by the registered voters residing within the township in which the small claims division of the court is located.

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SECTION 106. IC 33-33-49-13.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 13.2. (a) A small claims judge serving part time may participate in other gainful employment if the employment does not:**

(1) interfere with the exercise of the small claims judge's judicial office; or

(2) involve any conflict of interest in the performance of the small claims judge's judicial duties.

(b) A small claims judge serving full time may practice law if the practice does not conflict in any way with the small claims judge's official duties and does not:

(1) cause the small claims judge to be unduly absent from the court; or

(2) interfere with the ready and prompt disposal of the small claims judge's judicial duties.

(c) A small claims judge and the employees of the small claims division of the court may be eligible to participate in the public employees' retirement fund as provided in IC 5-10.3, but a small claims judge is not eligible to participate as a member in the judges' retirement fund under IC 33-38.

(d) A vacation of one (1) month per year shall be provided for a full-time small claims judge. The executive committee may authorize the appointment of a small claims judge pro tempore to handle the judicial business of the vacationing small claims judge if the executive committee considers it necessary.

SECTION 107. IC 33-33-49-13.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 13.3. A small claims judge shall:**

(1) furnish a bond in a sum required by the circuit court judge to provide for the:

(A) faithful discharge of the duties of the office; and

(B) payment or delivery to the proper persons of whatever money or other property may come into the small claims judge's hands when acting as small claims judge; and

(2) file the bond with the county recorder.

The bond must also extend to cover a person that is appointed to act as a small claims judge under IC 33-33-49-13.4.

SECTION 108. IC 33-33-49-13.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 13.4. (a) If a small claims**

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judge is unable to preside over the small claims judge's division of the small claims court during any number of days, the small claims judge may appoint in writing a person qualified to be a small claims judge under section 6(c) of this chapter to preside in place of the small claims judge.

(b) The written appointment shall be entered on the order book or record of the superior court. The appointee shall, after taking the oath prescribed for the small claims judges, conduct the business of the division subject to the same rules and regulations as small claims judges and has the same authority during the continuance of the appointee's appointment.

(c) The appointee is entitled to the same compensation from the county auditor as accruable to the small claims judge in whose place the appointee is serving.

SECTION 109. IC 33-33-49-13.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 13.5. (a) A small claims judge absent from the bench for more than thirty (30) days shall deposit the dockets, books, and papers of the office with:**

(1) the small claims judge of another township division; or

(2) the executive committee of the court;

as directed by the presiding judge.

(b) A:

(1) small claims judge with whom the docket of another small claims judge is deposited during a vacancy or an absence; and

(2) successor of any small claims judge who has the dockets of the successor's predecessor in the successor's possession;

may perform all duties that the small claims judge might do legally in relation to the small claims judge's own dockets.

(c) Process shall be returned to the small claims judge or judge who has the legal custody of the docket at the day of return.

SECTION 110. IC 33-33-49-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 14. (a) Not more than thirty (30) days after taking the oath of office, the judges shall meet and designate three (3) of the judges as the executive committee for administrative purposes. The executive committee shall be selected by a vote of two-thirds (2/3) of the judges sitting at the time the vote is taken. If all vacancies cannot be filled by a two-thirds (2/3) vote, vacancies may be filled by such other method as provided by court rule. The executive committee is responsible for the operation and conduct of the court. A member of the executive committee shall serve in the capacity provided by rules adopted by the court under section 11 of this

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chapter. A member of the executive committee serves for a term of two (2) years beginning on the date of the member's election. Any or all of the members elected to the executive committee may be reelected. Of the three (3) judges elected to the executive committee, not more than two (2) may be members of the same political party.

(b) One (1) of the three (3) judges elected to the executive committee shall be elected as presiding judge and two (2) of the three (3) judges elected to the executive committee shall be elected as associate presiding judges. Each judge who is a member of the executive committee has an equal vote in all matters pertaining to the business of the court when an action requires a majority vote. Any action taken by the executive committee may be overruled by a vote of two-thirds (2/3) of all the judges sitting at the time the vote is taken. The physical reassignment of a judge to a different courtroom requires a unanimous vote of the executive committee. The executive committee shall assign cases, offices, and courtrooms for trial judges or reassignment of newly filed cases in the interests of the speedy, economical, and uniform disposition of cases. All matters of trial dates, continuances, and subpoenas used for trial shall be determined by the trial judge in accordance with rules of the superior court. The executive committee shall perform other duties as determined by rules of the court.

(c) The court shall, by rules of the court, divide the work of the court into various divisions, including but not limited to the following:

(1) Civil.
(2) Criminal.
(3) Probate.
(4) Juvenile.
(5) Small claims.

(d) The work of each division shall be allocated by the rules of the court, **except to the extent that the work of the small claims division is otherwise provided by law. The judges shall extend aid and assistance to the small claims judges in the conduct of the small claims division of the court.**

(e) The judges shall be assigned to various divisions or rooms as provided by rules of the court. Whenever possible, an incumbent judge shall be allowed the option of remaining in a particular room or division. Whenever any action of the court is required, the judges of the court shall act in concert, by a vote under section 11 of this chapter. The court shall keep appropriate records of rules, orders, and assignments of the court.

(f) The executive committee of the court, assisted by the small

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claims judges, shall make and adopt uniform rules for conducting the business of the small claims division of the court:

(1) according to a simplified procedure; and

(2) in the spirit of sections 20.1 and 20.3 of this chapter.

(g) The executive committee of the court, assisted by the small claims judges, may establish a regular hourly schedule for the performance of duties by full-time and part-time small claims judges. A small claims judge shall maintain the schedule. If the executive committee of the court does not establish a regular hourly schedule, the small claims judge shall perform the small claims judge's duties at regular, reasonable hours. Regardless of whether a regular hourly schedule has been established under this subsection, a small claims judge shall hold sessions in addition to the small claims judge's regular schedule when the business of the small claims judge's court requires.

SECTION 111. IC 33-33-49-14.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 14.1. The small claims division of the court is composed of township divisions. The name of each township division shall be the "_____ Township of Marion County Small Claims Division".**

SECTION 112. IC 33-33-49-14.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 14.2. (a) The voters of each township having a small claims division of the court shall elect a small claims constable at the general election every four (4) years for a term of office of four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified. The ballot must state the:**

(1) name of the candidate; and

(2) division of the court for which the candidate is to serve.

(b) Each township small claims division of the court shall have a constable who:

(1) acts as the bailiff;

(2) serves the division's personal service of process;

(3) has police powers to:

(A) make arrests;

(B) keep the peace; and

(C) carry out the orders of the court;

(4) meets the qualifications prescribed by IC 3-8-1-31;

(5) is compensated for each process that is delivered to effect personal service when serving as the bailiff;

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(6) is responsible for:

(A) the preparation and mailing of all registered or certified service and is compensated for each process served by mail; and

(B) all the official acts of the deputies;

(7) is compensated solely from the service of process fees collected under IC 33-37-4-6.5; and

(8) may require a deputy to give a bond for the proper discharge of the deputy's duties for an amount fixed by the constable.

(c) The elected constable may appoint full-time and part-time deputies for assistance in the performance of official duties who:

(1) perform all the official duties required to be performed by the constable;

(2) possess the same statutory and common law powers and authority as the constable;

(3) must take the same oath required of the constable;

(4) are compensated solely from the service of process fees collected under IC 33-37-4-6.5; and

(5) serve at the pleasure of the constable and may be dismissed at any time with or without cause.

(d) If there is an:

(1) emergency; or

(2) inability of a constable to carry out the constable's duties; the small claims judge may appoint a special constable to carry out the duties of the constable during the emergency or inability.

SECTION 113. IC 33-33-49-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 15. (a) The executive committee, with the approval of two-thirds (2/3) of the judges, shall determine the number of hearing judges, commissioners, referees, bail commissioners, court reporters, probation officers, and other personnel required to efficiently serve the court. The salaries of the personnel shall be fixed and paid as provided by law.

(b) The administrative officers shall perform the duties prescribed by the executive committee and shall operate under the jurisdiction of the executive committee and serve at the pleasure of the executive committee.

(c) The executive committee shall see that the court at all times is amply provided with supplies and sufficient clerical and other help, including extra reporters or bailiffs, when needed. Each judge shall appoint the judge's court reporters, bailiffs, secretary, commissioners, and clerks. **Personnel of the small claims division of the court shall**

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be appointed under rules of the court. In addition to the specified duties of this subsection, the executive committee shall exercise any other powers and duties that may be assigned to the executive committee by an order book entry signed by a two-thirds (2/3) majority of the judges. At least once each month, a general term conference of all superior division judges must be held, at which the presiding judge shall preside. A special order book must be kept for the court in which shall be entered all special rules, proceedings, and similar matters. During an absence or a vacation of a judge who is a member of the executive committee, the senior superior court judge shall act for the absent member, if necessary.

SECTION 114. IC 33-33-49-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 17. (a) **Except as provided in subsection (b),** the court shall hold sessions in:

(1) the city-county building in Indianapolis; and

(2) other places in Marion County as the court determines.

(b) The city-county council shall:

(1) provide and maintain in the building and at other places in Marion County as the court may determine suitable and convenient courtrooms for the holding of the court, suitable and convenient jury rooms, and offices for the judges, other court officers and personnel, and other facilities as are necessary; ~~and~~

(2) provide all necessary furniture and equipment for rooms and offices of the court;

(3) determine whether each of the township divisions of the small claims division of the court shall be a full-time or part-time division;

(4) determine where each of the township divisions of the small claims division of the court shall hold sessions; and

(5) in making the determination required by subdivision (4), consider any recommendations of the transitional advisory board established in IC 36-6-1.1.

SECTION 115. IC 33-33-49-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 19. The court shall maintain a single order book for each division or room of the court that may be signed on behalf of the court by the judge **or small claims judge** of that division or room of the court. The signature of the judge **or small claims judge** authenticates the actions of the court.

SECTION 116. IC 33-33-49-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 20. **Except as otherwise provided in this chapter concerning the small claims division of the court,** all laws of Indiana and rules adopted by the

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supreme court governing the circuit court in matters of pleadings, practice, the issuing and service of process, the giving of notice, the appointing of judges pro tempore and special judges, changes of venue from the judge and from the county, adjournments by the court and by the clerk in the absence of the judge, and the selection of jurors for the court apply to and govern the court.

SECTION 117. IC 33-33-49-20.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 20.1. A simplified procedure applies to and governs the small claims division of the court. The simplified procedure shall be established by rule to enable any person, including the state, to:**

(1) file the necessary papers; and

(2) present the person's case in court;

either to seek or to defend against a small claim without consulting or being represented by an attorney.

SECTION 118. IC 33-33-49-20.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 20.2. (a) Upon the filing of a complaint in the small claims division of the court, service of original process shall be attempted by personal service of the summons and complaint on the defendant, which may include leaving a copy of the service at the last known place of residence of the party if the process server properly describes on the return the residence, noting any of its unique features, and mailing by first class a copy of the service without charge to the party at the same last known place of residence.**

(b) If service cannot be made in this manner, service of process shall be made in an alternate manner as provided by the Indiana Rules of Civil Procedure.

(c) Subsequent service of process, other than that originally served upon filing of the complaint, may be made by registered or certified mail or another manner authorized by the Indiana Rules of Civil Procedure.

SECTION 119. IC 33-33-49-20.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 20.3. (a) A trial in the small claims division of the court:**

(1) must be informal, with the sole objective of dispensing speedy justice between the parties according to the rules of substantive law; and

(2) may not be bound by the statutory provisions or rules of

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practice, procedure, pleadings, or evidence, except the provisions relating to privileged communications and offers of compromise.

(b) There may not be a trial by jury in the small claims division of the court.

(c) A filing of a civil claim in the small claims division of the court constitutes a waiver of trial by jury by the plaintiff.

(d) A defendant in a small claims case waives the right to trial by jury unless the defendant requests a jury trial at least three (3) calendar days before the trial date that appears on the complaint. Upon the filing of a jury trial request, the small claims division of the court shall transfer the claim out of the small claims division to the general jurisdiction of the court. The defendant shall pay all costs necessary for filing the claim in the general jurisdiction of the court as if the cause had been filed initially in the general jurisdiction of the court.

(e) A notice of claim filed in the small claims division of the court must include a statement that reflects the provisions of subsection (d).

SECTION 120. IC 33-33-49-20.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 20.4. (a) Except for a claim between landlord and tenant, a case within the jurisdiction of a township small claims division may be:**

(1) venued;

(2) commenced; and

(3) decided;

in any township small claims division within the county. However, upon a motion for change of venue filed by the defendant within ten (10) days of service of the summons, the township small claims division in which the motion was filed shall determine in accordance with subsection (b) whether required venue lies with it or with another township small claims division in the county in which the small claims action was filed.

(b) The venue determination to be made under subsection (a) must be made in the following order:

(1) In an action upon a debt or an account, venue is in the township where any defendant has consented to venue in a writing signed by the defendant.

(2) Venue is in the township where a transaction or occurrence giving rise to any part of the claim took place.

(3) Venue is in the township (in a county of the small claims

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division) where the greater percentage of individual defendants included in the complaint resides or, if there is not a greater percentage, the place where any individual named as a defendant:

(A) resides;

(B) owns real estate; or

(C) rents an apartment or real estate or where the principal office or place of business of any defendant is located.

(4) Venue is in the township where the claim was filed if there is no other township in the county in which the small claims division sits in which required venue lies.

(c) Venue of any claim between landlord and tenant must be in the township where the real estate is located.

(d) If a written motion challenging venue is received by the township small claims division, the township small claims division shall rule whether required venue lies in the township of filing.

SECTION 121. IC 33-33-49-20.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 20.5. (a) If the small claims judgment or order is against the defendant, the defendant shall pay the judgment at any time and upon terms and conditions as the small claims judge orders.**

(b) If the small claims judge orders that the judgment be paid in specified installments, the small claims judge may stay the issuance of execution and other supplementary process during the period of compliance with the order.

(c) A stay ordered under subsection (b) may be modified or vacated by the small claims division of the court.

(d) All small claims judgments rendered in civil actions may be recorded in the judgment docket book of the proper township small claims division of the court.

(e) A judgment entered by a small claims judge is a lien on real estate when entered in the circuit court judgment docket in the same manner as a judgment in a court of general jurisdiction becomes a lien on real estate under IC 34-55-9.

(f) The judgments of the small claims division of the court shall be entered and properly indexed in the name of the judgment defendant as judgments of the general jurisdiction of the court are entered and indexed.

SECTION 122. IC 33-33-49-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 22. **(a)** A party

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may appeal an order or a judgment of the court in any case where an appeal may be had from a similar order or judgment of the circuit court.

(b) All appeals from judgments of the small claims division of the court shall be taken to the general jurisdiction of the court and tried de novo. The rules of procedure for appeals must be in accordance with the rules established by the court. The appellant shall pay all costs necessary for the filing of the case in the general jurisdiction of the court as if the appeal were a case that had been filed initially in the general jurisdiction of the court.

SECTION 123. IC 33-33-49-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 24. **(a)** The judge of the Marion circuit court may, with the consent of the court acting through the superior court presiding judge under rules adopted by the court, transfer any action, cause, or proceeding filed and docketed in the circuit court to the court by transferring all original papers and instruments filed in that action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with the court.

(b) The superior court presiding judge may not consent to a transfer to the small claims division of the court unless:

(1) the small claims division of the court has jurisdiction of the cause concurrent with the circuit court; and

(2) the small claims judge consents to the transfer.

SECTION 124. IC 33-33-49-25.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 25.1. (a) A judge of the court may order a cause filed in the general jurisdiction of the court to be transferred to the small claims division of the court if:**

(1) the small claims division of the court has jurisdiction of the cause concurrent with the general jurisdiction of the court; and

(2) the small claims judge consents to the transfer.

(b) The presiding judge may transfer cases from one (1) township small claims division of the court to another as necessary.

SECTION 125. IC 33-33-49-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 26. The judge of the Marion circuit court may sit as a judge **or small claims judge** of the court, with the court's permission, in all matters pending before the court, without limitation and without any further order, in the same manner as a judge of the court with all the rights and powers of an elected judge **or small claims judge** of the court.

SECTION 126. IC 33-33-49-26.1 IS ADDED TO THE INDIANA

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CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 26.1. (a) A judge of the court may sit as a special small claims judge in the small claims division of the court.**

(b) Except for mileage and travel expenses, a judge serving as a special small claims judge under this section may not receive compensation in addition to the salary provided under this article.

(c) A small claims judge may sit in place of another small claims judge and perform the other small claims judge's duties:

(1) at the direction of or with the approval of the presiding judge; and

(2) with the consent of the respective judges.

SECTION 127. IC 33-33-49-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 27. Each judge **and small claims judge,** before entering upon the duties of office, shall take and subscribe the following oath or affirmation:

"I solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Indiana and that I will faithfully discharge the duties of (judge **or small claims judge)** of the superior court of Marion County to the best of my ability.".

The oath shall be filed with the clerk of the county.

SECTION 128. IC 33-33-49-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 30. (a) A judge remains qualified to hold office as long as the judge:

(1) remains fair and impartial in judicial functions;

(2) maintains a high standard of morality in dealings, public and private;

(3) remains physically and mentally capable of performing all the functions and duties of the office of judge; and

(4) continues to reside in Marion County.

(b) A small claims judge remains qualified to hold office as long as the small claims judge meets the requirements of subsection (a) and:

(1) continues to reside in the township from which the small claims judge was elected; or

(2) was elected as a small claims judge in the township before January 1, 1999.

~~(b)~~ **(c)** Complaints against a judge **or small claims judge** must be forwarded to the commission on judicial qualifications as provided in IC 33-38-13 by any judge **or small claims judge** of the superior court.

~~(c)~~ **(d)** A judge of the court must retire upon becoming seventy-five

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(75) years of age. If the judge wishes to retire before the judge's term has ended or upon reaching the mandatory retirement age, the judge shall provide written notice to the presiding judge of the court. The judge shall continue to hold office until a successor has been appointed and qualified.

~~(d)~~ **(e)** When a vacancy occurs ~~in the court~~ **among the:**

(1) judges of the court by death, removal, retirement, or for any other reason, the governor shall appoint a successor judge who:

(A) serves the balance of the term of the vacating judge; ~~The successor judge must be~~ **and**

(B) is a member of the same political party as the judge who is to be succeeded; **and**

(2) small claims judges of the court by death, removal, retirement, or for any other reason, the vacancy shall be filled under IC 3-13-10.

SECTION 129. IC 33-33-49-34 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 34. (a) The clerk of the superior court shall furnish the following:

(1) All blanks, forms, and papers required for use in all criminal cases and in all civil actions involving actions by a city or town for violations of municipal penal ordinances.

(2) All books, papers, stationery, furniture, and other equipment and supplies necessary for keeping the records of the proceedings in all rooms **and divisions** of the superior court and for the transaction of all business of the court.

(3) Necessary computerization of court records.

(b) The materials required under this section shall be furnished at the expense of the county.

(c) The presiding judge of the court, by an order entered on the court records signed by the presiding judge, shall determine and prescribe the forms of the following:

(1) All summonses, notices, subpoenas, warrants, affidavits, complaints, writs, and all other papers and anything else required to be used in the cases relating to violations of criminal statutes or municipal ordinances.

(2) All other books, records, papers, and documents to be used by the court and by the officers of the court and the prosecutors.

In the absence of an order under this subsection, those charged with the duty of prosecuting cases involving either criminal offenses or the violation of municipal ordinances may adopt, change, order, and use all necessary forms and instruments as conform substantially to the practice and procedure applicable.

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SECTION 130. IC 33-37-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 6. **(a) Except as provided in subsection (b),** court costs fees under this chapter include service of process by certified mail, unless service by the sheriff is requested by the person who institutes the action.

(b) Court costs fees under this chapter do not include service of process fees collected under IC 33-37-4-6.5.

SECTION 131. IC 33-37-4-4, AS AMENDED BY P.L.85-2004, SECTION 19, AND AS AMENDED BY P.L.95-2004, SECTION 7, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 4. (a) The clerk shall collect a civil costs fee of one hundred dollars ($100) from a party filing a civil action. This subsection does not apply to the following civil actions:

(1) Proceedings to enforce a statute defining an infraction under IC 34-28-5 (or IC 34-4-32 before its repeal).

(2) Proceedings to enforce an ordinance under IC 34-28-5 (or IC 34-4-32 before its repeal).

(3) Proceedings in juvenile court under IC 31-34 or IC 31-37.

(4) Proceedings in paternity under IC 31-14.

~~(5) Proceedings in small claims court under IC 33-34.~~

~~(6)~~ **(5)** Proceedings in actions described in section 7 of this chapter.

(b) In addition to the civil costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A support and maintenance fee (IC 33-37-5-6).

(3) A document storage fee (IC 33-37-5-20).

(4) An automated record keeping fee (IC 33-37-5-21).

(5) A judicial administration fee ~~under~~ (IC 33-37-5-21.2).

~~(5)~~ **(6)** *A judicial insurance adjustment fee ~~under~~ (IC 33-37-5-25).*

SECTION 132. IC 33-37-4-6, AS AMENDED BY P.L.85-2004, SECTION 21, AND AS AMENDED BY P.L.95-2004, SECTION 9, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 6. (a) **Except as provided in section 6.5 of this chapter,** for each small claims action, the clerk shall collect from the party filing the action both of the following fees:

(1) A small claims costs fee of thirty-five dollars ($35).

(2) A small claims service fee of five dollars ($5) for each defendant named or added in the small claims action.

However, a clerk may not collect a small claims costs fee or small

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claims service fee for a small claims action filed by or on behalf of the attorney general.

(b) In addition to a small claims costs fee and small claims service fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A document storage fee (IC 33-37-5-20).

(3) An automated record keeping fee (IC 33-37-5-21).

(4) A judicial administration fee ~~under~~ (IC 33-37-5-21.2).

~~(4)~~ **(5)** *A judicial insurance adjustment fee ~~under~~ (IC 33-37-5-25).*

(c) This section applies after June 30, 2005.

SECTION 133. IC 33-37-4-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 6.5. (a) For each small claims action filed under the jurisdiction of IC 33-33-49-9(b), the clerk shall collect from the party filing the action the following fees:**

(1) A township docket fee of five dollars ($5) plus forty-five percent (45%) of the infraction or ordinance violation costs fee under IC 33-37-4-2.

(2) The bailiff's service of process by registered or certified mail fee of thirteen dollars ($13) for each service.

(3) The cost for the personal service of process by the bailiff or other process server of thirteen dollars ($13) for each service.

(4) Witness fees, if any, in the amount provided by IC 33-37-10-3 to be taxed and charged in the circuit court.

(5) A redocketing fee, if any, of five dollars ($5).

(6) A document storage fee under IC 33-37-5-20.

(7) An automated record keeping fee under IC 33-37-5-21.

(8) A late fee, if any, under IC 33-37-5-22.

(9) A judicial administration fee under IC 33-37-5-21.2.

The docket fee and the cost for the initial service of process shall be paid at the institution of a case. The cost of service after the initial service shall be assessed and paid after service has been made. The cost of witness fees shall be paid before the witnesses are called.

(b) If the amount of the township docket fee computed under subsection (a)(1) is not equal to a whole number, the amount shall be rounded to the next highest whole number.

SECTION 134. IC 33-37-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 15. (a) The sheriff

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shall collect from the person who filed the civil action a service of process fee of forty dollars ($40), in addition to any other fee for service of process, if:

(1) a person files a civil action outside Indiana; and

(2) a sheriff in Indiana is requested to perform a service of process associated with the civil action in Indiana.

(b) A sheriff shall transfer fees collected under this section to the county auditor of the county in which the sheriff has jurisdiction.

(c) The county auditor shall deposit fees collected under this section:

(1) in the pension trust ~~established by the county~~ under IC 36-8-10-12 **or IC 36-8-10.1-37;** or

(2) if the county has not established a pension trust under IC 36-8-10-12, in the county general fund.

SECTION 135. IC 33-37-5-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 22. (a) Except as provided in subsection (e), this section applies to an action if all the following apply:

(1) The defendant is found, in a court that has a local court rule imposing a late payment fee under this section, to have:

(A) committed a crime;

(B) violated a statute defining an infraction;

(C) violated an ordinance of a municipal corporation; or

(D) committed a delinquent act.

(2) The defendant is required to pay:

(A) court costs, including fees;

(B) a fine; or

(C) a civil penalty.

(3) The defendant is not determined by the court imposing the court costs, fine, or civil penalty to be indigent.

(4) The defendant fails to pay to the clerk the costs, fine, or civil penalty in full before the later of the following:

(A) The end of the business day on which the court enters the conviction or judgment.

(B) The end of the period specified in a payment schedule set for the payment of court costs, fines, and civil penalties under rules adopted for the operation of the court.

(b) A court may adopt a local rule to impose a late payment fee under this section on defendants described in subsection (a).

(c) Subject to subsection (d), the clerk of a court that adopts a local rule imposing a late payment fee under this section shall collect a late payment fee of twenty-five dollars ($25) from a defendant described in

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subsection (a).

(d) Notwithstanding IC 33-37-2-2, a court may suspend a late payment fee if the court finds that the defendant has demonstrated good cause for failure to make a timely payment of court costs, a fine, or a civil penalty.

(e) A plaintiff or defendant in ~~an~~ **a small claims** action under ~~IC 33-34~~ **IC 33-33-49** shall pay a late fee of twenty-five dollars ($25) if the plaintiff or defendant:

(1) is required to pay court fees or costs under ~~IC 33-34-8-1;~~ **IC 33-37-4-6.5;**

(2) is not determined by the court imposing the court costs to be indigent; and

(3) fails to pay the costs in full before the later of the following:

(A) The end of the business day on which the court enters the judgment.

(B) The end of the period specified in a payment schedule set for the payment of court costs under rules adopted for the operation of the court.

A court may suspend a late payment fee if the court finds that the plaintiff or defendant has demonstrated good cause for failure to make timely payment of the fee.

SECTION 136. IC 33-37-7-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 4.5. The clerk of a circuit court in a county having a consolidated city shall forward to the controller of the consolidated city one hundred percent (100%) of the fees collected under the following:**

(1) IC 33-37-4-6.5(a)(1) (township docket fees).

(2) IC 33-37-4-6.5(a)(2) (bailiff's service of process fees).

(3) IC 33-37-4-6.5(a)(3) (service of process costs).

(4) IC 33-37-4-6.5(a)(4) (witness fees).

(5) IC 33-37-4-6.5(a)(5) (redocketing fees).

The clerk shall forward the fees in accordance with section 12 of this chapter.

SECTION 137. IC 33-37-7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 11. (a) This section applies to a county in which there is ~~established~~ a pension trust under IC 36-8-10-12 **or IC 36-8-10.1-37.**

(b) For each service of a writ, an order, a process, a notice, a tax warrant, or other paper completed by the sheriff of a county described in subsection (a), the sheriff shall submit to the county fiscal body a verified claim of service.

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(c) From the county share distributed under section 3 or 4 of this chapter and deposited into the county general fund, the county fiscal body shall appropriate twelve dollars ($12) for each verified claim submitted by the sheriff under subsection (b). Amounts appropriated under this subsection shall be deposited by the county auditor into the pension trust ~~established~~ under IC 36-8-10-12 **or IC 36-8-10.1-37.**

SECTION 138. IC 33-38-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 6. (a) The total annual salary of each full-time judge of a circuit, superior, municipal, county, or probate court is:

(1) ninety thousand dollars ($90,000), paid by the state; and

(2) any additional salary provided by the county under IC 36-2-5-14 or IC 36-3-6-3(c).

The state shall deposit quarterly the money received from the counties under subsection (c) for additional salary in the state general fund.

(b) Before November 2 of each year, the county auditor of each county shall certify to the division of state court administration the amounts, if any, to be provided by the county during the ensuing calendar year for judges' salaries under IC 36-2-5-14 or IC 36-3-6-3(c).

(c) When making each payment under subsection (a), the county shall determine for each judge whether the total of:

(1) the payment made on behalf of that judge;

(2) previous payments made on behalf of that judge in the same calendar year; and

(3) the state share of the judge's salary under subsection (a);

exceeds the Social Security wage base established by the federal government for that year. If the total does not exceed the Social Security wage base, the payment on behalf of that judge must also be accompanied by an amount equal to the employer's share of Social Security taxes and Medicare taxes. If the total exceeds the Social Security wage base, the part of the payment on behalf of the judge that is below the Social Security wage base must be accompanied by an amount equal to the employer's share of Social Security taxes and Medicare taxes, and the part of the payment on behalf of the judge that exceeds the Social Security wage base must be accompanied by an amount equal to the employer's share of Medicare taxes. Payments made under this subsection shall be deposited in the state general fund under subsection (a).

(d) For purposes of determining the amount of life insurance premiums to be paid by a judge who participates in a life insurance program that:

(1) is established by the state;

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(2) applies to a judge who is covered by this section; and

(3) bases the amount of premiums to be paid by the judge on the amount of the judge's salary;

the judge's salary does not include any amounts paid to the state by a county under subsection (a).

(e) This section does not apply to a small claims judge (as defined in IC 33-33-49-5.2).

SECTION 139. IC 33-38-5-6.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 6.1. (a) This section applies to a small claims judge (as defined in IC 33-33-49-5.2).**

(b) The salary of a small claims judge who serves full time must be in an amount determined by the auditor of the county and approved by the city-county council.

(c) The salary of each small claims judge who serves part time must be in an amount determined by the auditor of the county and approved by the city-county council.

(d) The salary of a small claims judge may not be reduced during the small claims judge's term of office. At any other time, the salary of any full-time or part-time small claims judge may be increased or decreased by the auditor with the approval of the city-county council.

(e) The annual salary of a small claims judge shall be paid in twelve (12) equal monthly installments by the county.

(f) A small claims judge may not receive remuneration other than a salary set under this section for the performance of the small claims judge's official duties except payments for performing marriage ceremonies.

SECTION 140. IC 33-38-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 7. **(a)** As used in this chapter, "judge" means a person who serves or has served as a regular judge or justice of one (1) or more of the following courts:

(1) Supreme court.

(2) Court of appeals.

(3) Indiana tax court.

(4) Circuit court of a judicial circuit.

(5) Superior court of a county.

(6) Criminal court of a county having a separate criminal court.

(7) Probate court of a county having a separate probate court.

(8) Juvenile court of a county having a separate juvenile court.

(9) Municipal court of a county.

(10) County court of a county.

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(b) The term does not include a small claims judge (as defined in IC 33-33-49-5.2).

SECTION 141. IC 33-38-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 3. As used in this chapter, "judge" means an individual who holds or formerly held one (1) of the following offices or appointments:

(1) Justice of the supreme court.
(2) Judge of the court of appeals.
(3) Judge of the tax court.
(4) Judge of a circuit court.
(5) Judge of a superior court.
(6) Judge of a probate court.
(7) Judge of a municipal court.
(8) Judge of a county court.
(9) Judge of a city court.
(10) Judge of a town court.
(11) **Small claims** judge. ~~of a small claims court.~~
(12) A judge pro tempore, senior judge, temporary judge, or any other individual serving as judge in an action or a proceeding in an Indiana court.
(13) Bail commissioner.
(14) Magistrate.
(15) Master commissioner.
(16) Probate commissioner.
(17) Referee.

SECTION 142. IC 33-38-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 4. As used in this chapter, "judge" means a:

(1) judge of a superior or probate court; **and**
(2) small claims judge (as defined in IC 33-33-49-5.2).

SECTION 143. IC 33-41-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 7. (a) This section applies to the small claims ~~court~~ **division** established under ~~IC 33-34.~~ **IC 33-33-49-14(c)(5).**

(b) The person who is designated by a **small claims** judge of the court to prepare transcripts may collect a fee of not more than five dollars ($5) for each transcript from a person who requests the preparation of a transcript.

SECTION 144. IC 34-30-2-58 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 58. IC 15-3-4-2 (Concerning township trustees, **a consolidated city,** or persons hired by them for the removal of detrimental plants upon another person's

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real property).

SECTION 145. IC 35-33.5-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. (a) A prosecuting attorney may submit an application for a warrant or an extension to a circuit or superior court where:

(1) the county that the prosecuting attorney represents is located; and

(2) the communication subject to the warrant is anticipated to be sent or received.

The prosecuting attorney may not delegate the responsibility of applying for a warrant or an extension to a deputy prosecuting attorney.

(b) One (1) of the following persons must serve as a coapplicant for a warrant or an extension under subsection (a):

(1) The superintendent of the state police department.

~~(2) The police chief of a consolidated city where the communication subject to the warrant is anticipated to be sent or received.~~

~~(3)~~ **(2)** The sheriff of the county containing a consolidated city where the communication subject to the warrant is anticipated to be sent or received.

(c) Only the state police department may install, operate, or monitor any equipment, device, or instrument for the purpose of intercepting a telephonic or telegraphic communication under this chapter.

SECTION 146. IC 35-38-1-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 7.5. (a) As used in this section, "sexually violent predator" has the meaning set forth in IC 5-2-12-4.5.

(b) This section applies whenever a court sentences a person for a sex offense listed in IC 5-2-12-4(a)(1) through IC 5-2-12-4(a)(10) for which the person is required to register with the sheriff ~~(or the police chief of a consolidated city)~~ under IC 5-2-12-5.

(c) At the sentencing hearing, the court shall determine whether the person is a sexually violent predator. Before making a determination under this section, the court shall consult with a board of experts consisting of two (2) board certified psychologists or psychiatrists who have expertise in criminal behavioral disorders.

(d) If the court finds that a person is a sexually violent predator:

(1) the person is required to register with the sheriff ~~(or the police chief of a consolidated city)~~ as provided in IC 5-2-12-13(b); and

(2) the court shall send notice of its finding under this subsection to the criminal justice institute.

(e) A person who is found by a court to be a sexually violent

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predator under subsection (c) may petition the court to consider whether the person is no longer a sexually violent predator. The person may file a petition under this subsection not earlier than ten (10) years after the sentencing court makes its finding under subsection (c). A person may file a petition under this subsection not more than one (1) time per year. If a court finds that the person is no longer a sexually violent predator, the court shall send notice to the Indiana criminal justice institute that the person is no longer considered a sexually violent predator.

SECTION 147. IC 35-38-2-2.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2.2. As a condition of probation for an offender (as defined in IC 5-2-12-4), the court shall:

(1) require the offender to register with the sheriff ~~(or the police chief of a consolidated city)~~ under IC 5-2-12-5; and

(2) prohibit the offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of probation, unless the offender obtains written approval from the court.

If the court allows the offender to reside within one thousand (1,000) feet of school property under subdivision (2), the court shall notify each school within one thousand (1,000) feet of the offender's residence of the order.

SECTION 148. IC 35-47-4.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 3. As used in this chapter, "public safety officer" means:

(1) a state police officer;

(2) a county sheriff;

(3) a county police officer;

(4) a correctional officer;

(5) an excise police officer;

(6) a county police reserve officer;

(7) a city police officer;

(8) a city police reserve officer;

(9) a conservation enforcement officer;

(10) a town marshal;

(11) a deputy town marshal;

(12) a state university police officer appointed under IC 20-12-3.5;

(13) a probation officer;

(14) a firefighter (as defined in IC 9-18-34-1);

(15) an emergency medical technician; ~~or~~

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(16) a paramedic; **or**

(17) a member of the metropolitan law enforcement agency.

SECTION 149. IC 36-1-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 7. "Fiscal officer" means:

(1) auditor, for a county **not having a consolidated city;**

(2) controller, for a:

(A) consolidated city;

(B) county having a consolidated city; or

(C) second class city;

(3) clerk-treasurer, for a third class city;

(4) clerk-treasurer, for a town; or

(5) trustee, for a township.

SECTION 150. IC 36-1-2-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 22. **(a)** "Township", ~~refers to~~ **except as provided in subsection (b), means:**

(1) a civil township, unless the reference is to a congressional township or school township; **or**

(2) after December 31, 2006, and except as provided in IC 36-6-1.1, IC 36-6-4.1, and IC 36-6-6.1, a township district for a county having a consolidated city, unless the reference is to a congressional township or school township or the context requires otherwise.

(b) "Township" means only a civil township for purposes of the following:

(1) IC 36-7-4.

(2) IC 36-9-27.

SECTION 155. IC 36-2-13-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2.5. (a) The sheriff, the executive, and the fiscal body may enter into a salary contract for the sheriff.

(b) A sheriff's salary contract must contain the following provisions:

(1) A fixed amount of compensation for the sheriff in place of fee compensation.

(2) Payment of the full amount of the sheriff's compensation from the county general fund in the manner that salaries of other county officials are paid.

(3) Deposit by the sheriff of the sheriff's tax warrant collection fees (as described in IC 6-8.1-8-3) in the county general fund for use for any general fund purpose.

(4) A procedure for financing prisoners' meals that uses one (1) of the following methods:

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(A) The county fiscal body shall make an appropriation in the usual manner from the county general fund to the sheriff for feeding prisoners. The sheriff or the sheriff's officers, deputies, or employees may not make a profit from the appropriation. The sheriff shall deposit all meal allowances received under IC 36-8-10-7, **or under IC 36-8-10.1-47 with respect to a county having a consolidated city,** in the county general fund for use for any general fund purpose.

(B) The sheriff shall pay for feeding prisoners from meal allowances received under IC 36-8-10-7 **or under IC 36-8-10.1-47 with respect to a county having a consolidated city.** The sheriff or the sheriff's officers, deputies, or employees may not make a profit from the meal allowances. After the expenses of feeding prisoners are paid, the sheriff shall deposit any unspent meal allowance money in the county general fund for use for any general fund purpose.

(5) A requirement that the sheriff shall file an accounting of expenditures for feeding prisoners with the county auditor on the first Monday of January and the first Monday of July of each year.

(6) An expiration date that is not later than the date that the term of the sheriff expires.

(7) Other provisions concerning the sheriff's compensation to which the sheriff, the county executive, and the fiscal body agree.

(c) A salary contract is entered under this section when a written document containing the provisions of the contract is:

(1) approved by resolution of both the executive and the fiscal body; and

(2) signed by the sheriff.

SECTION 156. IC 36-2-13-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 5.5. (a) The sheriffs shall jointly establish and maintain a sex offender web site, known as the Indiana sheriffs' sex offender registry, to inform the general public about the identity, location, and appearance of every sex offender residing within Indiana. The web site must provide information regarding each sex offender, organized by county of residence. The web site shall be updated at least every seven (7) days.

(b) The sex offender web site must include the following information:

(1) A recent photograph of every sex offender who has registered with a sheriff after the effective date of this chapter.

(2) The home address of every sex offender.

(3) The information required to be included in the sex offender

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directory (IC 5-2-12-6).

(c) Every time a sex offender submits a new registration form to the sheriff, but at least once per year, the sheriff shall photograph the sex offender. The sheriff shall place this photograph on the sex offender web site.

(d) The photograph of a sex offender described in subsection (c) must meet the following requirements:

(1) The photograph must be full face, front view, with a plain white or off-white background.

(2) The image of the offender's face, measured from the bottom of the chin to the top of the head, must fill at least seventy-five percent (75%) of the photograph.

(3) The photograph must be in color.

(4) The photograph must show the offender dressed in normal street attire, without a hat or headgear that obscures the hair or hairline.

(5) If the offender normally and consistently wears prescription glasses, a hearing device, wig, or a similar article, the photograph must show the offender wearing those items. A photograph may not include dark glasses or nonprescription glasses with tinted lenses unless the offender can provide a medical certificate demonstrating that tinted lenses are required for medical reasons.

(6) The photograph must have sufficient resolution to permit the offender to be easily identified by a person accessing the sex offender web site.

(e) The sex offender web site may be funded from:

(1) the jail commissary fund (IC 36-8-10-21 **or IC 36-8-10.1-48);**

(2) a grant from the criminal justice institute; and

(3) any other source, subject to the approval of the county fiscal body.

SECTION 157. IC 36-2-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5. (a) The county assessor shall perform the functions assigned by statute to the county assessor, including the following:

(1) Countywide equalization.

(2) Selection and maintenance of a countywide computer system.

(3) Certification of gross assessments to the county auditor.

(4) Discovery of omitted property.

(b) The county assessor shall perform the functions of an assessing official under IC 36-6-5-2 in a township with a township assessor-trustee if the township assessor-trustee:

(1) fails to make a report that is required by law;

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(2) fails to deliver a property tax record to the appropriate officer or board;

(3) fails to deliver an assessment to the county assessor; or

(4) fails to perform any other assessing duty as required by statute or rule of the department of local government finance;

within the time period prescribed by statute or rule of the department or within a later time that is necessitated by reason of another official failing to perform the official's functions in a timely manner.

(c) A township with a township trustee-assessor may, with the consent of the township board, enter into an agreement with:

(1) the county assessor; or

(2) another township assessor in the county;

to perform any of the functions of an assessing official. A township trustee-assessor may not contract for the performance of any function for a period of time that extends beyond the completion of the township trustee-assessor's term of office.

(d) In a county having a consolidated city:

(1) the county assessor shall perform the functions of an assessing official and other duties of an assessing official prescribed by statute in each township in the county, including assessment duties prescribed by IC 6-1.1; and

(2) the controller of the consolidated city or the controller's designee shall administer the dog tax and township dog fund as prescribed by IC 15-5-9.

SECTION 158. IC 36-3-1-6.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 6.1. (a) Except as provided in section 6.3 of this chapter, after December 31, 2005, the fire departments of the following are consolidated into the fire department of a consolidated city (referred to as "the consolidated fire department" in this chapter):**

(1) A township located in a county having a consolidated city.

(2) A fire protection territory established under IC 36-8-19 that is located in a county having a consolidated city.

(3) The territory in which an airport authority established for a consolidated city under IC 8-22-3 may provide fire protection services.

(b) Except as provided by section 6.3 of this chapter, after December 31, 2005, the consolidated fire department shall provide fire protection services for the entire county.

(c) All the property, equipment, records, rights, and contracts of the departments and territories listed in subsection (a) are:

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(1) transferred to; or

(2) assumed by;

the consolidated city.

(d) The employees of the departments and territories listed in subsection (a) cease employment with those departments and territories and become employees of the consolidated fire department after December 31, 2005. These employees are not hired or rehired for purposes of IC 36-8-3.2 or IC 36-8-10.5 upon becoming employees of the consolidated fire department. The consolidated city shall assume all agreements with labor organizations that:

(1) are in effect after December 31, 2005; and

(2) apply to employees of the departments and territories listed in subsection (a) who become employees of the consolidated fire department.

(e) Except as provided in subsection (g), the consolidated city shall assume, defease, pay, or refund all indebtedness related to fire protection services incurred before January 1, 2006, by:

(1) a township;

(2) an airport authority;

(3) a fire protection territory; or

(4) a building, holding, or leasing corporation on behalf of a township, an airport authority, or a fire protection territory;

whose fire department is consolidated into the consolidated fire department under subsection (a).

(f) Notwithstanding any other law, to assume, defease, pay, or refund all or a part of the indebtedness described in subsection (e) the consolidated city is not required to comply with any other statutory procedures or approvals that apply when a unit incurs indebtedness.

(g) Notwithstanding subsections (e) and (f), the consolidated city may not assume all or a part of the indebtedness described in subsection (e) that will exceed the limitations on the amount of indebtedness that the consolidated city may incur.

(h) The rights of the trustee and the bondholders with respect to any:

(1) indebtedness or bonds; or

(2) bond resolution, trust agreement or indenture, security agreement, purchase agreement, or other undertaking described in subsection (e);

remain the same, although the powers, duties, and liabilities of the departments listed in subsection (a) have been transferred to the

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consolidated city, and the consolidated city shall be considered to have assumed all those powers, duties, agreements, and liabilities.

(i) To provide for the payment of the expenses for the operation of the consolidated fire department, the consolidated city may levy property taxes on taxable property located within the area served by the consolidated fire department.

(j) The fire special service district established under IC 36-3-1-6 may levy property taxes to provide for the payment of expenses for the operation of the consolidated fire department:

(1) within; or

(2) that directly benefit;

the territory of the fire special service district. These amounts are in addition to the amounts levied by the fire special service district to fund pension obligations under IC 36-8-7-14.

(k) The local boards for the 1937 firefighters' pension fund and the 1977 police officers' and firefighters' pension and disability fund for a fire department in a township located in a county having a consolidated city are dissolved, and their services are terminated not later than the effective date of the consolidation. The duties performed by the township's local boards under IC 36-8-7 and IC 36-8-8, respectively, are assumed by the public safety pension commission established under IC 36-8-7.6.

(l) After December 31, 2005, the merit board and the merit system of each fire department listed in subdivision (a) is dissolved, and the duties of the merit boards are transferred to and assumed by the merit board for the consolidated fire department.

SECTION 159. IC 36-3-1-6.2 IS ADDED TO INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 6.2. After December 31, 2005, the consolidated city, through the consolidated fire department, shall establish, operate, and maintain emergency ambulance services (as defined in IC 16-18-2-107) in the county.**

SECTION 160. IC 36-3-1-6.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 6.3. (a) The consolidated fire department may not provide fire protection services for:**

(1) an excluded city; or

(2) a fire protection territory for which an excluded city is a provider unit (as defined in IC 36-8-19-3);

unless the fire protection services are provided pursuant to an interlocal agreement under IC 36-1-7 or the conditions in subsection (b) are met.

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(b) For the consolidated fire department to provide fire protection services to an excluded city other than under an interlocal agreement under IC 36-1-7, all the following must occur:

(1) The legislative body of the excluded city and the city-county legislative body must adopt substantially similar ordinances authorizing the consolidation of the fire department of the excluded city into the consolidated fire department.

(2) The ordinances described in subdivision (1) must:

(A) specify the effective date of the consolidation; and

(B) set forth the conditions of the consolidation.

(c) After the effective date of the consolidation described in subsection (b), the consolidated fire department shall provide fire protection services within the territory of the excluded city.

(d) After the effective date of the consolidation described in subsection (b), all the property, equipment, records, rights, and contracts of the fire department of the excluded city are transferred to and assumed by the consolidated city.

(e) After the effective date of the consolidation described in subsection (b), the employees of the fire department of the excluded city cease employment with the excluded city and become employees of the consolidated fire department. These employees are not hired or rehired for purposes of IC 36-8-3.2 or IC 36-8-10.5 upon becoming employees of the consolidated fire department. The consolidated city shall assume all agreements with labor organizations that:

(1) are in effect after the effective date of the consolidation described in subsection (b); and

(2) apply to employees of the fire department of the excluded city who become employees of the consolidated fire department.

(f) Except as provided in subsection (h), the consolidated city shall assume, defease, pay, or refund all indebtedness related to fire protection services incurred before the effective date of the consolidation described in subsection (b) by:

(1) an excluded city; or

(2) a building, holding, or leasing corporation on behalf of an excluded city;

whose fire department is consolidated into the consolidated fire department under subsection (b).

(g) Notwithstanding any other law, to assume, defease, pay, or refund all or a part of the indebtedness described in subsection (f)

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the consolidated city is not required to comply with any other statutory procedures or approvals that apply when a unit incurs indebtedness.

(h) Notwithstanding subsections (f) and (g), the consolidated city may not assume all or a part of the indebtedness described in subsection (f) that will exceed the limitations on the amount of indebtedness that the consolidated city may incur.

(i) The rights of the trustee and the bondholders with respect to any:

(1) indebtedness or bonds; or

(2) bond resolution, trust agreement or indenture, security agreement, purchase agreement, or other undertaking described in subsection (f);

remain the same, although the powers, duties, and liabilities of the departments listed in subsection (a) have been transferred to the consolidated city, and the consolidated city shall be considered to have assumed all those powers, duties, agreements, and liabilities.

(j) Whenever an excluded city consolidates its fire department into the consolidated fire department under subsection (b), the local boards for the 1937 firefighters' pension fund and the 1977 police officers' and firefighters' pension and disability fund of the excluded city are dissolved, and their services are terminated not later than the effective date of the consolidation. The duties performed by the local boards under IC 36-8-7 and IC 36-8-8, respectively, are assumed by the public safety pension commission established under IC 36-8-7.6.

(k) Whenever an excluded city consolidates its fire department into the consolidated fire department under subsection (b), the merit board and merit system of the excluded city's fire department are dissolved, and the duties of the excluded city's merit board are transferred to and assumed by the merit board for the consolidated fire department.

(l) Whenever an excluded city consolidates its fire department into the consolidated fire department under subsection (b), for property taxes first due and payable in the calendar year following the effective date of the consolidation, the maximum permissible ad valorem property tax levy under IC 6-1.1-18.5:

(1) is increased for a consolidated city by the amount levied in the prior calendar year for fire protection and related services by the excluded city; and

(2) is reduced for the excluded city by the amount levied in the prior calendar year for fire protection and related services by

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the excluded city.

(m) Whenever an excluded city consolidates its fire department into the consolidated fire department under subsection (b), for property taxes first due and payable in the calendar year following the effective date of the consolidation, the amount levied under IC 6-1.1-41 and IC 36-8-14 in the prior calendar year by the excluded city for its cumulative building and equipment fund for firefighting and related services is transferred to the consolidated city's cumulative building and equipment fund for firefighting and related services, and the consolidated city is exempted from the requirements of IC 6-1.1-41 and IC 36-8-14 regarding an increase to the levy for its cumulative building and equipment fund for firefighting and related services.

SECTION 161. IC 36-3-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 3. (a) A special service district of the consolidated city:

(1) may sue and be sued;

(2) may exercise powers of the consolidated city to the extent that those powers are delegated to it by law, but may not issue bonds; and

(3) shall provide services to property owners only in the district, unless a law provides otherwise.

(b) A special service district or special taxing district shall be administered under the jurisdiction of a department of the consolidated city **or the county.** The territory of a special service district or special taxing district may be expanded, in the manner prescribed by law, to include territory inside the county that is not originally included in the district.

(c) The city-county legislative body may, by ordinance, expand the territory of a ~~special service~~ **solid waste collection** district ~~subject to the following conditions.~~ **as follows:**

~~(1) In the case of the fire district, the ordinance may not be considered unless a petition to include additional territory in the district is first submitted to the metropolitan development commission for study and recommendation. The petition must be signed by a majority of the landowners, or by owners of land amounting to seventy-five percent (75%) in assessed valuation, in the proposed additional territory. After receiving the petition, the metropolitan development commission shall make findings of fact and recommendations and serve copies of these on the fire chief, the executive of each township affected, and the petitioners at least thirty (30) days before a public hearing before the legislative~~

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~~body. After the public hearing, the legislative body may pass the ordinance only if it determines:~~

~~(A) that reasonable and adequate fire protection service can be provided within the additional territory by the consolidated city; and~~

~~(B) that expansion of the district is in the public interest.~~

~~(2) In the case of the police district, the legislative body must hold a public hearing and then may pass the ordinance only if it determines:~~

~~(A) that reasonable and adequate police protection can be provided within the additional territory by the consolidated city; and~~

~~(B) that expansion of the district is in the public interest.~~

~~(3) In the case of the solid waste collection district,~~

(1) The ordinance may not be considered unless a petition to include additional territory in the district is first submitted to the works board for study and recommendation.

(2) The petition must be signed by at least ten (10) interested residents in the proposed additional territory.

(3) After receiving the petition, the works board shall:

(A) set a date for a public hearing;

(B) publish notice of the hearing in accordance with IC 5-3-1; and

(C) upon hearing the matter, determine whether the territory should be added to the district.

(4) If the works board recommends that the territory should be added to the district, the legislative body must hold a public hearing and then may pass the ordinance.

(5) Territory in the solid waste collection district may also be removed from the district in the manner prescribed by this ~~subdivision.~~ **section.**

SECTION 162. IC 36-3-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 10. (a) The general assembly finds the following:

(1) That the tax base of the consolidated city and the county have been significantly eroded through the ownership of tangible property by separate municipal corporations and other public entities that operate as private enterprises yet are exempt or whose property is exempt from property taxation.

(2) That to restore this tax base and provide a proper allocation of the cost of providing governmental services the legislative body of the consolidated city and county should be authorized to collect

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payments in lieu of taxes from these public entities.

(3) That the appropriate maximum payments in lieu of taxes would be the amount of the property taxes that would be paid if the tangible property were not subject to an exemption.

(b) As used in this section, the following terms have the meanings set forth in IC 6-1.1-1:

(1) Assessed value.

(2) Exemption.

(3) Owner.

(4) Person.

(5) Personal property.

(6) Property taxation.

(7) Tangible property.

~~(8) Township assessor.~~

(c) As used in this section, "PILOTS" means payments in lieu of taxes.

(d) As used in this section, "public entity" means any of the following government entities in the county:

(1) An airport authority operating under IC 8-22-3.

(2) A capital improvement board of managers under IC 36-10-9.

(3) A building authority operating under IC 36-9-13.

(4) A wastewater treatment facility.

(e) The legislative body of the consolidated city may adopt an ordinance to require a public entity to pay PILOTS at times set forth in the ordinance with respect to:

(1) tangible property of which the public entity is the owner or the lessee and that is subject to an exemption;

(2) tangible property of which the owner is a person other than a public entity and that is subject to an exemption under IC 8-22-3; or

(3) both.

The ordinance remains in full force and effect until repealed or modified by the legislative body.

(f) The PILOTS must be calculated so that the PILOTS may be in any amount that does not exceed the amount of property taxes that would have been levied by the legislative body for the consolidated city and county upon the tangible property described in subsection (e) if the property were not subject to an exemption from property taxation.

(g) PILOTS ~~shall be~~ **are** imposed as are property taxes and ~~shall be~~ **are** based on the assessed value of the tangible property described in subsection (e). The ~~township assessors~~ **county assessor** shall assess the tangible property described in subsection (e) as though the property

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were not subject to an exemption. The public entity shall report the value of personal property in a manner consistent with IC 6-1.1-3.

(h) Notwithstanding any law to the contrary, a public entity is authorized to pay PILOTS imposed under this section from any legally available source of revenues. The public entity may consider these payments to be operating expenses for all purposes.

(i) PILOTS ~~shall be~~ **are** deposited in the consolidated county fund and used for any purpose for which the consolidated county fund may be used.

(j) PILOTS ~~shall be~~ **are** due as set forth in the ordinance and bear interest, if unpaid, as in the case of other taxes on property. PILOTS ~~shall be~~ **are** treated in the same manner as taxes for purposes of all procedural and substantive provisions of law.

(k) PILOTS imposed on a wastewater treatment facility may be paid only from the cash earnings of the facility remaining after provisions have been made to pay for current obligations, including:

(1) operating and maintenance expenses;
(2) payment of principal and interest on any bonded indebtedness;
(3) depreciation or replacement fund expenses;
(4) bond and interest sinking fund expenses; and
(5) any other priority fund requirements required by law or by any bond ordinance, resolution, indenture, contract, or similar instrument binding on the facility.

SECTION 163. IC 36-3-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 11. (a) As used in this section, the following terms have the meanings set forth in IC 6-1.1-1:

(1) Assessed value.
(2) Exemption.
(3) Owner.
(4) Person.
(5) Property taxation.
(6) Real property.
~~(7) Township assessor~~.

(b) As used in this section, "PILOTS" means payments in lieu of taxes.

(c) As used in this section, "property owner" means the owner of real property described in IC 6-1.1-10-16.7 that is located in a county with a consolidated city.

(d) Subject to the approval of a property owner, the legislative body of the consolidated city may adopt an ordinance to require the property owner to pay PILOTS at times set forth in the ordinance with respect

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to real property that is subject to an exemption under IC 6-1.1-10-16.7. The ordinance remains in full force and effect until repealed or modified by the legislative body, subject to the approval of the property owner.

(e) The PILOTS must be calculated so that the PILOTS are in an amount that is:

(1) agreed upon by the property owner and the legislative body of the consolidated city;

(2) a percentage of the property taxes that would have been levied by the legislative body for the consolidated city and the county upon the real property described in subsection (d) if the property were not subject to an exemption from property taxation; and

(3) not more than the amount of property taxes that would have been levied by the legislative body for the consolidated city and county upon the real property described in subsection (d) if the property were not subject to an exemption from property taxation.

(f) PILOTS ~~shall be~~ **are** imposed as are property taxes and ~~shall be~~ **are** based on the assessed value of the real property described in subsection (d). The ~~township assessors~~ **county assessor** shall assess the real property described in subsection (d) as though the property were not subject to an exemption.

(g) PILOTS collected under this section ~~shall be~~ **are** deposited in the housing trust fund established under IC 36-7-15.1-35.5 and used for any purpose for which the housing trust fund may be used.

(h) PILOTS ~~shall be~~ **are** due as set forth in the ordinance and bear interest, if unpaid, as in the case of other taxes on property. PILOTS ~~shall be~~ **are** treated in the same manner as taxes for purposes of all procedural and substantive provisions of law.

SECTION 164. IC 36-3-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 10. (a) The board of commissioners of the county is composed of the county treasurer, the county auditor, and the county assessor. These officers shall serve ex officio as commissioners without additional compensation for performing the duties of the board.

(b) The board of commissioners:

(1) shall make the appointments required by statute to be made by the board of commissioners of a county;

~~(2) shall perform the duties and exercise the powers prescribed by statutes pertaining to the issuance and payment of bonds of the county and the expenditure of the unexpended proceeds of those bonds;~~ and

~~(3)~~ **(2)** may exercise the powers granted it by Article 9, Section 3

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of the Constitution of the State of Indiana and by IC 12-30-3.

SECTION 165. IC 36-3-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 14. (a) An ordinance or resolution passed by a legislative body is considered adopted when it is:

(1) signed by the presiding officer; and

(2) if subject to veto, either approved by the executive or passed over ~~his~~ **the executive's** veto by the legislative body, under section 16 of this chapter.

(b) All ordinances and resolutions of a legislative body are subject to veto, except the following:

~~(1) An ordinance or resolution, or part of either, providing for the budget or appropriating money for an office or officer of the county provided for by the Constitution of Indiana or for a judicial office or officer.~~

~~(2)~~ **(1)** An ordinance or resolution approving or modifying the budget of a political subdivision that the legislative body is permitted by statute to review.

~~(3)~~ **(2)** A resolution making an appointment that the legislative body is authorized to make.

~~(4)~~ **(3)** A resolution selecting officers or employees of the legislative body.

~~(5)~~ **(4)** A resolution prescribing rules for the internal management of the legislative body.

~~(6)~~ **(5)** A zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under IC 36-7.

(c) An ordinance prescribing a penalty or forfeiture for a violation must, before it takes effect, be published in the manner prescribed by IC 5-3-1, unless:

(1) it is published under subsection (d); or

(2) there is an urgent necessity requiring its immediate effectiveness, the executive proclaims the urgent necessity, and copies of the ordinance are posted in three (3) public places in the county.

(d) If a legislative body publishes any of its ordinances in book or pamphlet form, no other publication is required. If an ordinance prescribing a penalty or forfeiture for a violation is published under this subsection, it takes effect two (2) weeks after the publication of the book or pamphlet. Publication under this subsection, if authorized by the legislative body, constitutes presumptive evidence:

(1) of the ordinances in the book or pamphlet;

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(2) of the date of adoption of the ordinances; and

(3) that the ordinances have been properly signed, attested, recorded, and approved.

(e) Unless a legislative body provides in an ordinance or resolution for a later effective date, the ordinance or resolution takes effect when it is adopted, subject to subsections (c) and (d).

(f) Subsections (a), (c), (d), and (e) do not apply to zoning ordinances or amendments to zoning ordinances, or resolutions approving comprehensive plans, that are adopted under IC 36-7.

SECTION 184. IC 36-3-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 4. (a) Before the Wednesday after the first Monday in July each year, the consolidated city and county shall prepare budget estimates for the ensuing budget year under this section.

(b) The following officers shall prepare for their respective departments, offices, agencies, or courts an estimate of the amount of money required for the ensuing budget year, stating in detail each category and item of expenditure they anticipate:

(1) The director of each department of the consolidated city.

(2) Each ~~township assessor,~~ elected county officer or head of a county agency.

(3) The county clerk, for each court ~~of which he is~~ **the** clerk **serves.**

(c) In addition to the estimates required by subsection (b), the county clerk shall prepare an estimate of the amount of money that is, under law, taxable against the county for the expenses of cases tried in other counties on changes of venue.

(d) Each officer listed in subsection (b)(2) or (b)(3) shall append a certificate to each estimate ~~he~~ **the officer** prepares stating that in ~~his~~ **the officer's** opinion the amount fixed in each item will be required for the purpose indicated. The certificate must be verified by the oath of the officer.

(e) An estimate for a court or division of a court is subject to modification and approval by the judge of the court or division.

(f) All of the estimates prepared by city officers shall be submitted to the ~~city fiscal officer~~ **controller,** and all of the estimates prepared by county officers shall be submitted to the county fiscal officer.

(g) The ~~city fiscal officer~~ **controller** shall also prepare an itemized estimate of city expenditures for other purposes above the money proposed to be used by the city departments.

SECTION 185. IC 36-3-6-4.1 IS ADDED TO INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE

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JANUARY 1, 2006]: **Sec. 4.1. Notwithstanding IC 36-8-7, the city-county legislative body shall adopt an ordinance under section 7 of this chapter to levy a tax only within the fire special service district in the amount and at the rate necessary to produce sufficient revenue to pay the amounts required to satisfy the consolidated city's 1937 firefighters' pension fund obligations under IC 36-8-7-14.**

SECTION 191. IC 36-3-7-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 6. (a) Notwithstanding any other law, the consolidated city may issue obligations to refund obligations issued before January 1, 2006, in the name of:**

(1) a township;

(2) an airport authority;

(3) a fire protection territory; or

(4) a building, holding, or leasing corporation on behalf of a township, an airport authority, or a fire protection territory;

to satisfy the requirements of IC 36-3-1-6.1(e), IC 36-3-1-6.1(f), and IC 36-3-1-6.1(g).

(b) Notwithstanding any other law, the consolidated city may issue obligations to refund obligations issued before the effective date of a consolidation described in IC 36-3-1-6.3(b) by:

(1) an excluded city; or

(2) a building, holding, or leasing corporation on behalf of an excluded city;

to satisfy the requirements of IC 36-3-1-6.3(f), IC 36-3-1-6.3(g), and IC 36-3-1-6.3(h).

SECTION 192. IC 36-6-1.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 1.1. Marion County Township Transitional Provisions

Sec. 1. This chapter applies only to townships in a county having a consolidated city.

Sec. 2. (a) Before January 1, 2006:

(1) township trustees continue to be governed by IC 36-6-4; and

(2) township boards continue to be governed by IC 36-6-6.

(b) Except as provided in subsection (c), after December 31, 2005:

(1) township trustees are governed by IC 36-6-4.1; and

(2) township boards are governed by IC 36-6-6.1.

(c) Before January 1, 2007, township trustees and township

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boards continue to represent their respective townships rather than a township district.

(d) Beginning with the general election held in 2006:

(1) new township trustees for the township districts shall be elected under IC 36-6-4.1; and

(2) new township boards for the township districts shall be elected under IC 36-6-6.1.

(e) On January 1, 2007:

(1) the township boards existing at the time the new township boards are elected under IC 36-6-6.1 are dissolved; and

(2) the township boards elected under IC 36-6-6.1 replace the township boards that are dissolved under subdivision (1).

Sec. 3. (a) A transitional advisory board shall be formed not later than August 1, 2005, to prepare a report and recommendations to the township trustees and township boards regarding the reorganization of townships, including the following:

(1) The transfer of residual township functions to appropriate departments or officers of the consolidated city or county.

(2) The provision of township assistance under IC 12-20 and IC 12-30-4.

(3) The transfer of township assessment functions from the township assessors to the county assessor.

(4) The location of township divisions of the small claims division of the superior court of the county.

(b) The transitional advisory board consists of the following twenty-one (21) members:

(1) The nine (9) township trustees in the county holding office on the date the transitional advisory board is formed.

(2) Four (4) individuals appointed by the city executive. One (1) individual appointed under this subdivision must be an assessing professional.

(3) Four (4) individuals appointed by the city-county legislative body.

(4) Four (4) individuals appointed by the board of commissioners of the county.

(c) Members of the transitional advisory board appointed under subsection (b)(2), (b)(3), and (b)(4) are not entitled to receive any salary for their service. Members of the board designated under subsection (b)(1) are not entitled to any additional salary for their service on the board but are entitled to their regular salaries as township trustees under IC 36-6-8 until the end of their current terms. The board may use the staff and budget of the existing

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trustees to carry out the board's work. Two (2) co-chairpersons, each of a different political party, shall be elected by the members of the board.

(d) The transitional advisory board expires not later than February 28, 2006.

Sec. 4. All assets, property rights, equipment, records, personnel, and contracts and all else connected with the provision of township assistance under IC 12-20 and IC 12-30-4 by a township shall be transferred to the applicable township district on January 1, 2007. All other assets, property rights, equipment, records, personnel (except as otherwise provided by statute), and contracts and all else connected with the township shall be transferred to the consolidated city on January 1, 2006. Any indebtedness not connected with the provision of township assistance that was incurred by a township before the effective date of consolidation under this section shall be assumed or defeased by the consolidated city, notwithstanding any other provision of law requiring completion of certain procedures and approvals for the incurrence of indebtedness, provided that the indebtedness (or any part of the indebtedness) may not be assumed by the consolidated city if the assumption would cause the consolidated city to exceed any limitation on the amount of indebtedness that may be incurred by the consolidated city.

Sec. 5. Beginning January 1, 2006, notwithstanding any other law to the contrary, for a township located in a county having a consolidated city, the township's distributive share of any state or local taxes or revenues (other than property taxes) shall be reduced to zero and shall be transferred to the consolidated city.".

Page 9, between lines 4 and 5, begin a new paragraph and insert:

"SECTION 195. IC 36-6-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. **(a) Except as provided in subsection (b),** this chapter applies to ~~all townships.~~ **a township.**

(b) This chapter does not apply to a township in a county having a consolidated city after December 31, 2005.

SECTION 196. IC 36-6-4.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 4.1. Township Executives in Marion County

Sec. 1. Subject to IC 36-6-1.1, this chapter applies only to a county having a consolidated city.

Sec. 2. As used in this chapter,"central township district" means

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the geographic area that is coterminous with the territory of the board of school commissioners under IC 20-3-11-1.

Sec. 3. As used in this chapter, "consolidated township district" means the territory of a county having a consolidated city, excluding the central township district.

Sec. 4. As used in this chapter "executive" refers to the township trustee of a township district elected under section 7 of this chapter.

Sec. 5. As used in this chapter, "township district" means the:

(1) central township district; and

(2) consolidated township district.

Sec. 6. As used in this chapter, "township district legislative body" refers to a township board created under IC 36-6-6.1.

Sec. 7. (a) Beginning with the general election to be held in 2006, a township trustee shall be elected under IC 3-10-2-13 by the voters of each township district. The township trustee elected for each township district is the executive for each township in the township district.

(b) The executive must reside within the township district as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The executive forfeits office if the executive ceases to be a resident of the township district.

(c) The term of office of the executive is four (4) years, beginning January 1 after the executive's election and continuing until a successor is elected and qualified.

Sec. 8. The executive shall do the following:

(1) Keep a written record of official proceedings.

(2) Manage all property interests in the township district.

(3) Keep records of the township district open for public inspection.

(4) Attend all meetings of the township district legislative body.

(5) Receive and pay out funds of the township district.

(6) Examine and settle all accounts and demands chargeable against the township district.

(7) Provide the assistance required under IC 12-20 and IC 12-30-4.

(8) File an annual personnel report under IC 5-11-13.

Sec. 9. The executive may do the following:

(1) Administer oaths when necessary in the discharge of official duties.

(2) Appoint an attorney to represent the township district in

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any proceeding in which the township district is interested.

(3) Enter into certain oil and gas leases of township district property under IC 36-9.

(4) Personally use a township district vehicle for the performance of official duties, but only if the use is authorized by the township district legislative body.

(5) Exercise other powers granted by statute.

Sec. 10. The executive shall maintain:

(1) a general account showing the total of all township district receipts and expenditures; and

(2) the financial and appropriation record of the township district, which must include an itemized and accurate account of the township district's financial affairs.

Sec. 11. (a) For each sum of money received by the executive, the financial and appropriation record must show:

(1) the date the sum of money was received;

(2) from whom the sum of money was received; and

(3) to what account the sum of money was credited.

(b) For each sum of money paid by the executive, the financial and appropriation record must show:

(1) the date the sum of money was paid;

(2) to whom the sum of money was paid;

(3) from what account the sum of money was paid; and

(4) why the sum of money was paid.

(c) The state board of accounts shall prescribe the form of the financial and appropriation record.

Sec. 12. (a) Each purchase for a township district by the executive must be made on written order of the executive, certifying that sufficient funds have been appropriated to pay the full price of the purchase. The executive shall issue a warrant and pay for the purchase not later than time of receipt of the county treasurer's first semiannual distribution following the purchase.

(b) An executive who violates this section commits a Class C infraction and is liable on the executive's official bond for the value of the purchase.

Sec. 13. (a) The executive may use the township district's share of state, county, and township district tax revenues and federal revenue sharing funds for all categories of community service, if these funds are appropriated for these services by the township district legislative body. The executive may use these funds for both operating and capital expenditures.

(b) With the consent of the township district legislative body, the

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executive may contract with corporations for health and community services not specifically provided by another governmental entity.

Sec. 14. On the first Monday of each August the executive shall post, in a conspicuous place near the executive's office, a verified statement showing the indebtedness of the township district in detail and giving the number and total amount of outstanding orders, warrants, and accounts.

Sec. 15. (a) At the township district legislative body's annual meeting under IC 36-6-6.1-12, the executive shall:

(1) present an itemized written statement of the estimated expenditures for which appropriations are requested, specifying the:

(A) number of teachers employed;

(B) salary of each teacher employed;

(C) property of the township district (and supplies on hand);

(D) estimated value of the property of the township district (and supplies on hand);

(E) supplies necessary for each school; and

(F) need for township assistance in the township district; and

(2) submit to questions from the township district legislative body or taxpayers concerning expenditures of the township district.

(b) The written statement required under subsection (a)(1) must comply with forms prescribed by the state board of accounts and show the amount of each item to be charged against funds of the township district.

Sec. 16. (a) At the annual meeting of the township district legislative body under IC 36-6-6.1-10, the executive shall present a complete report of all receipts and expenditures of the preceding calendar year, including the balance to the credit of each fund controlled by the executive. If the executive controls any money that is not included in a particular fund, the executive shall state all the facts concerning that money in the report.

(b) Each item of expenditure in the report presented under subsection (a) must be accompanied by the verified voucher of the person to whom the sum was paid, stating:

(1) why the payment was made;

(2) that the receipt is for the exact sum received;

(3) that no part of the sum has been retained by the executive;

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and

(4) that no part of the sum has been or is to be returned to the executive or any other person.

The executive may administer oaths to persons giving these receipts.

(c) The executive shall swear or affirm that:

(1) the report presented under subsection (a) shows all sums received by the executive;

(2) the expenditures credited have been fully paid in the sums stated, without express or implied agreement that any part of the sums is to be retained by or returned to the executive or any other person; and

(3) the executive has received no money or other property in consideration of any contract entered into or expenditure made on behalf of the township district.

(d) Within ten (10) days after the township district legislative body's action under IC 36-6-6.1-10, the executive shall file a copy of the report presented under subsection (a) and the report's accompanying vouchers, as adopted by the township district legislative body, in the office of the city controller of the consolidated city. The township district legislative body may, for the benefit of the township, bring a civil action against the executive if the executive fails to file the report within ten (10) days after the township district legislative body's action. The township district legislative body may recover five dollars ($5) for each day after the time limit for filing the report, until the report is filed.

Sec. 17. (a) When the executive prepares the annual report required by section 16 of this chapter, the executive shall also prepare, on forms prescribed by the state board of accounts, an abstract of receipts and expenditures:

(1) showing the sum of money in each fund of the township district at the beginning of the year;

(2) showing the sum of money received in each fund of the township district during the year;

(3) showing the sum of money paid from each fund of the township district during the year;

(4) showing the sum of money remaining in each fund of the township district at the end of the year;

(5) containing a statement of receipts, showing their source; and

(6) containing a statement of expenditures showing the combined gross payment, according to classification of

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expense, to each person.

(b) Not later than four (4) weeks after the annual meeting of the township district legislative body under IC 36-6-6.1-10, the executive shall publish the abstract required by subsection (a) in accordance with IC 5-3-1. The abstract must state that a complete and detailed annual report and the accompanying vouchers showing the names of persons paid money by the township district have been filed with the city controller of the consolidated city, and that the chairperson of the township district legislative body has a copy of the report that is available for inspection by any taxpayer of the township district.

(c) An executive who fails to comply with this section commits a Class C infraction.

Sec. 18. When an executive's term of office expires, the executive shall:

(1) immediately deliver to the new executive custody of all funds and property of the township district, except records necessary in the preparation of the former executive's annual report under section 16 of this chapter;

(2) deliver to the new executive, not later than the second Monday in the next January, the former executive's annual report and any records the former executive has retained; and

(3) attend the annual meeting of the township district legislative body held under IC 36-6-6.1-10 and submit to inquiries from the township district legislative body concerning the operation of the executive's office during the preceding calendar year.

Sec. 19. (a) If an executive resigns or dies, the executive's personal representative shall immediately deliver to the new executive custody of all funds and property of the township district. The new executive shall then issue a call for a special meeting of the township district legislative body, to be held not more than fifteen (15) days later. At the special meeting the township district legislative body shall:

(1) examine the records of the township district;

(2) inquire into the conduct of the executive's office; and

(3) approve in whole or in part the records, receipts, and expenditures of the township district to the date of the death or resignation of the former executive.

(b) In the new executive's annual report to the township district legislative body required under section 16 of this chapter, the new executive shall distinguish between the new executive's

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transactions and those of the former executive. The township district legislative body may, at its annual meeting under IC 36-6-6.1-10, review items in the report that were considered at the special meeting.

Sec. 20. An executive is entitled to receive the following:

(1) The executive's salary.

(2) Reimbursement for expenses that are reasonably incurred by the executive for the following:

(A) The operation of the executive's office.

(B) Travel and meals while attending seminars or conferences on township district matters.

(C) A sum for mileage as permitted under IC 36-6-8-3(b).

The executive may not make any other personal use of funds of the township district without prior approval by the township district legislative body.

Sec. 21. (a) Not later than thirty (30) days after taking office, the executive shall designate a person who shall perform the executive's duties whenever the executive is incapable of performing the executive's functions because the executive:

(1) is absent from the township district; or

(2) becomes incapacitated.

The executive shall give notice of the designation to the chairperson of the township district legislative body, the county sheriff, the city controller, and any other persons that the executive chooses. The designee shall have all the powers of the executive. The executive is responsible for all acts of the designee. The executive may change the designee under this section at any time.

(b) The designee shall perform the executive's duties until the executive is no longer absent from the township district or incapacitated.

Sec. 22. The executive may pay township district funds for the purpose of supporting a drug awareness program that is implemented in schools.".

Page 9, line 6, delete "A" and insert "**Except as provided in section 3 of this chapter,** a".

Page 9, delete lines 34 through 42, begin a new paragraph and insert:

"SECTION 198. IC 36-6-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 2. (a) This section applies to ~~townships~~ **a township, other than a township located in a county having a consolidated city,** that ~~do~~ **does** not have an elected or appointed and qualified township assessor.

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(b) The township executive shall perform all the duties and has all the rights and powers of assessor. If a township qualifies under IC 36-6-5-1 to elect a township assessor, the executive shall continue to serve as assessor until an assessor is appointed or elected and qualified.

(c) The bond filed by the executive in ~~his~~ **the executive's** capacity as executive also covers ~~his~~ **the executive's** duties as assessor.

SECTION 199. IC 36-6-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. **(a) Except as provided in subsection (b),** the assessor shall perform the duties prescribed by statute, including:

(1) assessment duties prescribed by IC 6-1.1; and

(2) administration of the dog tax and dog fund, as prescribed by IC 15-5-9.

(b) In a township located in a county having a consolidated city:

(1) there is no township assessor;

(2) the duties of the township assessor prescribed by IC 6-1.1 are performed by the county assessor under IC 36-2-15-5; and

(3) the duties of the township assessor prescribed by IC 15-5-9 are performed by the controller of the consolidated city or the controller's designee.

SECTION 200. IC 36-6-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. **(a) Except as provided in subsection (b),** this chapter applies to ~~all townships.~~ **a township.**

(b) This chapter does not apply to a township in a county having a consolidated city after December 31, 2005.".

Page 10, delete lines 1 through 3.

Page 10, between lines 20 and 21, begin a new paragraph and insert:

"SECTION 202. IC 36-6-6-2.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.2. ~~(a) This subsection applies to townships in a county containing a consolidated city. The voters of each legislative body district established under section 2.5 of this chapter shall elect one (1) member of the township board.~~

~~(b) This subsection applies to townships not included in subsection (a).~~ The voters of each township shall elect all the members of the township board.".

Page 11, after line 12, begin a new paragraph and insert:

"SECTION 205. IC 36-6-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 10. (a) This section does not apply to the appropriation of money to pay a deputy, an employee, or a technical adviser that assists a township assessor

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with assessment duties or to an elected township assessor.

(b) The township legislative body shall fix the:

(1) salaries;

(2) wages;

(3) rates of hourly pay; and

(4) remuneration other than statutory allowances;

of all officers and employees of the township.

(c) Subject to subsection (d), the township legislative body may reduce the salary of an elected or appointed official. However, the official is entitled to a salary that is not less than the salary fixed for the first year of the term of office that immediately preceded the current term of office.

(d) Except as provided in subsection (e), the township legislative body may not alter the salaries of elected or appointed officers during the fiscal year for which they are fixed, but it may add or eliminate any other position and change the salary of any other employee, if the necessary funds and appropriations are available.

(e) In a township that:

(1) is not located in a county having a consolidated city; and

(2) does not elect a township assessor under IC 36-6-5-1;

the township legislative body may appropriate available township funds to supplement the salaries of elected or appointed officers to compensate them for performing assessing duties. However, in any calendar year no officer or employee may receive a salary and additional salary supplements which exceed the salary fixed for that officer or employee under subsection (b).

(f) If a change in the mileage allowance paid to state officers and employees is established by July 1 of any year, that change shall be included in the compensation fixed for the township executive and assessor under this section, to take effect January 1 of the next year. However, the township legislative body may by ordinance provide for the change in the sum per mile to take effect before January 1 of the next year.

(g) The township legislative body may not reduce the salary of the township executive without the consent of the township executive during the term of office of the township executive as set forth in IC 36-6-4-2.

(h) This subsection applies when a township executive dies or resigns from office. The person filling the vacancy of the township executive shall receive at least the same salary the previous township executive received for the remainder of the unexpired term of office of the township executive (as set forth in IC 36-6-4-2), unless the person

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consents to a reduction in salary.

SECTION 206. IC 36-6-6.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 6.1. Township Legislative Bodies in Marion County

Sec. 1. Subject to IC 36-6-1.1, this chapter applies only in a county having a consolidated city.

Sec. 2. The definitions in IC 36-6-4.1 apply to this chapter.

Sec. 3. (a) The township board shall serve as the township district legislative body.

(b) The township board for the:

(1) central township district consists of seven (7) at-large members; and

(2) consolidated township district consists of nine (9) at-large members.

(c) Beginning with the general election to be held in 2006, all members of the township boards shall be elected under IC 3-10-2-13 by the voters of each township district.

(d) The term of office of a township board member is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified.

Sec. 4. A member of the legislative body must reside within the township district. If a member of the legislative body ceases to be a resident of the township district from which the member was elected, the office becomes vacant.

Sec. 5. (a) Four (4) members of the legislative body for the central township district constitute a quorum.

(b) Five (5) members of the legislative body for the consolidated township district constitute a quorum.

Sec. 6. The legislative body may adjourn a meeting from day to day until the business of the legislative body is completed.

Sec. 7. A taxpayer of the township district may appear at any meeting of the legislative body and be heard as to:

(1) an estimate of expenditures;

(2) a proposed levy of taxes;

(3) the approval of the executive's annual report; or

(4) any other matter being considered by the legislative body.

Sec. 8. (a) The legislative body shall meet at the office of the executive on the first Tuesday after the first Monday in January of each year. At this meeting the legislative body shall elect one (1) member as chairperson and one (1) member as secretary for that year.

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(b) If a newly elected legislative body holds a special meeting before the first Tuesday after the first Monday in the January following its election, the legislative body shall elect a chairperson and a secretary before conducting any other business. The chairperson and secretary elected at the special meeting retain those positions until the first Tuesday after the first Monday in January of the year following the special meeting.

Sec. 9. The legislative body shall keep a permanent record of its proceedings in a book furnished by the executive. The secretary of the legislative body shall, under the direction of the legislative body, record the minutes of the proceedings of each meeting in full and shall provide copies of the minutes to each member of the legislative body before the next meeting is convened. After the minutes are approved by the legislative body, the secretary of the legislative body shall place the minutes in the permanent record book. The chairperson of the legislative body shall retain the record in the chairperson's custody.

Sec. 10. (a) The legislative body shall meet on or before the third Tuesday after the first Monday in January of each year. At this meeting the legislative body shall consider and approve, in whole or in part, the annual report of the executive presented under IC 36-6-4.1-15.

(b) The legislative body may send for persons, books, and papers necessary in the examination of the annual report. A member may administer oaths necessary in the examination of the annual report.

(c) Any sum in the control of the executive that remains unexpended and is subject to no liability shall be credited in favor of the fund for which it was appropriated.

(d) Any fund expended, in whole or in part, for a purpose for which it was not appropriated shall be considered unexpended and in the control of the executive, who is liable on his bond for such an expenditure.

(e) When the legislative body completes its examination of the annual report, the legislative body shall take action on the annual report, specifying the parts of the annual report that are altered or disallowed. The annual report remains under the control of the legislative body and in custody of the chairperson of the legislative body, who shall keep it open to inspection by taxpayers of the township district.

Sec. 11. (a) The legislative body shall fix the:

(1) salaries;

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(2) wages;

(3) rates of hourly pay; and

(4) remuneration other than statutory allowances;

of all officers and employees of the township district.

(b) Subject to subsection (c), the legislative body may reduce the salary of an elected or appointed official. However, the official is entitled to a salary that is not less than the salary fixed for the first year of the term of office that immediately preceded the current term of office.

(c) The legislative body may not alter the salaries of elected or appointed officers during the fiscal year for which they are fixed, but the legislative body may add or eliminate any other position and change the salary of any other employee, if the necessary funds and appropriations are available.

(d) If a change in the mileage allowance paid to state officers and employees is established by July 1 of any year, that change shall be included in the compensation fixed for the executive under this section and take effect January 1 of the next year. However, the legislative body may by ordinance provide for the change in the sum per mile to take effect before January 1 of the next year.

(e) The legislative body may not reduce the salary of the executive without the consent of the executive during the term of office of the executive as set forth in IC 36-6-4.1-7.

(f) This subsection applies when an executive dies or resigns from office. The person filling the vacancy of the executive shall receive at least the same salary the previous executive received for the remainder of the unexpired term of office of the executive (as set forth in IC 36-6-4.1-7), unless the person consents to a reduction in salary.

Sec. 12. (a) The legislative body shall meet annually in accordance with IC 6-1.1-17 to adopt the annual budget of the district.

(b) The legislative body shall consider the estimates of expenditures made by the executive under IC 36-6-4.1-15, and may approve or reject all or part of any estimate or any item within an estimate. The legislative body may require the executive to further itemize an estimate not sufficiently itemized.

(c) The legislative body may not appropriate for any purpose an amount more than the executive's estimate of the amount required for that purpose.

(d) The legislative body shall include in the budget:

(1) provisions for the payment of existing debt of the township

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district as it becomes due; and

(2) the salaries fixed under section 11 of this chapter.

(e) In making levies for the general fund of the township district, the legislative body may include an amount not more than the amount necessary to compensate its members for their services during the year for which the levies are made.

(f) After the legislative body has taken action on the executive's estimates, it shall levy taxes for the township district funds on property in the township district and fix rates of taxation sufficient to provide that revenue during the next year.

(g) On the assessment date, as defined by IC 6-1.1-1-2, the rates of taxation adopted under this section become a levy and a lien on all taxable property in the township district, including property in municipalities in the township district. The levy constitutes an appropriation for the specific items in the executive's estimates.

Sec. 13. (a) The legislative body may appropriate money for membership of the township district in county, state, or national associations that:

(1) are of a civic, an educational, or a governmental nature; and

(2) have as a purpose the improvement of township or township district governmental operations.

The township district representatives may participate in the activities of these associations, and the legislative body may appropriate money to defray the expenses of township district representatives in connection with these activities.

(b) Each representative of the township district attending any meeting, conference, seminar, or convention approved by the executive shall be allowed reimbursement for all necessary and legitimate expenses incurred while representing the township district. Expenses shall be paid to each representative in accordance with the reimbursement policy of the township district, which may include an established per diem rate, as recommended by the executive and adopted by the legislative body.

Sec. 14. (a) A special meeting may be held by the legislative body if the executive, the chairperson of the legislative body, or a majority of the members of the legislative body issue a written notice of the meeting to each member of the legislative body. The notice must state the time, place, and purpose of the meeting.

(b) At the special meeting, if a majority of the members give their consent, the legislative body may determine whether there is an emergency requiring the expenditure of money not included in

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the budget estimates and levy of the township district. Subject to section 15 of this chapter, if the legislative body finds that such an emergency exists, it may issue a special order, entered and signed on the record, authorizing the executive to borrow a specified amount of money sufficient to meet the emergency. At the legislative body's next annual session, the legislative body shall cover the debt created by making a levy to the credit of the fund for which the amount was borrowed under this subsection.

Sec. 15. (a) If the legislative body issues a special order under section 14 of this chapter authorizing the executive to borrow money, not less than ten (10) taxpayers in the township district who disagree with the special order may file a petition in the office of the city controller of the consolidated city not more than thirty (30) days after notice of the special order is given. The petition must state the taxpayers' objections and the reasons why the taxpayers believe the special order is unnecessary or unwise.

(b) The city controller of the consolidated city shall immediately certify a copy of the petition, together with other data necessary to present the questions involved, to the department of local government finance. Upon receipt of the certified petition and other data, the department of local government finance shall fix a date, time, and place for the hearing of the matter. The hearing must be held not less than five (5) and not more than thirty (30) days after the receipt of the certified documents.

(c) The hearing must be held in the township district where the petition arose.

(d) Notice of the hearing shall be given by the department of local government finance to the township district and to the first ten (10) taxpayer petitioners listed on the petition by letter. The letter shall be sent to the first ten (10) taxpayer petitioners at each taxpayer's usual place of residence at least five (5) days before the date of the hearing.

(e) A:

(1) taxpayer who signed a petition filed under subsection (a); or

(2) township district against which a petition under subsection (a) is filed;

may petition for judicial review of the final determination of the department of local government finance under subsection (a). The petition must be filed in the tax court not more than forty-five (45) days after the date of the department's final determination.

Sec. 16. (a) If the legislative body finds that an emergency

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requires the borrowing of money to meet the current expenses of the township district, the legislative body may take out temporary loans in an amount not more than fifty percent (50%) of the total anticipated revenue for the remainder of the year in which the loans are taken out.

(b) The legislative body must authorize the temporary loans by a resolution:

(1) stating the nature of the consideration for the loans;

(2) stating the time the loans are payable;

(3) stating the place the loans are payable;

(4) stating a rate of interest;

(5) stating the anticipated revenues on which the loans are based and out of which they are payable; and

(6) appropriating a sufficient amount of the anticipated revenues on which the loans are based and out of which they are payable for the payment of the loans.

(c) The loans must be evidenced by time warrants of the township district stating:

(1) the nature of the consideration;

(2) the time payable;

(3) the place payable; and

(4) the anticipated revenues on which they are based and out of which they are payable.

SECTION 207. IC 36-6-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. **(a) Except as provided in subsection (b),** this chapter applies to all townships.

(b) Sections 5, 6, 9, 10, and 11 of this chapter do not apply to a township located in a county having a consolidated city.

SECTION 208. IC 36-6-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 10. (a) The county fiscal body shall, in the manner prescribed by IC 36-2-5 or IC 36-2-6, fix and appropriate money to pay the per diem established under section 5 of this chapter and the salaries and per diems of the county's township assessors and any deputies or other employees that assist the elected township assessor.

(b) Each township assessor shall file the budget estimate required by IC 36-2-5-5. ~~or IC 36-3-6-4.~~ The budget estimate filed under this subsection must include all estimated expenses of the office, including costs incurred through litigation for the office.

(c) If the township executive is performing the duties of assessor, the county fiscal body shall appropriate money for the purposes of subsection (a) and other expenses of acting as assessor, including all

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costs incurred through litigation for the office. However, it may not provide a salary that is below the amount fixed for that salary for the year 1984.

SECTION 209. IC 36-7-11.2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 11. As used in this chapter, "notice" means written notice:

(1) served personally upon the person, official, or office entitled to the notice; or

(2) served upon the person, official, or office by placing the notice in the United States mail, first class postage prepaid, properly addressed to the person, official, or office. Notice is considered served if mailed in the manner prescribed by this subdivision properly addressed to the following:

(A) The governor, both to the address of the governor's official residence and to the governor's executive office in Indianapolis.

(B) The Indiana department of transportation, to the commissioner.

(C) The department of natural resources, both to the director of the department and to the director of the department's division of historic preservation and archeology.

(D) The department of metropolitan development.

(E) An occupant, to:

(i) the person by name; or

(ii) if the name is unknown, to the "Occupant" at the address of the Meridian Street or bordering property occupied by the person.

(F) An owner, to the person by the name shown to be the name of the owner, and at the person's address, as the address appears in the records in the bound volumes of the most recent real estate tax assessment records as the records appear in the offices of the ~~township assessors~~ **county assessor** in Marion County.

(G) A neighborhood association or the society, to the organization at the latest address as shown in the records of the commission.

SECTION 210. IC 36-7-11.2-58 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 58. (a) A person who has filed a petition under section 56 or 57 of this chapter shall, not later than ten (10) days after the filing, serve notice upon all interested parties. The notice must state the following:

(1) The full name and address of the following:

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(A) The petitioner.

(B) Each attorney acting for and on behalf of the petitioner.

(2) The street address of the Meridian Street and bordering property for which the petition was filed.

(3) The name of the owner of the property.

(4) The full name and address of, and the type of business, if any, conducted by:

(A) each person who at the time of the filing is a party to; and

(B) each person who is a disclosed or an undisclosed principal for whom the party was acting as agent in entering into;

a contract of sale, lease, option to purchase or lease, agreement to build or develop, or other written agreement of any kind or nature concerning the subject property or the present or future ownership, use, occupancy, possession, or development of the subject property.

(5) A description of the contract of sale, lease, option to purchase or lease, agreement to build or develop, or other written agreement sufficient to disclose the full nature of the interest of the party or of the party's principal in the subject property or in the present or future ownership, use, occupancy, possession, or development of the subject property.

(6) A description of the proposed use for which the rezoning or zoning variance is sought, sufficiently detailed to appraise the notice recipient of the true character, nature, extent, and physical properties of the proposed use.

(7) The date of the filing of the petition.

(8) The date, time, and place of the next regular meeting of the commission if a petition is for approval of a zoning variance. If a petition is filed with the development commission, the notice does not have to specify the date of a hearing before the commission or the development commission. However, the person filing the petition shall give ten (10) days notice of the date, time, and place of a hearing before the commission on the petition after the referral of the petition to the commission by the development commission.

(b) For purposes of giving notice to the interested parties who are owners, the records in the bound volumes of the recent real estate tax assessment records as the records appear in the offices of the ~~township assessors~~ **county assessor** as of the date of filing are considered determinative of the persons who are owners.

SECTION 211. IC 36-7-15.1-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 32. (a) The

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commission must establish a program for housing. The program, which may include such elements as the commission considers appropriate, must be adopted as part of a redevelopment plan or amendment to a redevelopment plan, and must establish an allocation area for purposes of sections 26 and 35 of this chapter for the accomplishment of the program.

(b) The notice and hearing provisions of sections 10 and 10.5 of this chapter apply to the resolution adopted under subsection (a). Judicial review of the resolution may be made under section 11 of this chapter.

(c) Before formal submission of any housing program to the commission, the department shall consult with persons interested in or affected by the proposed program and provide the affected neighborhood associations, residents, and ~~township assessors~~ **the county assessor** with an adequate opportunity to participate in an advisory role in planning, implementing, and evaluating the proposed program. The department may hold public meetings in the affected neighborhood to obtain the views of neighborhood associations and residents.

SECTION 212. IC 36-8-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1. 2006]: Sec. 7. **(a) Except as provided in subsection (b),** "local board" means the board of trustees of a 1925, 1937, or 1953 fund.

(b) After December 31, 2005, in a consolidated city, "local board" means the public safety pension commission established by IC 36-8-7.6-2.

SECTION 213. IC 36-8-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 6. (a) This section applies to:

(1) all municipalities, **except a consolidated city; and**

(2) a county having a consolidated city that establishes a metropolitan law enforcement agency under IC 36-8-10.1.

(b) As used in this section, "member of the metropolitan law enforcement agency" refers to a member of the metropolitan law enforcement agency established by IC 36-8-10.1.

~~(b)~~ **(c)** A warrant of search or arrest, issued by any judge, may be executed in the municipality by:

(1) any municipal police officer; **or**

(2) a member of the metropolitan law enforcement agency;

subject to the laws governing arrest and bail.

~~(c)~~ **(d)** The police officers of a municipality **or a member of the metropolitan law enforcement agency** shall:

(1) serve all process within the municipality **or the consolidated**

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city issuing from the city or town court;

(2) arrest, without process, all persons who within view violate statutes, take them before the court having jurisdiction of the offense, and retain them in custody until the cause of the arrest has been investigated;

(3) enforce municipal ordinances in accordance with IC 36-1-6;

(4) suppress all breaches of the peace within their knowledge and may call to their aid the power of the municipality **or the consolidated city** and pursue and commit to jail persons guilty of crimes;

(5) serve all process issued by:

(A) the legislative body of the municipality **or the consolidated city;** ~~or~~

(B) any committee of ~~it,~~ **the legislative body of the municipality or the consolidated city;** or ~~by~~

(C) any of the executive departments of the municipality **or the consolidated city;**

(6) serve the city or town court and assist the bailiff in preserving order in the court; and

(7) convey prisoners to and from the county jail or station houses of the municipality **or the consolidated city** for arraignment or trial in the city or town court or to the place of imprisonment under sentence of the court.

SECTION 214. IC 36-8-3-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 20. (a) This section applies to **the following:**

(1) Counties, **including a county having a consolidated city.** ~~and~~

(2) Towns. ~~as well as~~

(3) Cities.

(b) A unit may provide by ordinance for any number of police reserve officers.

(c) Police reserve officers shall be appointed by the same authority that appoints regular members of the department.

(d) Police reserve officers may be designated by another name specified by ordinance.

(e) Police reserve officers may not be members of the regular police department but have all of the same police powers as regular members, except as limited by the rules of the department. Each department may adopt rules to limit the authority of police reserve officers.

(f) To the extent that money is appropriated for a purpose listed in this subsection, police reserve officers may receive any of the following:

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(1) A uniform allowance.

(2) Compensation for time lost from other employment because of court appearances.

(3) Insurance for life, accident, and sickness coverage.

(4) In the case of county police reserve officers, compensation for lake patrol duties that the county sheriff assigns and approves for compensation.

(g) Police reserve officers are not eligible to participate in any pension program provided for regular members of the department.

(h) A police reserve officer may not be appointed until he has completed the training and probationary period specified by rules of the department.

(i) A police reserve officer appointed by the department after June 30, 1993, may not:

(1) make an arrest;

(2) conduct a search or a seizure of a person or property; or

(3) carry a firearm;

unless the police reserve officer successfully completes a pre-basic course under IC 5-2-1-9(f).

(j) A police reserve officer may be covered by the medical treatment and burial expense provisions of the worker's compensation law (IC 22-3-2 through IC 22-3-6) and the worker's occupational diseases law (IC 22-3-7). If compensability of the injury is an issue, the administrative procedures of IC 22-3-2 through IC 22-3-6 and IC 22-3-7 shall be used to determine the issue.

(k) A police reserve officer carrying out lake patrol duties under this chapter is immune from liability under IC 34-30-12, notwithstanding the payment of compensation to the officer.

SECTION 215. IC 36-8-3-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 21. (a) Except as provided in subsection (b), this section applies to all units, **including a county having a consolidated city that establishes a metropolitan law enforcement agency under IC 36-8-10.1.**

(b) This subsection does not apply to the appointment of a fire chief under a waiver under IC 36-8-4-6(c) or the appointment of a police chief under a waiver under IC 36-8-4-6.5(c). An individual may not be employed by a unit after May 31, 1985, as a member of the unit's fire department or as a member of the unit's police department unless the individual meets the conditions for membership in the 1977 fund.

(c) Notwithstanding IC 36-8-1-9, the executive of the unit may request that the 1977 fund accept the following individuals in the 1977 fund under IC 36-8-8-7(h):

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(1) A fire chief appointed under a waiver under IC 36-8-4-6(c).

(2) A police chief appointed under a waiver under IC 36-8-4-6.5(c).

(d) This subsection applies to a county having a consolidated city that establishes a metropolitan law enforcement agency under IC 36-8-10.1. The executive of the consolidated city may request that the 1977 fund accept in the 1977 fund under IC 36-8-8-7(m) the sheriff of the county whose initial term of office begins after December 31, 2005.

SECTION 216. IC 36-8-3.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. (a) **Except as provided in subsection (b),** this chapter applies to each municipality or township that has a full-time paid police or fire department.

(b) This chapter does not apply to a metropolitan law enforcement agency established under IC 36-8-10.1.

(c) A municipality may exercise the power of establishing a merit system for its police or fire department under this chapter or by ordinance adopted under IC 36-1-4-14. A township may exercise the power of establishing a merit system for its fire department under this chapter or by resolution under IC 36-1-4-14. This chapter does not affect merit systems established:

(1) by ordinance under IC 36-1-4-14, except as provided by subsection ~~(c),~~ **(g);**

(2) by resolution under IC 36-1-4-14, except as provided by subsection ~~(f),~~ **(h);** or

(3) by a prior statute, except as provided by subsection ~~(b).~~ **(d).**

~~(b)~~ **(d)** If a city had a merit system for its police or fire department under the former IC 18-4-12, IC 19-1-7, IC 19-1-14, IC 19-1-14.2, IC 19-1-14.3, IC 19-1-14.5, IC 19-1-20, IC 19-1-21, IC 19-1-29, IC 19-1-29.5, IC 19-1-31, IC 19-1-31.5, or IC 19-1-37.5, it may retain that system by ordinance of the city legislative body passed before January 1, 1983. The ordinance must initially incorporate all the provisions of the prior statute but may be amended by the legislative body after December 31, 1984. The ordinance retaining the system must be amended, if necessary, to include a provision under which the commission (or governing board of the merit system) has at least one-third (1/3) of its members elected by the active members of the department as prescribed by section 8 of this chapter. Each elected commission member must:

(1) be a person of good moral character; and

(2) except for a member of a fire department having a merit system established under IC 19-1-37.5, not be an active member

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of a police or fire department or agency.

~~(c)~~ **(e)** After December 31, 1984, the legislative body also may repeal the ordinance described in subsection ~~(b),~~ **(d),** but the legislative body shall in the repealing ordinance concurrently establish a new merit system under section 3 of this chapter. (This subsection does not require the legislative body to establish a new merit system when it exercises its power to amend the ordinance under subsection ~~(b).)~~ **(d).)** After the new merit system takes effect, all members of the department are entitled to the same ranks and pay grades the members held under the prior system, subject to changes made in accordance with this chapter.

~~(d)~~ **(f)** If a city had a merit system for its police or fire department under a prior statute but fails to retain that system under subsection ~~(b),~~ **(d),** the city legislative body shall, before July 1, 1983, pass an ordinance to establish a new merit system under section 3 of this chapter. If the new merit system is approved as provided by section 4 of this chapter, it takes effect as provided by that section. However, if the new merit system is rejected under section 4 of this chapter, within thirty (30) days the city legislative body shall adopt an ordinance to retain the prior merit system. The prior merit system remains in effect until the new merit system takes effect, after which time all members of the department are entitled to the same ranks and pay grades the members held under the prior system, subject to changes made in accordance with this chapter.

~~(e)~~ **(g)** An ordinance adopted under IC 36-1-4-14 to establish a police or fire merit system must include a provision under which the commission, or governing board of the merit system, has at least one-third (1/3) of its members elected by the active members of the department as prescribed by section 8 of this chapter. Each elected commission member must be a person of good moral character who is not an active member of a police or fire department or agency. If an ordinance was adopted under IC 36-1-4-14 before July 1, 1988, the ordinance must be amended to include this requirement.

~~(f)~~ **(h)** This chapter does not prevent a township or other unit that has adopted a merit system under section 3 of this chapter from later amending or deleting any provisions of the merit system contained in this chapter. However, the merit system must include a provision under which the commission has at least one-third (1/3) of its members elected by the active members of the department, as set forth in section 8 of this chapter and a provision that incorporates the requirements of section 6(a) of this chapter. This subsection does not require the legislative body to establish a new merit system when it exercises its

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power to amend under this subsection.

SECTION 217. IC 36-8-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. **(a) Except as provided in subsection (b),** this chapter applies to all cities.

(b) This chapter does not apply to a metropolitan law enforcement agency established under IC 36-8-10.1, except that section 6.5(a) and 6.5(b) of this chapter apply to the chief of a metropolitan law enforcement agency.

SECTION 218. IC 36-8-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. **(a)** This chapter applies to **the following:**

(1) All municipalities.

(2) A county having a consolidated city that establishes a metropolitan law enforcement agency under IC 36-8-10.1. ~~In addition,~~

(b) Section 2 of this chapter applies to any other political subdivision that employs full-time, fully paid firefighters.

SECTION 219. IC 36-8-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. (a) This chapter applies to pension benefits for members of police departments hired before May 1, 1977, in second and third class cities, and in towns that have established a board of metropolitan police commissioners.

(b) A police officer with twenty (20) years of service is covered by this chapter and not by IC 36-8-8 if ~~he:~~ **the police officer:**

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 (repealed September 1, 1981); and

(3) is rehired after April 30, 1977, by the same employer.

(c) A police officer is covered by this chapter and not by IC 36-8-8 if ~~he:~~ **the police officer:**

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 (repealed September 1, 1981);

(3) was rehired after April 30, 1977, but before February 1, 1979; and

(4) was made, before February 1, 1979, a member of a 1925 fund.

(d) A police matron is covered by this chapter and not by IC 5-10.3 or IC 36-8-8 if ~~she:~~ **the police matron:**

(1) was hired before May 1, 1977;

(2) is a member of a police department in a second or third class city; and

(3) is employed as a police matron on March 31, 1996.

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(e) A police officer who:

(1) is covered by this chapter before January 1, 2006; and

(2) after December 31, 2005, becomes a member of the metropolitan law enforcement agency established under IC 36-8-10.1;

is covered by this chapter after December 31, 2005, and the police officer's service as a member of the metropolitan law enforcement agency is considered active service under this chapter.

SECTION 220. IC 36-8-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. (a) This chapter applies to pension benefits for members of fire departments hired before May 1, 1977, in units for which a 1937 fund was established before May 1, 1977.

(b) A firefighter with twenty (20) years of service is covered by this chapter and not by IC 36-8-8 if ~~he:~~ **the firefighter:**

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-36.5-7 (repealed September 1, 1981); and

(3) is rehired after April 30, 1977, by the same employer.

(c) A firefighter is covered by this chapter and not by IC 36-8-8 if ~~he:~~ **the firefighter:**

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-36.5-7 (repealed September 1, 1981);

(3) was rehired after April 30, 1977, but before February 1, 1979; and

(4) was made, before February 1, 1979, a member of a 1937 fund.

(d) A firefighter who:

(1) is covered by this chapter before January 1, 2006; and

(2) after December 31, 2005, becomes a member of a fire department of a consolidated city under IC 36-3-1-6.1;

is covered by this chapter after December 31, 2005, and the firefighter's service as a member of a fire department of a consolidated city is considered active service under this chapter.

SECTION 221. IC 36-8-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 3. (a) A firefighters' pension fund to be known as the 1937 fund is established in each unit described by section 1(a) of this chapter.

(b) **Except as provided in subsection (c),** the 1937 fund **for each unit** shall be managed by a board of trustees (referred to as the "local board" in this chapter) **under this chapter. A local board is** composed of seven (7) trustees **as follows:** ~~Two (2) trustees are~~

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(1) The executive of the unit, **an ex officio voting trustee.** ~~and~~

(2) The fire chief, ~~who are~~ **an** ex officio voting ~~trustees~~ **trustee.** ~~The other trustees are~~

(3) One (1) retired member of the fire department. ~~and~~

(4) Four (4) active members of the fire department.

The retired member and the active members of the fire department are elected for the terms and in the manner provided in this chapter.

(c) The local board for a unit having a fire department consolidated under IC 36-3-1-6.1 is the public safety pension commission established by IC 36-8-7.6.

~~(c)~~ **(d)** The local board has control of the 1937 fund of the unit. The local board shall manage, use, and disburse the fund for the purpose and in the manner prescribed by this chapter. The local board may adopt and enforce bylaws that do not conflict with this chapter and are considered necessary to enable it to achieve the purposes for which it was organized. Each trustee shall, before entering upon the duties of his office, take an oath to faithfully perform his duties.

SECTION 222. IC 36-8-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 4. (a) If a unit has less than five (5) members in its fire department, the unit may provide for the organization of a local board consisting of the fire chief, the executive of the unit, and one (1) member of the fire department.

(b) The trustee from the fire department shall be elected under this section.

(c) The local board may amend the bylaws of the fund to elect the trustee from the fire department in an election held on any three (3) consecutive days in February specified in the bylaws. The election shall be called by the fire chief and held at the house or quarters of the fire department. Subject to this section, the election shall be conducted in the manner specified in the bylaws.

(d) This subsection applies only if the local board does not elect to be governed by subsection (c). The trustee from the fire department shall be elected at a meeting held on the second Monday in February each year. The meeting shall be called by the fire chief and held at the house or quarters of the fire department.

(e) The term of the elected trustee is one (1) year beginning immediately after ~~his~~ **the trustee's** election.

(f) Each member of the department is entitled to one (1) ballot and the person receiving the highest number of votes is elected. The executive of the unit, the fire chief, and the city or county clerk shall canvass and count the ballots, and the clerk shall issue a certificate of election to the person having received the highest number of votes. If

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two (2) persons have received the same number of votes, the executive and the chief shall immediately determine by lot who will be the trustee from the persons receiving an equal number of votes.

(g) This section does not apply to a consolidated city.

SECTION 223. IC 36-8-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 5. (a) An election shall be held each year under this section to elect one (1) trustee from the active members of the fire department for a term of four (4) years, commencing on the day of his election. The fire chief shall fix a time for holding a convention to nominate candidates for trustees to be elected at each election. Each convention must be held at least five (5) days before the day on which the annual election is held. A convention consists of one (1) delegate from each fire company and one (1) delegate to be selected by the chief and ~~his~~ **the chief's** assistants. The delegate from each fire company shall be elected by ballot by the members of the company at a time to be fixed by the chief in the call for a convention. The election of delegates shall be certified by the captain or other officer of the company, or, if there is not an officer present, then by the oldest member of the company present. The convention, when assembled, shall nominate six (6) members of the fire department to be voted upon as trustees, and the delegates shall report the names of the persons nominated as candidates to their respective companies in writing.

(b) The local board may amend the bylaws of the fund to elect the trustee from the active members of the fire department in an election held on any three (3) consecutive days in February specified in the bylaws. The election shall be called by the fire chief and held at the house or quarters of the respective companies of the fire department. Subject to this section, the election shall be conducted in the manner specified in the bylaws.

(c) This subsection applies only if the local board does not elect to be governed by subsection (b). The election shall be held at the houses or quarters of the respective companies on the second Monday in February between 9 a.m. and 6 p.m.

(d) Each member of a fire company is entitled to one (1) ballot, and the ballot may not contain the names of more than one (1) person, chosen from the six (6) persons nominated by the convention. The candidate receiving the highest number of votes is elected.

(e) The captain or other officer in command of each of the fire companies, immediately after the casting of all ballots, shall canvass and count the ballots. ~~He~~ **The captain or other officer** shall certify in writing the total number of ballots cast and the number of votes

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received by each candidate for the office of trustee. After signing the certificate, the officer shall enclose it, together with all the ballots cast by the fire company, in an envelope, securely sealed and addressed, and deliver them to the fire chief. The fire chief shall deliver them to the executive of the unit as soon as **the chief receives** all **the** certificates and ballots. ~~have been received by him.~~ Upon receipt the executive shall, in the presence of the chief and the clerk of the unit, open the envelopes, examine the certificates, and determine the total number of votes cast for each of the candidates. The executive shall then issue a certificate of election to the candidate having received the highest number of votes. If two (2) or more candidates have received the same number of votes, the executive and the chief shall immediately determine by lot who will be trustee from the persons receiving an equal number of votes. An election may not be set aside for lack of formality in balloting by the members or in certifying or transmitting the returns of an election by the officers in charge.

(f) This section does not apply to a consolidated city.

SECTION 224. IC 36-8-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 6. (a) An election shall be held under this section every two (2) years to elect one (1) trustee from the retired members of the fire department for a term of two (2) years, commencing on the day of ~~his~~ **the trustee's** election, if the retired list contains **at least** three (3) ~~or more~~ retired members at the time of election. The fire chief shall fix a time for holding a convention to nominate candidates for trustee to be elected at each election. Each convention must be held at least fifteen (15) days before the day on which the biennial election is held. All retired members of the fire department may participate in the convention. The convention, when assembled, shall nominate not more than four (4) members of the retired list to be voted upon as trustee. The secretary of the board shall mail the names of the persons nominated along with an official ballot to the retired members within forty-eight (48) hours of the end of the convention.

(b) The election shall be conducted by mail. Each retired member is entitled to cast one (1) ballot by mail and the ballot may not contain more than one (1) name, chosen from the list of retired persons nominated by the convention. The candidate receiving the highest number of votes by 6 p.m. on the second Monday in February or an alternative date in February specified in the bylaws of the fund is elected.

(c) The ballots must remain closed and inviolate until the close of the election, at which time, in the presence of the executive of the unit,

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the fire chief, and the clerk of the unit, the ballots shall be opened and counted. A certificate of election shall be issued to the candidate receiving the highest number of votes. If two (2) or more candidates receive the same number of votes, the executive and the chief shall immediately determine by lot who will be trustee from the persons receiving an equal number of votes.

(d) This section does not apply to a consolidated city.

SECTION 225. IC 36-8-7-6.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 6.5. (a) All ballots voted under this chapter shall be secured until the balloting is closed.

(b) Tampering with a ballot for an election under this chapter is a Class A infraction.

(c) This section does not apply to a consolidated city.

SECTION 226. IC 36-8-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 7. (a) The fire chief is the president of the local board.

(b) At the first meeting after each election, the local board shall elect a secretary, who may be chosen from among the trustees. However, the local board may consider it proper to have a secretary who is a member of the fire department, to be elected by the companies for a term of four (4) years in the same manner as the election for trustees. The secretary shall keep a full record of all the proceedings of the local board in a book provided for that purpose.

(c) The local board shall make all rules necessary for the discharge of its duties and shall hear and determine all applications for relief or pensions under this chapter.

(d) This section does not apply to a consolidated city.

SECTION 227. IC 36-8-7-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: 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.

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(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, who shall collect all interest due and credit it to the 1937 fund.

(c) The fiscal officer 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 the fiscal officer will faithfully discharge the duties of the fiscal officer's office and faithfully account for and pay over to the persons authorized to receive it all money that comes into the fiscal officer's hands by virtue of the fiscal officer's 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 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.

(f) This section does not apply to a local board established under IC 36-8-7.6.

SECTION 228. IC 36-8-7.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. (a) This chapter applies to pension benefits for members of police departments hired before May 1, 1977, by a consolidated city.

(b) A police officer with twenty (20) years of service is covered by

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this chapter and not by IC 36-8-8 if:

(1) the officer was hired before May 1, 1977;

(2) the officer did not convert under IC 19-1-17.8-7 (repealed September 1, 1981);

(3) the officer was not a member of the 1953 fund because:

(A) ~~his~~ **the officer's** employment was on a temporary or emergency status under a statute in effect before February 25, 1953;

(B) ~~he~~ **the officer** failed to pass a five (5) year physical requirement under such a statute; or

(C) ~~he~~ **the officer** was a war veteran without pension status;

(4) the officer submitted to a physical medical examination, if required by the local board, and the results were satisfactory; and

(5) the officer was accepted by the local board as a member of the 1953 fund upon payment of all dues required for ~~his~~ **the officer's** entire time as a member of the police department.

(c) A police officer is covered by this chapter and not by IC 36-8-8 if ~~he:~~ **the officer:**

(1) was hired before May 1, 1977; and

(2) did not convert under IC 19-1-17.8-7 (repealed September 1, 1981).

(d) A police officer is covered by this chapter and not by IC 36-8-8 if ~~he:~~ **the officer:**

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 (repealed September 1, 1981);

(3) is a regularly appointed member of the police department;

(4) is a member of the 1953 fund;

(5) was employed on a temporary or emergency status before regular employment; and

(6) paid into the 1953 fund by not later than January 1, 1968, all dues for the period ~~he~~ **the officer** was on temporary or emergency status.

(e) A police officer who:

(1) is covered by this chapter before January 1, 2006; and

(2) after December 31, 2005, becomes a member of the metropolitan law enforcement agency established under IC 36-8-10.1;

is covered by this chapter after December 31, 2005, and the officer's service as a member of the metropolitan law enforcement agency is considered active service under this chapter.

~~(e)~~ **(f)** In computing the length of active service rendered by any

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police officer for the purpose of determining the expiration of a period of twenty (20) years of active service, all of the following periods are counted:

(1) All of the time the officer performed the duties of ~~his~~ **the officer's** position in active service.

(2) Vacation time or periods of leave of absence with whole or part pay.

(3) Periods of leave of absence without pay that were necessary on account of physical or mental disability.

(4) Periods of disability for which the officer will receive or has received any disability benefit.

~~(f)~~ **(g)** In computing the term of service there is not included any of the following:

(1) Periods during which the police officer was or is suspended or on leave of absence without pay.

(2) Periods during which the officer was not in active service on account of ~~his~~ **the officer's** resignation from the department.

(3) Time served as a special police officer, a merchant police officer, or private police officer.

SECTION 229. IC 36-8-7.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2. (a) A police pension fund to be known as the 1953 fund is established in each consolidated city.

(b) The 1953 fund shall be managed by a board of trustees (referred to as the "local board" in this chapter) ~~having nine (9) trustees, as follows:~~

~~(1) The city executive, the county treasurer, and the city police chief.~~

~~(2) One (1) retired member of the police department.~~

~~(3) Five (5) active members of the police department.~~

~~(c) The trustee under subsection (b)(2) shall be elected at a meeting of the retired members of the 1953 fund. The trustees under subsection (b)(3) shall be elected at a meeting of the active members of the police department. The trustees are elected for terms of three (3) years, beginning on January 1 following the election, and succeeding those trustees whose terms of office expire on that date.~~

~~(d) If a vacancy occurs on the local board among those trustees elected by the police department, the remaining trustees of the local board shall fill the vacancy for the unexpired term of the trustee causing the vacancy, from the same class of members, active or retired, as was the trustee causing the vacancy.~~

~~(e) Any trustee of the local board elected as an active member of the~~

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~~police department automatically ceases to be a member of the local board if he ceases, for any reason, to be an active member of the police department and the vacancy shall be filled as provided in subsection (d).~~

~~(f) The trustees receive no compensation for their services and shall be paid only their necessary and actual expenses, including travel expenses, out of the fund in the custody of the treasurer, for acting upon matters related to the 1953 fund. The submission of expenses by any local board member and the authorization by the local board at regular meeting is sufficient authorization to the treasurer for payment.~~

~~(g) The local board may make all necessary bylaws for:~~

~~(1) meetings of the trustees;~~

~~(2) the manner of their election, including the counting and canvassing of the votes;~~

~~(3) the collection of all money and other property due or belonging to the 1953 fund;~~

~~(4) all matters connected with the care, preservation, and disbursement of the fund; and~~

~~(5) all other matters connected with the proper execution of this chapter.~~

established under IC 36-8-7.6.

SECTION 230. IC 36-8-7.5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 10. (a) If the local board determines that the total amount of money available for a year will be insufficient to pay the benefits, pensions, and retirement allowances the local board is obligated to pay under this chapter, the local board shall, before the date on which the budget of the police special service district is adopted, prepare an itemized estimate in the form prescribed by the state board of accounts of the amount of money that will be receipted into and disbursed from the 1953 fund during the next fiscal year. The estimated receipts consist of the items enumerated in section 8 of this chapter. The estimated disbursements consist of an estimate of the amount of money that will be needed by the local board during the next fiscal year to defray the expenses and obligations incurred and that will be incurred by the local board in making the payments prescribed by this chapter to retired members, to members who are eligible and expect to retire during the ensuing fiscal year, and to the dependents of deceased members.

(b) At the time when the estimates are prepared and submitted, the local board shall also prepare and submit a certified statement showing:

(1) the estimated number of beneficiaries from the 1953 fund during the ensuing fiscal year in each of the various

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classifications of beneficiaries as prescribed in this chapter, and the names and amount of benefits being paid to those actively on the list of beneficiaries at that time;

(2) the name, age, and length of service of each member of the police department who is eligible to and expects to retire during the ensuing fiscal year, and the monthly and yearly amounts of the payment that the member will be entitled to receive; and

(3) the name and age of each dependent of a member of the police department who is then receiving benefits, the date on which the dependent commenced drawing benefits, and the date on which the dependent will cease to be a dependent by reason of attaining the age limit prescribed by this chapter, and the monthly and yearly amounts of the payments to which each of the dependents is entitled.

(c) After the amounts of receipts and disbursements shown in the itemized estimate are fixed and approved by the executive, fiscal officer, legislative body and other bodies, as provided by law for other municipal funds, the total receipts shall be deducted from the total expenditures stated in the itemized estimate, and the amount of the excess shall be paid by the police special service district in the same manner as other expenses of the district are paid. The legislative body shall levy a tax ~~and~~ **in the police special service district in the amount and at the rate that is necessary to produce sufficient revenue to pay the deficit described in subsection (a). This levy is in addition to the levy, if any, in the police special service district to pay operational expenses of the metropolitan law enforcement agency under IC 36-8-10.1-17. The part of** the money derived from the levy **equal to the deficit** shall, when collected, be credited exclusively to the 1953 fund. ~~The tax shall be levied in the amount and at the rate that is necessary to produce sufficient revenue to equal the deficit.~~ Notwithstanding any other law, neither the county board of tax adjustment nor the department of local government finance may reduce the **part of the** tax levy **equal to the deficit.**

SECTION 231. IC 36-8-7.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 12. (a) Benefits paid under this section are subject to section 1.5 of this chapter.

(b) The 1953 fund shall be used to provide a member of the police department who retires from active duty after twenty (20) or more years of active duty an annual pension equal to fifty percent (50%) of the salary of a first class patrolman in the police department, plus:

(1) for a member who retires before January 1, 1986, two percent (2%) of the first class patrolman's salary for each year of service;

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or

(2) for a member who retires after December 31, 1985, one percent (1%) of the first class patrolman's salary for each six (6) months of service;

of the retired member over twenty (20) years. The pension may not exceed in any year an amount greater than seventy-four percent (74%) of the salary of a first class patrolman. The pensions shall be computed on an annual basis but shall be paid in twelve (12) equal monthly installments. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased.

(c) If a member retires upon his voluntary application after twenty (20) years or more of active service, he then relinquishes all rights to other benefits or pensions for disability during the time of his retirement.

(d) After retirement the member is not required to render further services on the police department and is no longer subject to the rules of the police department, unless a national emergency has been declared by the local board, on application by the executive, ~~the safety board, and the police chief of the city.~~ **the sheriff, or the chief of the metropolitan law enforcement agency**. Upon declaration of such an emergency, the retired member, if physically able, shall return to active duty under the rank he attained at the time of his retirement, and if he refuses to return to active duty upon being declared physically fit, he forfeits his right to receive his pension until the time he returns to active duty and again is retired or discharged from service.

(e) No pension, annuity, or benefit provided by this chapter is payable by the local board except upon written application by the member of the police department, or the surviving spouse or other dependent, upon the forms and with the information required by the local board.

SECTION 232. IC 36-8-7.6 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 7.6. Public Safety Pension Commission in a Consolidated City

Sec. 1. This chapter applies to a consolidated city after December 31, 2005.

Sec. 2. (a) The public safety pension commission is established.

(b) After December 31, 2005, the boards of trustees of:

(1) the 1925 fund, for the police departments being consolidated into the metropolitan law enforcement agency

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under IC 36-8-10.1;

(2) the 1937 fund, for the fire departments being consolidated into the fire department of the consolidated city under IC 36-3-1-6.1 or IC 36-3-1-6.3; and

(3) the 1953 fund, for the police department being consolidated into the metropolitan law enforcement agency under IC 36-8-10.1;

are abolished, and except as otherwise provided by this chapter, the powers and duties of those boards of trustees necessary to administer and manage the 1925 fund, the 1937 fund, and the 1953 fund are transferred to and assumed by the public safety pension commission.

Sec. 3. (a) The local board consists of fourteen (14) trustees, as follows:

(1) The city executive, or the executive's designee.

(2) The city controller.

(3) The county auditor.

(4) The county treasurer.

(5) The chair of the administration and finance committee of the city-county legislative body.

(6) The chair of the public safety and criminal justice committee of the city-county legislative body.

(7) The chief of the consolidated fire department, or the chief's designee.

(8) An active member of the metropolitan law enforcement agency (established by IC 36-8-10.1-16), appointed by the county sheriff and having an appointed rank of at least assistant chief.

(9) An active member of the metropolitan law enforcement agency (established by IC 36-8-10.1-16), elected by the active members of the metropolitan law enforcement agency.

(10) An active member of the consolidated fire department (established by IC 36-3-1-6.1), elected by the active members of the consolidated fire department.

(11) A trustee who is a certified public accountant, appointed by the city executive.

(12) A trustee who is employed in an occupation related to pension finance or administration, appointed by the city executive.

(13) A retired member from the consolidated city's police department as the department existed before January 1, 2006, elected by the retired members of the consolidated city's

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police department who are members of the 1953 fund or the 1977 fund.

(14) A retired member of the consolidated fire department, elected by the retired members of the consolidated fire department who are members of the 1937 fund or 1977 fund.

(b) The trustee described in subsection (a)(9) must be elected at a meeting of the active members of the metropolitan law enforcement agency.

(c) The trustee described in subsection (a)(10) must be elected at a meeting of the active members of the consolidated fire department.

(d) The trustee described in subsection (a)(13) must be elected at a meeting of the retired members of the police department of the consolidated city who are members of the 1953 fund or the 1977 fund.

(e) The trustee described in subsection (a)(14) must be elected at a meeting of the retired members of the consolidated fire department who are members of the 1937 fund or the 1977 fund.

Sec. 4. Unless a bylaw adopted by the local board under section 10 of this chapter provides otherwise, the following governs the terms of the trustees:

(1) A trustee listed in section 3(a)(1) through 3(a)(7) of this chapter serves by virtue of the trustee's elected or appointed office.

(2) Except for the initial trustees whose terms may be shorter, a trustee serves a term of three (3) years, beginning on January 1 following the trustee's appointment or election and until the trustee's successor is appointed or elected, and qualified.

(3) A vacancy shall be filled in the same manner as the vacating trustee was selected for the remainder of the trustee's term.

(4) A person who must be an active member of:

(A) the metropolitan law enforcement agency; or

(B) the consolidated fire department;

to serve as a trustee automatically vacates the office, if the person, for any reason, is no longer an active member of the agency or department.

(5) The terms of at least two (2) of the trustees listed in section 3(a)(8) through 3(a)(14) of this chapter must expire each year.

Sec. 5. The city executive shall designate one (1) of the trustees appointed under section 3(a)(11) or 3(a)(12) of this chapter as the

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president of the local board.

Sec. 6. (a) The city controller shall serve as the treasurer of the local board.

(b) The treasurer shall perform the following duties:

(1) Have or arrange for custody of all property, money, and securities deposited into the 1925 fund, the 1937 fund, and the 1953 fund, and separately account for the assets of each fund.

(2) Keep a true account of the proceedings of the local board.

(3) Keep a correct statement of the account of each member with the member's fund.

(4) When leaving the treasurer's office, account to the local board for all property, money and securities, including the income received, in the 1925 fund, the 1937 fund, and the 1953 fund.

(5) Turn over to a successor:

(A) all property, money, and securities belonging; and

(B) all books and papers pertaining;

to the 1925 fund, the 1937 fund, and the 1953 fund, that are in the treasurer's possession.

(6) Execute a bond, in the manner prescribed by IC 5-4-1, covering:

(A) the faithful performance of the treasurer's duties; and

(B) the duty to fully account for all property, money, and securities belonging to the 1925 fund, the 1937 fund, and the 1953 fund that are in the treasurer's possession.

(7) Except as provided by this chapter, perform any other duties of a fund treasurer or a fund secretary:

(A) required by IC 36-8-6, IC 36-8-7, or IC 36-8-7.5; or

(B) assigned by the local board.

(c) The treasurer shall provide complete and accurate reports to the local board concerning the 1925 fund, the 1937 fund, and the 1953 fund in the manner and as often as the local board, by bylaw, establishes.

(d) The books of the treasurer must be open at all times to examination by the trustees of the local board.

Sec. 7. The local board shall submit a report each July to the city-county legislative body. The report must cover the preceding calendar year through December 31, and must contain a detailed statement of the affairs of the 1925 fund, the 1937 fund, and the 1953 fund, including a separate accounting of the income, disbursements, assets, and liabilities of each fund during the preceding calendar year.

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Sec. 8. (a) The local board shall appoint, as necessary, actuarial, medical, clerical, legal, or other employees, and set or approve their compensation.

(b) The treasurer has the discretion to appropriately attribute to or apportion among the 1925 fund, the 1937 fund, and the 1953 fund for payment of the costs of the services described in subsection (a).

Sec. 9. The trustees of the local board receive no compensation for their services.

Sec. 10. The local board may adopt all bylaws that are necessary for the management of the 1925 fund, the 1937 fund, and the 1953 fund, including bylaws covering the following administrative matters:

(1) The conduct of local board meetings.

(2) The procedures for trustee appointments or elections.

(3) The collection of all money and other property due or belonging to the 1925 fund, the 1937 fund, or the 1953 fund.

(4) The care, preservation, and disbursement of assets from the 1925 fund, the 1937 fund, and the 1953 fund.

(5) The formation of one (1) or more subcommittees to review retirement, disability, and survivor applications for benefits, and other matters concerning benefits of retirees, survivors, and beneficiaries.

(6) The terms of the trustees initially appointed or elected under section 3(a)(8) through 3(a)(14) of this chapter.

(7) All other matters necessary for the management of the 1925 fund, the 1937 fund, or the 1953 fund.

Sec. 11. The local board may invest the 1925 fund, the 1937 fund, or the 1953 fund in any of the following:

(1) Interest bearing direct obligations of the United States or of the state or bonds lawfully issued by an Indiana political subdivision.

(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) a federal savings association organized under 12 U.S.C. 1461, as amended, having its principal office in Indiana; or

(B) a savings association organized and operating under state law whose accounts are insured by a federal agency.

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However, the local board may not purchase shares in excess of the amount of insurance protection afforded a member or an investor of the association.

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

Sec. 12. (a) The city controller may establish a pension stabilization account for the consolidated city to fund the consolidated city's obligations under the 1925 fund, the 1937 fund, or the 1953 fund.

(b) The city executive and the city controller shall determine the amount, if any, of the pension stabilization account that may be used each fiscal year to meet the obligations described in subsection (a).

(c) The city controller may, in the controller's sole discretion, deposit all or any part of the consolidated city's pension stabilization account with the board of trustees of the public employees' retirement fund (the PERF board) to have the PERF board administer and invest some or all of the consolidated city's pension stabilization account assets in accordance with IC 5-10.3-5-3 and IC 5-10.3-11-6.

(d) As required by IC 5-10.3-11-6, the consolidated city's deposit described in subsection (c) is a separate and distinct account within the public employees' retirement fund and the pension relief fund. The assets in the consolidated city's account may be commingled with other funds administered by the public employee's retirement fund for investment purposes.

Sec. 13. The local board has no taxing authority.

SECTION 233. IC 36-8-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. This chapter applies to:

(1) full-time police officers hired or rehired after April 30, 1977, in all municipalities, or who converted their benefits under IC 19-1-17.8-7 (repealed September 1, 1981);

(2) full-time fully paid firefighters hired or rehired after April 30, 1977, or who converted their benefits under IC 19-1-36.5-7 (repealed September 1, 1981);

(3) a police matron hired or rehired after April 30, 1977, and before July 1, 1996, who is a member of a police department in a second or third class city on March 31, 1996; ~~and~~

(4) a park ranger who:

(A) completed at least the number of weeks of training at the Indiana law enforcement academy or a comparable law enforcement academy in another state that were required at the

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time the park ranger attended the Indiana law enforcement academy or the law enforcement academy in another state;

(B) graduated from the Indiana law enforcement academy or a comparable law enforcement academy in another state; and

(C) is employed by the parks department of a city having a population of more than one hundred twenty thousand (120,000) but less than one hundred fifty thousand (150,000);

(5) a full-time police officer who is covered by this chapter before January 1, 2006, and after December 31, 2005, becomes a member of the metropolitan law enforcement agency established under IC 36-8-10.1 provided that the officer's service as a member of the metropolitan law enforcement agency is considered active service under this chapter;

(6) a full-time police officer who is hired or rehired after January 1, 2006, by the metropolitan law enforcement agency established by IC 36-8-10.1-16;

(7) a full-time fully paid firefighter who is covered by this chapter before January 1, 2006, and after December 31, 2005, becomes a member of the fire department of a consolidated city under IC 36-3-1-6.1 or IC 36-3-1-6.3 provided that the firefighter's service as a member of the fire department of a consolidated city is considered active service under this chapter; and

(8) a full-time fully paid firefighter who is hired or rehired after January 1, 2006, by the fire department of a consolidated city established under IC 36-3-1-6.1;

except as provided by section 7 of this chapter.

SECTION 234. IC 36-8-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2. As used in this chapter, "employer" means:

(1) a municipality that established a 1925 or 1953 fund or that participates in the 1977 fund under section 3 or 18 of this chapter; ~~or~~

(2) a unit that established a 1937 fund or that participates in the 1977 fund under section 3 or 18 of this chapter;

(3) a consolidated city that consolidated the police departments of units that:

(A) established a 1925 or 1953 fund; or

(B) participated in the 1977 fund;

before the units' consolidation into the metropolitan law enforcement agency established by IC 36-8-10.1-16; or

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(4) a consolidated city that consolidated the fire departments of units that:

(A) established a 1937 fund; or

(B) participated in the 1977 fund;

before the units' consolidation into the fire department of a consolidated city established by IC 36-3-1-6.1.

SECTION 235. IC 36-8-8-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2.1. (a) As used in this chapter, "local board" means the following:

(1) **Except as provided in subdivision (2),** for a unit that established a 1925 fund for its police officers, the local board described in IC 36-8-6-2.

(2) For a unit that established a 1925 fund for its police officers and consolidates its police department into the metropolitan law enforcement agency under IC 36-8-10.1:

(A) before the date the consolidation is effective, the local board described in IC 36-8-6-2; and

(B) on and after the date the consolidation is effective, the local board established by IC 36-8-7.6-2.

~~(2)~~ **(3) Except as provided in subdivision (4) or (5),** for a unit that established a 1937 fund for its firefighters, the local board described in IC 36-8-7-3.

(4) Except as provided in subdivision (5), for a unit that established a 1937 fund for its firefighters and consolidates its fire department into the fire department of a consolidated city under IC 36-3-1-6.1 or IC 36-3-1-6.3:

(A) before the date the consolidation is effective, the local board described in IC 36-8-7-3; and

(B) on and after the date the consolidation is effective, the local board established by IC 36-8-7.6-2.

(5) For a consolidated city that established a 1937 fund for its firefighters:

(A) before January 1, 2006, the local board described in IC 36-8-7-3; and

(B) after December 31, 2005, the local board established by IC 36-8-7.6-2.

~~(3)~~ **(6)** For a consolidated city that established a 1953 fund for its police officers:

(A) before January 1, 2006, the local board described in IC 36-8-7.5-2; **and**

(B) after December 31, 2005, the local board established by IC 36-8-7.6-2.

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~~(4)~~ **(7)** For a unit, other than a consolidated city, that did not establish a 1925 fund for its police officers or a 1937 fund for its firefighters, the local board described in subsection (b) or (c).

(b) If a unit did not establish a 1925 fund for its police officers, a local board shall be composed in the same manner described in IC 36-8-6-2(b). However, if there is not a retired member of the department, no one shall be appointed to that position until such time as there is a retired member.

(c) If a unit did not establish a 1937 fund for its firefighters, a local board shall be composed in the same manner described in IC 36-8-7-3(b). However, if there is not a retired member of the department, no one shall be appointed to that position until such time as there is a retired member.

SECTION 236. IC 36-8-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 7. (a) Except as provided in subsections (d), (e), (f), (g), ~~and~~ (h), **(k), and (l):**

(1) a police officer; or

(2) a firefighter;

who is less than thirty-six (36) years of age and who passes the baseline statewide physical and mental examinations required under section 19 of this chapter shall be a member of the 1977 fund and is not a member of the 1925 fund, the 1937 fund, or the 1953 fund.

(b) A police officer or firefighter with service before May 1, 1977, who is hired or rehired after April 30, 1977, may receive credit under this chapter for service as a police officer or firefighter prior to entry into the 1977 fund if the employer who rehires ~~him~~ **the police officer or firefighter** chooses to contribute to the 1977 fund the amount necessary to amortize ~~his~~ **the police officer's or firefighter's** prior service liability over a period of not more than forty (40) years, the amount and the period to be determined by the PERF board. If the employer chooses to make the contributions, the police officer or firefighter is entitled to receive credit for ~~his~~ **the police officer's or firefighter's** prior years of service without making contributions to the 1977 fund for that prior service. In no event may a police officer or firefighter receive credit for prior years of service if the police officer or firefighter is receiving a benefit or is entitled to receive a benefit in the future from any other public pension plan with respect to the prior years of service.

(c) Except as provided in section 18 of this chapter, a police officer or firefighter is entitled to credit for all years of service after April 30, 1977, with the police or fire department of an employer covered by this chapter.

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(d) A police officer or firefighter with twenty (20) years of service does not become a member of the 1977 fund and is not covered by this chapter, if ~~he:~~ **the police officer or firefighter:**

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981); and

(3) is rehired after April 30, 1977, by the same employer.

(e) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if ~~he:~~ **the police officer or firefighter:**

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981);

(3) was rehired after April 30, 1977, but before February 1, 1979; and

(4) was made, before February 1, 1979, a member of a 1925, 1937, or 1953 fund.

(f) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if ~~he:~~ **the police officer or firefighter:**

(1) was hired by the police or fire department of a unit before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981);

(3) is rehired by the police or fire department of another unit after December 31, 1981; and

(4) is made, by the fiscal body of the other unit after December 31, 1981, a member of a 1925, 1937, or 1953 fund of the other unit.

If the police officer or firefighter is made a member of a 1925, 1937, or 1953 fund, ~~he~~ **the police officer or firefighter** is entitled to receive credit for all ~~his~~ **the police officer's or firefighter's** years of service, including years before January 1, 1982.

(g) As used in this subsection, "emergency medical services" and "emergency medical technician" have the meanings set forth in IC 16-18-2-110 and IC 16-18-2-112. A firefighter who:

(1) is employed by a unit that is participating in the 1977 fund;

(2) was employed as an emergency medical technician by a political subdivision wholly or partially within the department's jurisdiction;

(3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and

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(4) ceased employment with the political subdivision and was hired by the unit's fire department due to the reorganization of emergency medical services within the department's jurisdiction;

shall participate in the 1977 fund. A firefighter who participates in the 1977 fund under this subsection is subject to sections 18 and 21 of this chapter.

(h) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if the individual was appointed as:

(1) a fire chief under a waiver under IC 36-8-4-6(c); or

(2) a police chief under a waiver under IC 36-8-4-6.5(c);

unless the executive of the unit requests that the 1977 fund accept the individual in the 1977 fund and the individual previously was a member of the 1977 fund.

(i) A police matron hired or rehired after April 30, 1977, and before July 1, 1996, who is a member of a police department in a second or third class city on March 31, 1996, is a member of the 1977 fund.

(j) A park ranger who:

(1) completed at least the number of weeks of training at the Indiana law enforcement academy or a comparable law enforcement academy in another state that were required at the time the park ranger attended the Indiana law enforcement academy or the law enforcement academy in another state;

(2) graduated from the Indiana law enforcement academy or a comparable law enforcement academy in another state; and

(3) is employed by the parks department of a city having a population of more than one hundred twenty thousand (120,000) but less than one hundred fifty thousand (150,000);

is a member of the fund.

(k) Notwithstanding any other provision of this chapter, a police officer or a firefighter:

(1) who is a member of the 1977 fund before January 1, 2006;

(2) whose employer is consolidated into:

(A) the metropolitan law enforcement agency under IC 36-8-10.1; or

(B) the fire department of a consolidated city under IC 36-3-1-6.1 or IC 36-3-1-6.3; and

(3) who, after the consolidation, becomes an employee of:

(A) the metropolitan law enforcement agency under IC 36-8-10.1; or

(B) the fire department of a consolidated city under IC 36-3-1-6.1 or IC 36-3-1-6.3;

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is a member of the 1977 fund without meeting the requirements under sections 19 and 21 of this chapter.

(l) Notwithstanding any other provision of this chapter, a police officer or a firefighter who:

(1) before January 1, 2006, provides fire protection or law enforcement services for an entity in a consolidated city;

(2) has the provision of those services consolidated into:

(A) the metropolitan law enforcement agency under IC 36-8-10.1; or

(B) the fire department of a consolidated city under IC 36-3-1-6.1 or IC 36-3-1-6.3; and

(3) after the consolidation, becomes an employee of:

(A) the metropolitan law enforcement agency under IC 36-8-10.1; or

(B) the fire department of a consolidated city under IC 36-3-1-6.1 or IC 36-3-1-6.3;

is a member of the 1977 fund without meeting the requirements under sections 19 and 21 of this chapter.

(m) A police officer or firefighter who is a member of the 1977 fund under subsection (k) or (l):

(1) may not be:

(A) retired for purposes of section 10 of this chapter; or

(B) disabled for purposes of section 12 of this chapter;

solely because of a change in employer described in subsection (k) or (l); and

(2) shall receive credit for all years of service as a member of the 1977 fund before the consolidation described in subsection (k) or (l).

(n) Notwithstanding any other provision of this chapter, upon the request of the executive of a consolidated city to the PERF board, a sheriff of a county having a consolidated city may become a member of the 1977 fund without meeting:

(1) the age limitations under subsection (a); or

(2) the requirements under section 19 of this chapter.

SECTION 237. IC 36-8-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. **(a) Except as provided in subsection (b),** this chapter applies to all counties.

(b) Except as provided in section 9 of this chapter, this chapter does not apply to a county having a consolidated city that establishes a metropolitan law enforcement agency under IC 36-8-10.1.

SECTION 238. IC 36-8-10-9 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 9. **(a) This section applies to a county having a consolidated city that establishes a metropolitan law enforcement agency under IC 36-8-10.1. The members of the metropolitan law enforcement agency have the powers listed in this section that are not powers given to the members of the metropolitan law enforcement agency under IC 36-3-6-8.**

~~(a)~~ **(b)** Each member of the department:

(1) has general police powers;

(2) shall arrest, without process, all persons who commit an offense within ~~his~~ **the member's** view, take them before the court having jurisdiction, and detain them in custody until the cause of the arrest has been investigated;

(3) shall suppress all breaches of the peace within ~~his~~ **the member's** knowledge, with authority to call to ~~his~~ **the member's** aid the power of the county;

(4) shall pursue and commit to the jail of the county all felons;

(5) may execute all process directed to the sheriff by legal authority;

(6) shall attend upon and preserve order in all courts of the county;

(7) shall guard prisoners in the county jail;

(8) shall serve all process directed to the sheriff from a court or from the county executive according to law; and

(9) shall take photographs, fingerprints, and other identification data as shall be prescribed by the sheriff of persons taken into custody for felonies or misdemeanors.

~~(b)~~ **(c)** A person who:

(1) refuses to be photographed;

(2) refuses to be fingerprinted;

(3) withholds information; or

(4) gives false information;

as prescribed in subsection (a)(9), commits a Class C misdemeanor.

SECTION 239. IC 36-8-10-10.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 10.6. (a) The sheriff may appoint as a special deputy any person who is employed by a governmental entity as defined in IC 35-41-1 or private employer, the nature of which employment necessitates that the person have the powers of a law enforcement officer. During the term of ~~his~~ **the person's** appointment and while ~~he~~ **the person** is fulfilling the specific responsibilities for which the appointment is made, a special deputy has the powers, privileges, and duties of a county police officer under

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this chapter, subject to any written limitations and specific requirements imposed by the sheriff and signed by the special deputy. A special deputy is subject to the direction of the sheriff and shall obey the rules and orders of the department. A special deputy may be removed by the sheriff at any time, without notice and without assigning any cause.

(b) The sheriff shall fix the prerequisites of training, education, and experience for special deputies, subject to the minimum requirements prescribed by this subsection. Applicants must:

(1) be twenty-one (21) years of age or older;

(2) never have been convicted of a felony, or a misdemeanor involving moral turpitude;

(3) be of good moral character; and

(4) have sufficient training to insure the proper performance of their authorized duties.

(c) Except as provided in subsection (d), a special deputy shall wear a uniform the design and color of which is easily distinguishable from the uniforms of the Indiana state police, the regular county police force, and all municipal police and fire forces located in the county.

(d) The sheriff may permit a special deputy to wear the uniform of the regular county police force if the special deputy:

(1) has successfully completed the minimum basic training requirements under IC 5-2-1;

(2) is periodically assigned by the sheriff to duties of a regular county police officer; and

(3) is an employee of the department.

The sheriff may revoke permission for the special deputy to wear the uniform of the regular county police force at any time without cause or notice.

(e) The sheriff may also appoint one (1) legal deputy, who must be a member of the Indiana bar. The legal deputy does not have police powers. The legal deputy may continue to practice law. However, neither the legal deputy nor any attorney in partnership with ~~him~~ **the legal deputy** may represent a defendant in a criminal case.

(f) The sheriff, for the purpose of guarding prisoners in the county jail,

~~(1) in counties not having a consolidated city,~~ may appoint special deputies to serve as county jail guards. ~~and~~

~~(2) in counties having a consolidated city, shall appoint only special deputies to serve as county jail guards.~~

This subsection does not affect the rights or liabilities accrued by any county police officer assigned to guard the jail before August 31, 1982.

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SECTION 240. IC 36-8-10-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 12. (a) The department and a trustee may establish and operate an actuarially sound pension trust as a retirement plan for the exclusive benefit of the employee beneficiaries. However, a department and a trustee may not establish or modify a retirement plan after June 30, 1989, without the approval of the county fiscal body which shall not reduce or diminish any benefits of the employee beneficiaries set forth in any retirement plan that was in effect on January 1, 1989.

(b) The normal retirement age may be earlier but not later than the age of seventy (70). However, the sheriff may retire an employee who is otherwise eligible for retirement if the board finds that the employee is not physically or mentally capable of performing the employee's duties.

(c) Joint contributions shall be made to the trust fund:

(1) either by:

(A) the department through a general appropriation provided to the department;

(B) a line item appropriation directly to the trust fund; or

(C) both; and

(2) by an employee beneficiary through authorized monthly deductions from the employee beneficiary's salary or wages. However, the employer may pay all or a part of the contribution for the employee beneficiary.

Contributions through an appropriation are not required for plans established or modifications adopted after June 30, 1989, unless the establishment or modification is approved by the county fiscal body.

(d) ~~For a county not having a consolidated city,~~ The monthly deductions from an employee beneficiary's wages for the trust fund may not exceed six percent (6%) of the employee beneficiary's average monthly wages. ~~For a county having a consolidated city, the monthly deductions from an employee beneficiary's wages for the trust fund may not exceed seven percent (7%) of the employee beneficiary's average monthly wages.~~

(e) The minimum annual contribution by the department must be sufficient, as determined by the pension engineers, to prevent deterioration in the actuarial status of the trust fund during that year. If the department fails to make minimum contributions for three (3) successive years, the pension trust terminates and the trust fund shall be liquidated.

(f) If during liquidation all expenses of the pension trust are paid, adequate provision must be made for continuing pension payments to

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retired persons. Each employee beneficiary is entitled to receive the net amount paid into the trust fund from the employee beneficiary's wages, and any remaining sum shall be equitably divided among employee beneficiaries in proportion to the net amount paid from their wages into the trust fund.

(g) If a person ceases to be an employee beneficiary because of death, disability, unemployment, retirement, or other reason, the person, the person's beneficiary, or the person's estate is entitled to receive at least the net amount paid into the trust fund from the person's wages, either in a lump sum or monthly installments not less than the person's pension amount.

(h) If an employee beneficiary is retired for old age, the employee beneficiary is entitled to receive a monthly income in the proper amount of the employee beneficiary's pension during the employee beneficiary's lifetime.

(i) To be entitled to the full amount of the employee beneficiary's pension classification, an employee beneficiary must have contributed at least twenty (20) years of service to the department before retirement. Otherwise, the employee beneficiary is entitled to receive a pension proportional to the length of the employee beneficiary's service.

(j) This subsection does not apply to a county that adopts an ordinance under section 12.1 of this chapter. For an employee beneficiary who retires before January 1, 1985, a monthly pension may not exceed by more than twenty dollars ($20) one-half (1/2) the amount of the average monthly wage received during the highest paid five (5) years before retirement. However, in counties where the fiscal body approves the increases, the maximum monthly pension for an employee beneficiary who retires after December 31, 1984, may be increased by no more or no less than two percent (2%) of that average monthly wage for each year of service over twenty (20) years to a maximum of seventy-four percent (74%) of that average monthly wage plus twenty dollars ($20). For the purposes of determining the amount of an increase in the maximum monthly pension approved by the fiscal body for an employee beneficiary who retires after December 31, 1984, the fiscal body may determine that the employee beneficiary's years of service include the years of service with the sheriff's department that occurred before the effective date of the pension trust. For an employee beneficiary who retires after June 30, 1996, the average monthly wage used to determine the employee beneficiary's pension benefits may not exceed the monthly minimum salary that a full-time prosecuting attorney was entitled to be paid by the state at the time the employee

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beneficiary retires.

(k) The trust fund may not be commingled with other funds, except as provided in this chapter, and may be invested only in accordance with statutes for investment of trust funds, including other investments that are specifically designated in the trust agreement.

(l) The trustee receives and holds as trustee all money paid to it as trustee by the department, the employee beneficiaries, or by other persons for the uses stated in the trust agreement.

(m) The trustee shall engage pension engineers to supervise and assist in the technical operation of the pension trust in order that there is no deterioration in the actuarial status of the plan.

(n) Within ninety (90) days after the close of each fiscal year the trustee, with the aid of the pension engineers, shall prepare and file an annual report with the department and the state insurance department. The report must include the following:

(1) Schedule 1. Receipts and disbursements.

(2) Schedule 2. Assets of the pension trust listing investments by book value and current market value as of the end of the fiscal year.

(3) Schedule 3. List of terminations, showing the cause and amount of refund.

(4) Schedule 4. The application of actuarially computed "reserve factors" to the payroll data properly classified for the purpose of computing the reserve liability of the trust fund as of the end of the fiscal year.

(5) Schedule 5. The application of actuarially computed "current liability factors" to the payroll data properly classified for the purpose of computing the liability of the trust fund as of the end of the fiscal year.

(o) No part of the corpus or income of the trust fund may be used or diverted to any purpose other than the exclusive benefit of the members and the beneficiaries of the members.

SECTION 241. IC 36-8-10.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 10.1. Metropolitan Law Enforcement Agency in a Consolidated City

Sec. 1. This chapter applies to a county having a consolidated city.

Sec. 2. As used in this chapter, "board" refers to the sheriff's merit board established by section 20 of this chapter.

Sec. 3. As used in this chapter, "chief" refers to the chief of the

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metropolitan law enforcement agency appointed by the sheriff under section 29 of this chapter.

Sec. 4. As used in this chapter, "commission" refers to the metropolitan police commission established by section 21 of this chapter.

Sec. 5. As used in this chapter, "department" refers to the sheriff's department.

Sec. 6. As used in this chapter, "eligible employee" means:

(1) the sheriff; or

(2) a county police officer;

before January 1, 2006.

Sec. 7. As used in this chapter, "employee beneficiary" means an eligible employee who, before January 1, 2006, completed an application to become an employee beneficiary and who has had the proper deductions made from the eligible employee's wages as required in the pension trust agreement.

Sec. 8. As used in this chapter, "member of the metropolitan law enforcement agency" or "member of the agency" means an individual performing law enforcement services as a full-time fully paid employee of the metropolitan law enforcement agency.

Sec. 9. As used in this chapter, "metropolitan law enforcement agency" or "agency" refers to the metropolitan law enforcement agency established by section 16 of this chapter as the law enforcement division of the department.

Sec. 10. As used in this chapter, "net amount paid into the trust fund from wages of an employee beneficiary" means the amount of money actually paid in from the wages of the employee beneficiary, plus interest at the rate of three percent (3%) compounded annually and less a sum including interest at the same rate, paid from the trust fund to the employee beneficiary or to a governmental fund for the credit or benefit of the employee beneficiary.

Sec. 11. As used in this chapter, "pension engineers" means technical consultants qualified to:

(1) supervise; and

(2) assist in the:

(A) maintenance of; and

(B) operation of;

a pension trust on an actuarially sound basis.

Sec. 12. As used in this chapter, "pension trust" means the trust established by the department before January 1, 2006, under IC 36-8-10-12.

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Sec. 13. As used in this chapter, "trust fund" means the assets of the pension trust and consists of:

(1) voluntary contributions from the department;

(2) money paid from the wages of employee beneficiaries;

(3) income and proceeds derived from the investment of subdivisions (1) and (2); and

(4) other payments or contributions made to the pension trust.

Sec. 14. As used in this chapter, "trustee" refers to the trustee of the pension trust who may be:

(1) one (1) or more corporate trustees; or

(2) the treasurer of the county;

serving under bond.

Sec. 15. The department is responsible for providing all the following functions for the consolidated city and the county:

(1) County jail operations and facilities.

(2) Emergency communications.

(3) Law enforcement.

(4) Security for buildings and property owned by:

(A) the consolidated city;

(B) the county; or

(C) both the consolidated city and county.

(5) Service of court documents.

Sec. 16. (a) The metropolitan law enforcement agency is established.

(b) After December 31, 2005, the metropolitan law enforcement agency is the law enforcement division of the department.

(c) Except as provided by section 18 of this chapter, after December 31, 2005, the metropolitan law enforcement agency shall provide law enforcement services for the following:

(1) The consolidated city.

(2) The county.

(3) The territory in which an airport authority established for a consolidated city under IC 8-22-3 may provide law enforcement services.

(d) After December 31, 2005:

(1) the members of the police department of the consolidated city cease employment with the consolidated city;

(2) the county police officers cease employment as county police officers; and

(3) the officers providing law enforcement services for:

(A) the airport authority; or

(B) any agent of the airport authority;

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cease employment with the airport authority; and

become members of the metropolitan law enforcement agency under this chapter.

(e) A member of the police department of a consolidated city who:

(1) was a member of the 1925 fund, the 1953 fund, or the 1977 fund before January 1, 2006; and

(2) after December 31, 2005, becomes a member of the metropolitan law enforcement agency under this chapter;

remains a member of the 1925 fund, the 1953 fund, or the 1977 fund. The member retains, after December 31, 2005, credit in the 1925 fund, the 1953 fund, or the 1977 fund for service earned while a member of the police department of the consolidated city, and continues to earn service credit in the 1925 fund, the 1953 fund, or the 1977 fund as a member of the metropolitan law enforcement agency.

(f) A member of the county police force who:

(1) was an employee beneficiary of the sheriff's pension trust before January 1, 2006; and

(2) after December 31, 2005, becomes a member of the metropolitan law enforcement agency under this chapter;

remains an employee beneficiary of the pension trust under this chapter. The member retains, after December 31, 2005, credit in the pension trust for service earned while a member of the county police force, and continues to earn service credit in the pension trust as a member of the metropolitan law enforcement agency.

(g) For purposes of this chapter, whenever a certain length of service with the metropolitan law enforcement agency is required for a particular appointment, a member of the agency with service as:

(1) a member of the police department of the consolidated city;

(2) a county police officer; or

(3) an officer providing law enforcement services for:

(A) the airport authority; or

(B) an agent of the airport authority;

before January 1, 2006, shall have that service included in determining the member's total length of service with the agency.

(h) This subsection does not apply to an individual who becomes a member of the metropolitan law enforcement agency under subsection (d). An individual may not be appointed or reappointed as a member of the metropolitan law enforcement agency after

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December 31, 2005, unless the individual:

(1) is less than thirty-six (36) years of age; and

(2) passes:

(A) the aptitude, physical agility, and physical examination required by the local board; and

(B) the statewide baseline standards required by IC 36-8-8-19.

A person who is appointed or reappointed to the metropolitan law enforcement agency after December 31, 2005, is a member of the 1977 fund.

Sec. 17. (a) Subject to commission review, the sheriff shall recommend the number and salary of the members of the metropolitan law enforcement agency. The city-county legislative body shall finally determine the budget and salaries of the agency.

(b) The expenses of the metropolitan law enforcement agency are a part of the department's budget, and the consolidated city and the county may levy property taxes to provide for the payment of the expenses for the operation of the metropolitan law enforcement agency.

(c) To provide for the payment of the expenses for the operation of the metropolitan law enforcement agency, the consolidated city may levy property taxes on taxable property located within the area served by the agency as described in section 16(c) of this chapter.

(d) The police special service district established under IC 36-3-1-6 may levy property taxes to provide for the payment of expenses for the operation of the metropolitan law enforcement agency:

(1) within; or

(2) that directly benefit:

the territory of the police special service district. These amounts are in addition to the amounts levied by the police special service district to fund pension obligations under IC 36-8-7.5-10.

Sec. 18. (a) After December 31, 2005, the metropolitan law enforcement agency may not provide law enforcement services to an excluded city unless the law enforcement services are provided under an interlocal agreement under IC 36-1-7 or the conditions in subsection (b) are met.

(b) For the metropolitan law enforcement agency to provide law enforcement services to an excluded city other than under an interlocal agreement under IC 36-1-7, all the following must occur:

(1) The legislative body of the excluded city and the

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city-county legislative body must adopt substantially similar ordinances authorizing:

(A) the extension of the territory of the metropolitan law enforcement agency to include the excluded city; and

(B) the consolidation of the police department of the excluded city into the metropolitan law enforcement agency.

(2) The ordinances described in subdivision (1) must:

(A) specify the effective date of the consolidation; and

(B) set forth the conditions of the consolidation, including a transition plan for the consolidation approved by the commission.

(c) After the effective date of the consolidation described in subsection (b), the metropolitan law enforcement agency shall provide law enforcement services within the territory of the excluded city.

(d) Whenever an excluded city consolidates its police department into the metropolitan law enforcement agency under subsection (b), the local board for the 1925 fund of the excluded city is abolished and its services are terminated not later than the effective date of the consolidation. The duties performed by the local board under IC 36-8-6 are assumed by the local board created under IC 36-8-7.6.

(e) Whenever an excluded city consolidates its police department into the metropolitan law enforcement agency under subsection (b), the merit board and merit system of the police department of the excluded city are abolished, and the duties of the merit board of the excluded city are transferred to and assumed by the board established by section 20 of this chapter.

(f) After the effective date of the consolidation described in subsection (b), all the property, equipment, records, rights, and contracts of the police department of the excluded city are transferred to and assumed by the consolidated city.

(g) After the effective date of the consolidation described in subsection (b), the employees of the police department of the excluded city cease employment with the excluded city and become employees of the metropolitan law enforcement agency. The consolidated city shall assume all agreements with labor organizations that:

(1) are in effect after the effective date of the consolidation described in subsection (b); and

(2) apply to employees of the police department of the

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excluded city who become members of the metropolitan law enforcement agency.

(h) Whenever an excluded city consolidates its police department into the metropolitan law enforcement agency under subsection (b), for property taxes first due and payable in the calendar year following the effective date of the consolidation, the maximum permissible ad valorem property tax levy under IC 6-1.1-18.5:

(1) is increased for a consolidated city by the amount levied in the prior calendar year for police protection and related services by the excluded city; and

(2) is reduced for the excluded city by the amount levied in the prior calendar year for police protection and related services by the excluded city.

Sec. 19. (a) The members of the metropolitan law enforcement agency shall perform law enforcement duties as:

(1) assigned by the sheriff; or

(2) required by law.

(b) A member of the agency shall reside within:

(1) the county; or

(2) a county contiguous to the county.

(c) Subsection (b) does not apply to a member of the agency who:

(1) before January 1, 2006, was a member of the police department of a consolidated city;

(2) after December 31, 2005, became a member of the agency; and

(3) resided outside the county on January 1, 1975.

(d) The county shall furnish the sheriff and the members of the metropolitan law enforcement agency with the uniforms or other clothing that they need to perform their duties. However, after one (1) year of service in the metropolitan law enforcement agency, a member of the agency may be required by the county to furnish and maintain the member's own uniform clothing upon payment to the member by the county of an annual cash allowance of at least two hundred dollars ($200).

Sec. 20. (a) The sheriff's merit board is established.

(b) After December 31, 2005, the merit board and merit system of:

(1) the department; and

(2) the police department of a consolidated city;

are abolished, and the duties of those boards are transferred to and

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assumed by the board, unless otherwise provided in this chapter.

(c) The board consists of seven (7) members as follows:

(1) Four (4) members appointed by the sheriff.

(2) One (1) member appointed by the commission.

(3) Two (2) members elected by a majority vote of the active members of the metropolitan law enforcement agency.

(d) An active member of the metropolitan law enforcement agency may not serve on the board.

(e) The term of office for a member:

(1) appointed; or

(2) elected;

to the board is four (4) years, beginning on the date the member is qualified and assumes office, or for the remainder of an unexpired term. Members of the board serve during their respective terms and until their successors have been appointed and qualified. Before January 1, 2006, the initial members of the board must be appointed or elected as provided in subsection (c).

(f) Not more than:

(1) two (2) of the members appointed by the sheriff; or

(2) one (1) of the members elected by the active members of the metropolitan law enforcement agency;

may belong to the same political party.

(g) A member of the board must reside in the county.

(h) A member of the board may be removed for cause duly adjudicated by declaratory judgment of the superior court of the county.

(i) A member of the board is entitled to receive reimbursement from the county for actual expenses incurred while serving as a member.

(j) As soon as practicable after they are appointed and elected, the members of the board shall meet upon the call of the sheriff and organize by electing a president and a secretary from among their membership.

(k) Five (5) members of the board constitute a quorum for the transaction of business.

(l) The board must hold regular monthly meetings throughout the year as is necessary to transact the business of the department.

Sec. 21. (a) The metropolitan police commission is established.

(b) The commission consists of the following four (4) members:

(1) The director of the department of public safety who serves as the commission's president.

(2) One (1) member appointed annually by the mayor who

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serves at the pleasure of the mayor.

(3) One (1) member appointed annually by the city-county legislative body who serves at the pleasure of the city-county legislative body.

(4) The sheriff who serves as a nonvoting member of the commission.

(c) The initial members of the commission must be appointed not later than August 1, 2005.

(d) The commission is a public agency for purposes of IC 5-14-1.5 and IC 5-14-3.

Sec. 22. (a) Before January 1, 2006, the commission shall undertake the following:

(1) Approve a metropolitan law enforcement agency transition plan to integrate the law enforcement functions and personnel of:

(A) the sheriff's department;

(B) the police department of the consolidated city; and

(C) the officers providing law enforcement services for the airport authority;

into the metropolitan law enforcement agency.

(2) Approve the following for the metropolitan law enforcement agency:

(A) The management and organizational structure of the agency.

(B) A system of regulations and orders for the agency.

(C) The agency's patrol areas.

(D) The agency's patrol levels.

(E) The agency's investigative units and special details.

(3) Serve on the transition advisory board established by section 24 of this chapter and approve the items listed in that section.

(4) Exercise all powers necessary, convenient, or appropriate to perform:

(A) the duties listed in subdivisions (1) through (3); or

(B) any other duties necessary to complete the transition to the metropolitan law enforcement agency by January 1, 2006.

Sec. 23. (a) After December 31, 2005, the commission has the following powers and duties:

(1) Serve as a permanent oversight body for the metropolitan law enforcement agency.

(2) Approve large procurements for the metropolitan law

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enforcement agency.

(3) Approve the chief of the metropolitan law enforcement agency appointed by the sheriff under section 29 of this chapter.

(4) Approve the initiation and implementation of resource allocation studies for the metropolitan law enforcement agency.

(5) Consult with:

(A) the sheriff; and

(B) the chief of the metropolitan law enforcement agency;

concerning the creation and operation of an internal affairs division for the metropolitan law enforcement agency.

(6) Exercise all powers necessary, convenient, or appropriate to:

(A) perform the duties listed in subdivisions (1) through (5);

(B) provide oversight for the metropolitan law enforcement agency.

(b) In addition to the powers and duties under subsection (a), the commission may do the following:

(1) For any matter relating to the operation of the metropolitan law enforcement agency:

(A) hold public meetings or public hearings; and

(B) make recommendations.

(2) Review and comment on any regulation or order promulgated by the sheriff concerning the metropolitan law enforcement agency.

Sec. 24. (a) The transition advisory board is established.

(b) The transition advisory board consists of the following members:

(1) The members of the commission who serve as ex officio members of the advisory board.

(2) Other members as determined and appointed by the sheriff.

(c) The members of the transition advisory board must be appointed not later than September 1, 2005.

(d) Before January 1, 2006, the sheriff must consult with the transition advisory board and determine the following for the metropolitan law enforcement agency:

(1) The design and color of the agency's uniforms.

(2) The design and color of vehicle markings for all vehicles used by the agency.

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(3) The standard equipment issued to members of the agency.

(4) The official name of the agency.

(e) The sheriff's determinations under subsection (d) are subject to the approval of the commission.

Sec. 25. (a) The sheriff may appoint a prison matron for the county. The sheriff sets the qualifications for the position. Except as provided in subsection (b), the sheriff has complete hiring authority over the position of prison matron.

(b) A person who is a member of the metropolitan law enforcement agency immediately before being appointed as prison matron is entitled to the discipline and removal procedures under section 34 of this chapter before:

(1) being reduced in grade to a rank below the rank that the person held before being appointed as prison matron; or

(2) removal from the department.

(c) The sheriff may employ assistant prison matrons, if necessary.

(d) The prison matron and the assistant prison matrons, if any, receive, search, and care for all:

(1) female prisoners; and

(2) boys less than fourteen (14) years of age;

who are committed to or detained in the county jail, municipal lockup, or other detention center in the county.

(e) The prison matron and assistant matrons:

(1) are members of the department;

(2) have the powers and duties of members of the department; and

(3) are entitled to the same salary that other members of the department of the same rank, grade, or position are paid.

Sec. 26. (a) Except as provided in subsection (b), the sheriff has complete hiring authority over the position of chief deputy.

(b) A chief deputy who was a member of the metropolitan law enforcement agency immediately before being hired as chief deputy is entitled to the discipline and removal procedures under section 34 of this chapter before:

(1) being reduced in grade to a rank below the rank that the person held before being hired as chief deputy; or

(2) removal from the department.

Sec. 27. (a) A sheriff may appoint additional deputy sheriffs or assistants if an emergency arises that requires them for:

(1) promoting public safety and conserving the peace;

(2) repressing, preventing, and detecting crime; and

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(3) apprehending criminals.

(b) The mayor shall determine the number and salaries of deputy sheriffs or assistants to be appointed in an emergency. The mayor shall provide compensation and necessary expenses for deputy sheriffs or assistants from the general fund of the county without a specific appropriation. Expenses shall be paid after the appointed persons file sworn vouchers with the mayor detailing their expenses.

(c) The deputies or assistants have the same powers that sheriffs have under statute.

(d) When the emergency ends, the mayor may reduce the number of deputy sheriffs or assistants to the number that the circumstances require for the public welfare.

Sec. 28. (a) If a person who is a member of the metropolitan law enforcement agency becomes sheriff, either by election or by appointment, upon the expiration of the person's term as sheriff and upon the person's written application, the board shall appoint the person to the rank in the agency that the person held at the time of the person's election or appointment as sheriff, if there is a vacancy in the agency.

(b) If the person, during the person's tenure as sheriff, has qualified, in accordance with the promotion procedure prescribed by the board in its rules, for a rank in the agency that is higher than the rank the person held before election or appointment as sheriff, the board shall, upon the expiration of the person's term as sheriff, appoint the person to the rank for which the person has qualified under the promotion procedure, if there is a vacancy in that rank.

Sec. 29. (a) Subject to the approval of the commission, the sheriff shall appoint the chief of the metropolitan law enforcement agency who serves at the pleasure of the sheriff.

(b) To qualify for appointment, the chief must meet the requirements under IC 36-8-4-6.5.

(c) If a person was a member of the metropolitan law enforcement agency before the person's appointment as the chief of the metropolitan law enforcement agency, upon the expiration of the person's term as chief and the person's written application, the board shall appoint the person to the rank in the agency that the person held at the time of the person's appointment as chief, if there is a vacancy in the agency.

(d) If the person, during the person's tenure as chief, has qualified, in accordance with the promotion procedure prescribed

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by the board in its rules, for a rank in the agency that is higher than the rank the person held before the person's appointment as chief, the board shall, upon the expiration of the person's term as the chief, appoint the person to the rank for which the person has qualified under the promotion procedure, if there is a vacancy in that rank.

Sec. 30. (a) Each member of the metropolitan law enforcement agency has:

(1) the powers set forth in IC 36-8-3-6; and

(2) the powers set forth in IC 36-8-10-9 that are not set forth in IC 36-8-3-6.

(b) A person who:

(1) refuses to be photographed;

(2) refuses to be fingerprinted;

(3) withholds information; or

(4) gives false information;

as prescribed in IC 36-8-10-9(a)(9), commits a Class C misdemeanor.

(c) Members of the department who are not members of the metropolitan law enforcement agency have the powers:

(1) prescribed by the sheriff; or

(2) as set forth in this chapter.

Sec. 31. (a) Except for:

(1) the chief deputy;

(2) the prison matron; and

(3) temporary administrative ranks or positions established and appointed by the sheriff;

the sheriff, with the approval of the commission, shall establish a classification of ranks, grades, and positions for members of the metropolitan law enforcement agency.

(b) For each rank, grade, and position, the sheriff, with the approval of the board, shall:

(1) set reasonable standards of qualifications; and

(2) fix the prerequisites of:

(A) training;

(B) education; and

(C) experience.

(c) The sheriff, with the approval of the board, shall devise and administer examinations designed to test applicants for the qualifications required for the respective ranks, grades, or positions. After these examinations, the sheriff and the board shall jointly prepare a list naming only those applicants who, in the

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opinion of both the sheriff and the board, best meet the prescribed standards and prerequisites. The sheriff only appoints members of the metropolitan law enforcement agency from among the persons whose names appear on this list. All members appointed to the metropolitan law enforcement agency under this chapter are on probation for one (1) year after the date of appointment.

(d) The sheriff, in the sheriff's sole discretion, may:

(1) establish a temporary administrative rank or position within the agency; and

(2) appoint to and remove from a temporary administrative rank or position a member of the metropolitan law enforcement agency who meets the requirements in subsection (e).

(e) Except as provided by section 16 of this chapter, a member who has served as a member of the agency at least five (5) years before the appointment and holds the merit rank of at least lieutenant is eligible for appointment to a temporary administrative rank or position described in subsection (d). A member retains the rank, grade, or position awarded under subsection (c) while serving in a temporary administrative rank or position. A temporary administrative rank or position established under subsection (d) does not diminish or reduce the number and classifications of the existing merit ranks within the metropolitan law enforcement agency. Subsection (d) and this subsection may not be construed to limit, modify, annul, or otherwise affect a collective bargaining agreement.

(f) The sheriff, with the approval of the board, shall establish written rules and regulations governing the discipline of members of the metropolitan law enforcement agency. Rules and regulations established by a sheriff under this subsection must conform to the disciplinary procedure required by section 34 of this chapter.

Sec. 32. (a) Except as provided in subsection (b), the board shall give a preference for employment according to the following priority:

(1) A war veteran who has been honorably discharged from the United States armed forces.

(2) A person whose mother or father was a:

(A) firefighter of a unit;

(B) municipal police officer;

(C) county police officer; or

(D) member of the metropolitan law enforcement agency;

who died in the line of duty (as defined in IC 5-10-10-2).

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(b) A person described in subsection (a) may not receive a preference for employment unless the person:

(1) applies; and

(2) meets all employment requirements prescribed by:

(A) law, including physical and age requirements; and

(B) the metropolitan law enforcement agency.

Sec. 33. (a) The sheriff may appoint as a special deputy any person who is employed by:

(1) a governmental entity (as defined in IC 35-41-1); or

(2) a private employer;

if the nature of the employment necessitates that the person have the powers of a law enforcement officer.

(b) During the term of a special deputy's appointment and while the special deputy is fulfilling the specific responsibilities for which the appointment is made, a special deputy has the powers, privileges, and duties of a member of the metropolitan law enforcement agency under this chapter, subject to any written limitations and specific requirements imposed by the sheriff and signed by the special deputy.

(c) A special deputy is subject to the direction of the sheriff and shall obey the rules and orders of the department.

(d) A special deputy may be removed by the sheriff at any time, without the sheriff providing notice or assigning any cause.

(e) The sheriff shall fix the prerequisites of training, education, and experience for special deputies, subject to the minimum requirements prescribed by this subsection. Applicants must:

(1) be at least twenty-one (21) years of age;

(2) never have been convicted of:

(A) a felony; or

(B) a misdemeanor involving moral turpitude;

(3) be of good moral character; and

(4) have sufficient training to insure the proper performance of their authorized duties.

(f) Except as provided in subsection (g), a special deputy shall wear a uniform the design and color of which is easily distinguishable from the uniforms of the Indiana state police, the metropolitan law enforcement agency, and all municipal police and fire forces located in the county.

(g) The sheriff may permit a special deputy to wear the uniform of the metropolitan law enforcement agency if the special deputy:

(1) has successfully completed the minimum basic training requirements under IC 5-2-1;

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(2) is periodically assigned by the sheriff to duties of a member of the metropolitan law enforcement agency; and

(3) is an employee of the metropolitan law enforcement agency.

The sheriff may revoke permission for the special deputy to wear the uniform of the metropolitan law enforcement agency at any time without cause or notice.

(h) The sheriff may also appoint one (1) legal deputy, who must be a member of the Indiana bar. The legal deputy does not have police powers. The legal deputy may continue to practice law. Neither the legal deputy nor any attorney in partnership with the legal deputy may represent a defendant in a criminal case.

(i) The sheriff, for the purpose of guarding prisoners in the county jail, shall appoint only special deputies to serve as county jail guards. This subsection does not affect the rights or liabilities accrued by any county police officer assigned to guard the jail before August 31, 1982.

Sec. 34. (a) The sheriff may dismiss, demote, or temporarily suspend a member of the metropolitan law enforcement agency for cause after giving the member written notice of the charges and after a fair public hearing before the board. The decision of the board is reviewable in the superior court of the county. Written notice of the charges and hearing must be delivered by certified mail to the member to be disciplined at least fourteen (14) days before the date set for the hearing. The member may be represented by counsel. The board shall make specific findings of fact in writing to support its decision.

(b) The sheriff may temporarily suspend a member with or without pay for a period not to exceed fifteen (15) days without a hearing before the board. Before suspending a member under this subsection, the sheriff shall give the member written notice of the charges of misconduct.

(c) A member of the metropolitan law enforcement agency may not be dismissed, demoted, or temporarily suspended because of political affiliation nor after the member's probationary period, except as provided in this section.

(d) A member of the metropolitan law enforcement agency may:

(1) be a candidate for elective office and serve in that office if elected;

(2) be appointed to an office and serve in that office if appointed; and

(3) except when in uniform or on duty, solicit votes or

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campaign funds for the member or others.

(e) A member on probation may be dismissed by the sheriff without the right to a hearing.

(f) The board has subpoena powers enforceable by the superior court of the county for hearings under this section.

(g) An appeal under subsection (a) is taken by filing in court, not later than thirty (30) days after the date the decision is rendered, a verified complaint stating in a concise manner the general nature of the charges against the member of the metropolitan law enforcement agency, the decision of the board, and a demand for the relief asserted by the member.

(h) The member must also file a bond that:

(1) guarantees the appeal will be prosecuted to a final determination; and

(2) the plaintiff will pay all costs only if the court finds that the board's decision should be affirmed.

The bond must be approved as bonds for costs are approved in other cases.

(i) The county must be named as the sole defendant and the plaintiff shall have a summons issued as in other cases against the county. The:

(1) board;

(2) members of the board individually;

(3) commission; or

(4) members of the commission individually;

are not parties defendant to the complaint, but all are bound by service upon the county and the judgment rendered by the court.

(j) The court tries all appeals. An appeal is heard de novo only if there are new issues related to the charges upon which the board based its decision. Within ten (10) days after the service of summons, the board shall file in court a complete written transcript of the papers, entries, and other parts of the record relating to the case being appealed. The board, if requested to do so, must permit the person affected, or the person's agent, to inspect these documents before the appeal is filed. The court shall review the record and decision of the board on appeal.

(k) The court shall make specific findings and state the conclusions of law upon which its decision is made. If the court finds that the decision of the board should in all respects be affirmed, its judgment should state the court's finding. If the court finds that the decision of the board should not, in all respects, be affirmed, the court shall make a general finding, setting out

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sufficient facts to show the nature of the proceeding and the court's decision. The court shall either:

(1) reverse the decision of the board; or

(2) order the decision of the board to be modified.

(l) The final judgment of the court may be appealed by either party. Upon the final disposition of the appeal by the courts, the clerk shall certify to the board the final judgment of the court and file a copy of the judgment with the board, which shall conform its decisions and records to the order and judgment of the court. If the decision is reversed or modified, the board shall pay to the prevailing party any salary or wages:

(1) that were withheld from the party pending the appeal; and

(2) to which the party is entitled under the judgment of the court.

(m) Either party is allowed a change of venue from the court or a change of judge in the same manner as those changes are allowed in civil cases. The rules of trial procedure govern in all matters of procedure during the appeal that are not otherwise provided for by this section.

(n) An appeal takes precedence over other pending litigation, and the court shall try and determine the appeal as soon as practical.

Sec. 35. (a) As used in this section, "appointing authority" means the sheriff and the board.

(b) When it is necessary for financial reasons for the appointing authority to reduce by layoff the number of members of the metropolitan law enforcement agency, members are laid off in reverse hiring order, with the last member appointed to the agency being the first to be laid off, until the desired level of employment is achieved.

(c) If the metropolitan law enforcement agency's membership is increased, the members of the agency who have been laid off under subsection (b) are reinstated before any new member is appointed to the agency. Members are reinstated in reverse of the order in which the members were laid off with the last member laid off from the agency being the first to be reinstated.

(d) A member who is laid off shall keep the appointing authority advised of the member's current address. The appointing authority shall inform a member of the member's reinstatement by written notice sent by certified mail to the member's last known address.

(e) Not later than twenty (20) calendar days after the date the notice of reinstatement is sent under subsection (d), the member

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shall advise the appointing authority whether the member:

(1) accepts reinstatement; and

(2) will commence employment on the date specified in the notice.

(f) All reinstatement rights granted to a member under this section terminate on the earlier of:

(1) the date the member fails to accept reinstatement within the time specified in subsection (e); or

(2) three (3) years after the date on which a member's layoff begins.

Sec. 36. (a) As used in this section, "care" includes:

(1) medical and surgical care;

(2) medicines and laboratory, curative, and palliative agents and means;

(3) X-ray, diagnostic, and therapeutic service, including service during the recovery period; and

(4) hospital and special nursing care if the physician or surgeon in charge considers it necessary for proper recovery.

(b) After deducting expenditures paid by an insurance or worker's compensation program, the county shall pay for the care of the following persons:

(1) A member of the metropolitan law enforcement agency who:

(A) suffers an injury; or

(B) contracts an illness;

while the member is on duty or while the member is off duty and is responding to an offense or a reported offense.

(2) A jail employee who:

(A) suffers an injury; or

(B) contracts an illness;

while the employee is on duty.

(c) The county shall pay the expenditures required by subsection (b) from the general fund of the county.

Sec. 37. (a) This section does not apply to a member of the metropolitan law enforcement agency who is appointed after December 31, 2005.

(b) Before January 1, 2006, the department shall amend the pension trust established and operated under IC 36-8-10-12 to provide that, effective January 1, 2006, the pension trust is operated under this chapter. The department and the trustee may not modify the pension trust under this section without the approval of the city-county legislative body, which shall not reduce

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or diminish the benefits of the employee beneficiaries set forth in the pension trust.

(c) After December 31, 2005, the department and the trustee shall continue to operate in an actuarially sound manner the pension trust for the exclusive benefit of the employee beneficiaries.

Sec. 38. (a) The normal retirement age for an employee beneficiary may not be later than seventy (70) years of age.

(b) The sheriff may retire an employee beneficiary who is otherwise eligible for retirement if the board finds that the employee beneficiary is not physically or mentally capable of performing the employee beneficiary's duties.

(c) Contributions to the trust fund are made by:

(1) the department through:

(A) a general appropriation provided to the department;

(B) a line item appropriation directly to the trust fund; or

(C) both; and

(2) an employee beneficiary through authorized monthly deductions from the employee beneficiary's salary or wages. The department may pay all or a part of the contribution for the employee beneficiary.

Contributions through an appropriation are not required for modifications adopted after June 30, 1989, unless the modification is approved by the city-county legislative body.

(d) The monthly deductions from an employee beneficiary's wages for the trust fund may not exceed seven percent (7%) of the employee beneficiary's average monthly wages.

(e) The department's minimum annual contribution must be sufficient, as determined by the pension engineers, so that the actuarial status of the trust fund does not deteriorate during that year. If the minimum contributions are not made for three (3) successive years, the pension trust terminates and the trust fund is liquidated.

(f) If all expenses of the pension trust are paid during liquidation, adequate provision must be made for continuing pension payments to retired employee beneficiaries. Each employee beneficiary is entitled to receive the net amount paid into the trust fund from the employee beneficiary's wages. Any remaining amount must be equitably divided among employee beneficiaries in proportion to the net amount each employee beneficiary paid into the trust fund from the employee beneficiary's wages.

(g) If a person is no longer an employee beneficiary because the

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person dies, becomes disabled, leaves employment with the department before retirement, retires, or is no longer an employee beneficiary for any other reason:

(1) the person;

(2) the person's beneficiary; or

(3) the person's estate;

is entitled to receive at least the net amount paid into the trust fund from the person's wages, either in a lump sum or in monthly installments not less than the amount the person is entitled to receive as a pension.

(h) If an employee beneficiary reaches the normal retirement age for the employee beneficiary, the employee beneficiary is entitled to receive during the employee beneficiary's lifetime a pension in a monthly amount calculated under subsections (i) through (m).

(i) To receive an unreduced pension amount, an employee beneficiary must have contributed at least twenty (20) years of service to the department before retirement. If the employee beneficiary's service to the department is less than twenty (20) years, the employee beneficiary is entitled to receive a pension proportional to the length of the employee beneficiary's service.

(j) For an employee beneficiary who retired before January 1, 1985, a monthly pension may not exceed by more than twenty dollars ($20) one-half (1/2) the amount of the average monthly wage received by the employee beneficiary during the highest paid five (5) years before retirement.

(k) For an employee beneficiary who retires after December 31, 1984, the monthly pension described in subsection (j) may be increased by two percent (2%) of the employee beneficiary's average monthly wage for each year of service over twenty (20) years contributed by the employee beneficiary to a maximum of seventy-four percent (74%) of the employee beneficiary's average monthly wage plus twenty dollars ($20).

(l) For purposes of determining the amount of an increase in the monthly pension under subsection (k) approved by the city-county legislative body for an employee beneficiary who retires after December 31, 1984, the city-county legislative body may determine that the employee beneficiary's years of service include the years of service with the department that occurred before the effective date of the pension trust.

(m) For an employee beneficiary who retires after June 30, 1996, the average monthly wage used to determine the employee

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beneficiary's pension benefits may not exceed the monthly minimum salary paid by the state to a full-time prosecuting attorney at the time the employee beneficiary retires.

(n) For an employee beneficiary who retires after June 30, 1997, an employee beneficiary's monthly pension may not exceed twenty dollars ($20) plus one-half (1/2) the amount of the average monthly wage. As used in this subsection, "average monthly wage" means the lesser of:

(1) the average monthly wage received by the employee beneficiary during the highest paid three (3) years before retirement; or

(2) the monthly minimum salary that a full-time prosecuting attorney is entitled to be paid by the state at the time the employee beneficiary retires.

(o) For an employee beneficiary who retires after June 30, 1997, the county fiscal body may approve an increase in the maximum monthly pension described in subsection (n). The maximum monthly pension may:

(1) be increased by one percent (1%) of the average monthly wage for each six (6) months of service after twenty (20) years; and

(2) not exceed seventy-four percent (74%) of the average monthly wage plus twenty dollars ($20).

(p) The trust fund may not be commingled with other funds, except as provided in this chapter, and may be invested only in accordance with statutes for investment of trust funds, including other investments that are specifically designated in the trust agreement.

(q) The trustee receives and holds as trustee all money paid to it as trustee by the department, the employee beneficiaries, or by other persons for the uses stated in the trust agreement.

(r) The trustee shall engage pension engineers to supervise and assist in the technical operation of the pension trust in order that there is no deterioration in the actuarial status of the trust fund.

(s) Not later than ninety (90) days after the close of each fiscal year, the trustee, with the aid of the pension engineers, shall prepare and file an annual report with the department and the state insurance department. The report must include the following:

(1) Schedule 1. Receipts and disbursements.

(2) Schedule 2. Assets of the pension trust listing investments by book value and current market value as of the end of the fiscal year.

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(3) Schedule 3. List of terminations, showing the cause and amount of refund.

(4) Schedule 4. The application of actuarially computed "reserve factors" to the payroll data properly classified for the purpose of computing the reserve liability of the trust fund as of the end of the fiscal year.

(5) Schedule 5. The application of actuarially computed "current liability factors" to the payroll data properly classified for the purpose of computing the liability of the trust fund as of the end of the fiscal year.

(t) No part of the corpus or income of the trust fund may be used or diverted to any purpose other than the exclusive benefit of the members and the beneficiaries of the members.

Sec. 39. This section applies to a sheriff who is an eligible employee under this chapter and is not a member of the 1977 fund. The sheriff may participate in the pension trust in the same manner as a county police officer who is an eligible employee under this chapter. In addition, a sheriff who does not participate in the pension trust may make a payment to the pension trust equal to the total contributions the sheriff would have paid had the sheriff been participating in the pension trust while a sheriff, plus interest at three percent (3%) compounded annually. A sheriff who makes this payment is entitled to credit for the years of service as sheriff for all purposes of the pension trust.

Sec. 40. (a) The department may establish and operate a death benefit program for the payment of death benefits to deceased employee beneficiaries. The department may provide these benefits by:

(1) creating a reserve account;

(2) obtaining group life insurance; or

(3) both subdivisions (1) and (2).

The department may not establish or modify a death benefit program without the approval of the city-county legislative body.

(b) Benefits payable under a group life insurance policy established under subsection (a) must be in reasonable amounts. Benefits payable from a reserve account established under subsection (a) may not exceed twenty-five thousand dollars ($25,000).

Sec. 41. (a) The department may establish and operate a disability benefit program for the payment of disability expense reimbursement and pensions to disabled employee beneficiaries. The department may provide these benefits by:

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(1) creating a reserve account;

(2) obtaining disability insurance coverage; or

(3) both subdivisions (1) and (2).

The department may not establish or modify a disability benefit program without the approval of the city-county legislative body.

(b) Benefits payable as a result of line of duty activities, including a disability presumed incurred in the line of duty under IC 5-10-13, must be in reasonable amounts. Monthly benefits payable as a result of other activities may not exceed the amount of the pension to which the employee beneficiary would have been entitled had the employee beneficiary been employed by the department until normal retirement age.

Sec. 42. (a) The department may establish and operate a dependent's pension benefit for the payment of pensions to dependent parents, surviving spouses, and dependent children less than eighteen (18) years of age of former employee beneficiaries. The department may provide these benefits by:

(1) creating a reserve account;

(2) obtaining appropriate insurance coverage; or

(3) both subdivisions (1) and (2).

The department may not establish or modify a dependent's pension benefit without the approval of the city-county legislative body, which shall not reduce or diminish any dependent's pension benefits that were in effect on January 1, 1989.

(b) This subsection applies to survivors of employee beneficiaries who:

(1) died before January 1, 1990; and

(2) were covered by a dependent's pension benefit plan.

The maximum monthly pension payable to dependent parents or surviving spouses may not exceed two hundred dollars ($200) per month during the parent's or the spouse's lifetime if the spouse did not remarry before September 1, 1984. If the surviving spouse remarried before September 1, 1984, benefits ceased on the date of remarriage. The maximum monthly pension payable to dependent children is thirty dollars ($30) per child and ceases with the last payment before the child becomes eighteen (18) years of age. The county fiscal body may by ordinance provide an increase in the monthly pension of survivors, but the monthly pension that is provided under this subsection may not exceed the monthly pension that is provided to survivors whose monthly pensions are determined under subsection (c).

(c) This subsection applies to survivors of employee

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beneficiaries who:

(1) died after December 31, 1989; and

(2) were covered by a dependent's pension benefit plan.

The monthly pension payable to dependent parents or surviving spouses must be at least two hundred dollars ($200) for each month during the parent's or the spouse's lifetime or until the spouse remarries. The monthly pension payable to each dependent child must be at least thirty dollars ($30) for each child and ceases with the last payment made in the month before the child becomes eighteen (18) years of age.

(d) To be eligible for a benefit under this section, the surviving spouse of an employee beneficiary who dies after August 31, 1984, must have been married to the employee beneficiary at the time of the employee beneficiary's retirement or death in service.

Sec. 43. (a) The city-county legislative body may provide to eligible retired employee beneficiaries or eligible disabled employee beneficiaries, or both:

(1) an annual cost of living payment; or

(2) an ad hoc cost of living payment. The amount of the ad hoc cost of living payment under this subdivision is not an increase in the base pension benefit calculated under section 38 of this chapter.

(b) In the case of an annual cost of living payment granted under subsection (a)(1), the pension engineers shall determine each year the amount of the payment under this subsection. The pension engineers shall determine if there has been an increase in the Consumer Price Index (United States city average) prepared by the United States Department of Labor by comparing the arithmetic mean of the Consumer Price Index for January, February, and March of the payment year with the same three (3) month period of the preceding year. If there has been an increase, the increase is stated as a percentage of the arithmetic mean for the three (3) month period for the year preceding the payment year (the adjustment percentage). The adjustment percentage is rounded to the nearest one-tenth of one percent (0.1%) and may not exceed three percent (3%).

(c) In the case of a cost of living payment granted under subsection (a)(2), the amount of the cost of living payment is determined by the city-county legislative body and may be:

(1) a percentage increase, not to exceed the percentage determined under subsection (b); or

(2) a fixed dollar amount.

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(d) A payment authorized under this section is made to each authorized retired or disabled employee beneficiary and may be made annually, semiannually, quarterly, or monthly.

(e) A cost of living payment granted under this section must be funded by a direct appropriation or by maintaining a fully funded actuarially sound trust fund.

(f) A cost of living payment granted under this section is applicable only to retired or disabled employee beneficiaries who are at least fifty-five (55) years of age.

(g) No provision of this section may be part of an ordinance or agreement concerning collective bargaining. No provision of this section may be subject to bargaining under any statute, ordinance, or agreement.

Sec. 44. (a) As used in this section, "dies in the line of duty" has the meaning set forth in IC 5-10-10-2.

(b) This section applies to the survivors of an eligible employee who dies in the line of duty.

(c) The department shall offer to provide and pay for health insurance coverage for the eligible employee's surviving spouse and for each natural child, stepchild, or adopted child of the eligible employee:

(1) until the child becomes eighteen (18) years of age;

(2) until the child becomes twenty-three (23) years of age, if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental disability;

whichever period is longest. If health insurance coverage is offered by the county to an eligible employee, the health insurance provided to a surviving spouse or child under this subsection must be equal in coverage to that offered to an eligible employee. The offer to provide and pay for health insurance coverage must remain open for as long as there is a surviving spouse or as long as a natural child, a stepchild, or an adopted child of the eligible employee is eligible for coverage under subdivision (1), (2), or (3).

Sec. 45. (a) The death benefit, the disability benefit, and the dependents' pension may be operated as one (1) fund, known as the police benefit fund, under the terms of a supplementary trust agreement between the department and the trustee for the exclusive benefit of employee beneficiaries and their dependents.

(b) The trustee receives and holds as trustee for the uses and

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purposes set out in the supplementary trust agreement all money paid to it as trustee by the department or by other persons.

(c) The trustee may, under the terms of the supplementary trust agreement, pay the necessary premiums for insurance, pay benefits, or pay both as provided by this chapter.

(d) The trustee shall hold, invest, and reinvest the police benefit fund in investments that are permitted by statute for the investment of trust funds and other investments that are specifically designated in the supplementary trust agreement.

(e) Within ninety (90) days after the close of the fiscal year, the trustee, with the assistance of the pension engineers, shall prepare and file with the department and the state insurance department a detailed annual report showing receipts, disbursements, and case histories, and making recommendations regarding the necessary contributions required to keep the program in operation. Contributions by:

(1) the county police force before January 1, 2006; and

(2) the metropolitan law enforcement agency after December 31, 2005;

are provided in the general appropriations to the department. However, these contributions are not required for modifications made after January 1, 1989, unless the modifications were approved by the city-county legislative body.

Sec. 46. (a) A person entitled to an interest in or a share of a pension or benefit from the trust funds may not, before the actual payment:

(1) anticipate;

(2) sell;

(3) assign;

(4) pledge;

(5) mortgage; or

(6) otherwise dispose of or encumber;

the person's interest or share.

(b) In addition, a person's interest, share, pension, or benefit is not, before the actual payment:

(1) liable for the debts or liabilities of the person;

(2) subject to attachment, garnishment, levy, or sale on judicial proceedings; or

(3) transferable, voluntarily or involuntarily.

(c) The trustee may expend the sums from the funds that the trustee considers proper for necessary expenses.

Sec. 47. (a) The state examiner of the state board of accounts

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shall fix the exact amount per meal that the sheriff receives for feeding the prisoners in the sheriff's custody. Subject to the maximum meal allowance provided in this section, the state examiner shall increase the amount per meal that the sheriff receives as follows:

(1) Increase the amount per meal by a percentage that does not exceed the percent of increase in the United States Department of Labor Consumer Price Index during the year preceding the year in which an increase is established.

(2) Increase the amount per meal above the amount determined under subdivision (1) if the sheriff furnishes to the state examiner sufficient documentation to prove that the sheriff cannot provide meals at the amount per meal that is determined under subdivision (1).

The amount must be fixed by April 15 each year and takes effect immediately upon approval. The allowance may not exceed two dollars ($2) per person per meal. The allowance shall be paid out of the general fund of the county after the sheriff submits to the mayor an itemized statement, under oath, showing the names of the prisoners, the date that each was imprisoned in the county jail, and the number of meals served to each prisoner.

(b) Notwithstanding subsection (a), IC 36-2-13-2.5(b)(4) through IC 36-2-13-2.5(b)(5), and IC 36-2-13-2.8(b), the county shall pay to feed the county prisoners through an appropriation in the usual manner by the city-county legislative body. The appropriation shall be expended by the sheriff under the direction of the mayor. Neither the sheriff nor the sheriff's officers, deputies, or employees may make a profit as a result of the appropriation.

Sec. 48. (a) A jail commissary fund is established, referred to in this section as "the fund". The fund is separate from the general fund, and money in the fund does not revert to the general fund.

(b) The sheriff, or the sheriff's designee, shall deposit all money from commissary sales into the fund, which the sheriff shall keep in a depository designated under IC 5-13-8.

(c) The sheriff, or the sheriff's designee, at the sheriff's discretion and without appropriation by the city-county legislative body, may disburse money from the fund for:

(1) merchandise for resale to inmates through the commissary;

(2) expenses of operating the commissary, including, but not limited to, facilities and personnel;

(3) special training in law enforcement for employees of the

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department;

(4) equipment installed in the county jail;

(5) equipment, including vehicles and computers, computer software, communication devices, office machinery and furnishings, cameras and photographic equipment, animals, animal training, holding and feeding equipment and supplies, or attire used by a member of the metropolitan law enforcement agency in the course of the member's official duties;

(6) an activity provided to maintain order and discipline among the inmates of the county jail;

(7) an activity or program of the department intended to reduce or prevent occurrences of criminal activity, including the following:

(A) substance abuse;

(B) child abuse;

(C) domestic violence;

(D) drinking and driving; and

(E) juvenile delinquency;

(8) expenses related to the establishment, operation, or maintenance of the sex offender web site under IC 36-2-13-5.5; or

(9) any other purpose that benefits the department that is mutually agreed upon by the city-county legislative body and the sheriff.

Money disbursed from the fund under this subsection must be supplemental or in addition to, rather than a replacement for, regular appropriations made to carry out the purposes listed in subdivisions (1) through (8).

(d) The sheriff shall maintain a record of the fund's receipts and disbursements. The state board of accounts shall prescribe the form for this record. The sheriff shall semiannually provide a copy of this record of receipts and disbursements to the city-county legislative body. The semiannual reports are due on July 1 and December 31 of each year.

Sec. 49. (a) The sheriff shall hold in trust separately for each inmate any money received from that inmate or from another person on behalf of that inmate.

(b) If the inmate or the inmate's legal guardian requests a disbursement from the inmate's trust fund, the sheriff may make a disbursement for the personal benefit of the inmate, including a disbursement to the county jail commissary.

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(c) Upon discharge or release of an inmate from the county jail, the sheriff shall pay to that inmate or the inmate's legal guardian any balance remaining in the inmate's trust fund.

(d) If an inmate is found guilty of intentionally destroying or losing county property after a hearing conducted under IC 11-11-5-5, the sheriff may disburse from the inmate's trust fund or commissary account sums of money as reimbursement to the county for the inmate's intentional destruction or loss of county property, including but not limited to clothing, bedding, and other nondisposable items issued by the county to the inmate. Before disbursing money under this subsection, the sheriff shall adopt rules to administer this procedure.

(e) The sheriff shall maintain a record of each trust fund's receipts and disbursements. The state board of accounts shall prescribe the form for this record.

SECTION 242. IC 36-8-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. This chapter applies to all townships, **except townships located in a county having a consolidated city.**

SECTION 243. IC 36-8-19-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. **Except as provided in section 1.5 of this chapter,** this chapter applies to any geographic area that is established as a fire protection territory.

SECTION 244. IC 36-8-19-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 1.5. (a) After December 31, 2005, in a county having a consolidated city, only:**

(1) a consolidated city; or

(2) an excluded city;

may establish fire protection territory under this chapter.

(b) A fire protection territory that is established before January 1, 2006, by a unit that is consolidated under IC 36-3-1-6.1 becomes part of the geographic area in which the fire department of a consolidated city provides fire protection services.

SECTION 245. IC 36-9-11.1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 11. (a) All property of every kind, including air rights, acquired for off-street parking purposes, and all its funds and receipts, are exempt from taxation for all purposes. When any real property is acquired by the consolidated city, the county auditor shall, upon certification of that fact by the board, cancel all taxes then a lien. The certificate of the board must specifically describe the real property, including air rights,

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and the purpose for which acquired.

(b) A lessee of the city may not be assessed any tax upon any land, air rights, or improvements leased from the city, but the separate leasehold interest has the same status as leases on taxable real property, notwithstanding any other law. Whenever the city sells any such property to anyone for private use, the property becomes liable for all taxes after that, as other property is so liable and is assessed, and the board shall report all such sales to the ~~township~~ **county** assessor, who shall cause the property to be upon the proper tax records.

SECTION 246. IC 36-9-17.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. **(a) Except as provided in subsection (b),** this chapter applies to ~~all townships.~~ **a township.**

(b) This chapter does not apply to a township or township district in a county having a consolidated city.

SECTION 247. IC 36-10-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. **(a) Except as provided in subsection (b),** this chapter applies to the townships indicated in each section.

(b) After December 31, 2005:

(1) this chapter does not apply to a township in a county having a consolidated city; and

(2) all powers and duties related to parks and recreation of the townships in a county having a consolidated city are transferred to the consolidated city.

SECTION 248. IC 36-10-7.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. **(a) Except as provided in subsection (b),** this chapter applies to ~~all townships.~~ **a township.**

(b) After December 31, 2005:

(1) this chapter does not apply to a township in a county having a consolidated city; and

(2) all powers and duties related to parks and recreation of the townships in a county having a consolidated city are transferred to the consolidated city.

SECTION 249. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2005]: IC 3-11-1.5-32.5; IC 33-34; IC 36-6-6-2.5.

SECTION 250. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2006]: IC 36-8-4.3; IC 36-8-7.5-3; IC 36-8-7.5-6; IC 36-8-7.5-7; IC 36-8-7.5-11.

SECTION 251. [EFFECTIVE JULY 1, 2005] **The general**

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assembly finds the following:

(1) A consolidated city faces unique budget challenges due to a high demand for services combined with the large number of tax exempt properties located in a consolidated city as the seat of state government, home to several institutions of higher education, and home to numerous national, state, and regional nonprofit corporations.

(2) By virtue of its size and population density, a consolidated city has unique overlapping territories of county, city, and township government and an absence of unincorporated areas within its county.

(3) By virtue of its size, population, and absence of unincorporated areas, development extends to and across the boundaries of the contiguous governmental territories located within a county having a consolidated city, thus giving less meaning to boundaries of the governmental territories located within the county.

(4) By virtue of its size, population, absence of unincorporated areas, overlapping territories, and development to and across the boundaries of contiguous governmental territories, there is less need for differentiation of local governmental services within the separate governmental territories located within a county having a consolidated city, but rather the local governmental service needs are similar and more uniform within and across a county having a consolidated city.

(5) The provision of local governmental services by multiple governmental entities with overlapping territories, and by governmental entities with contiguous territories with less meaningful boundaries, results in disparate levels of local government services within a county having a consolidated city and results in the inefficient and poor use of taxpayer dollars.

(6) As the state capital and a center for professional sporting events, tourism, and culture in central Indiana, the consolidated city faces unique demands for protecting governmental property and securing the safety of large numbers of residents and visitors, which require innovative approaches to public safety resources.

(7) If public safety resources are consolidated, residual services provided by townships are limited and can more effectively and uniformly be performed through consolidation at the city or county level.

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(8) By virtue of its size and population patterns, township assistance needs in a consolidated city are greatest in its urban center and differ from the township assistance needs outside the urban center, and the lesser township assistance services outside the urban center can be more effectively and uniformly delivered through a consolidated district.

(9) By virtue of its size and population, a consolidated city has a larger number of public safety employees than other municipalities resulting in more significant pension obligations, and through consolidation of public safety resources, there is greater need for coordinated fiscal oversight of pension funding.

(10) Substantial operational efficiencies, reduction of administrative costs, and economies of scale may be obtained in a consolidated city through further consolidation of county, city, and township services and operations.

(11) Consolidation of county, city, and township services and operations in the consolidated city will serve the public purpose by allowing the consolidated city to:

(A) eliminate duplicative services;

(B) provide better coordinated and more uniform delivery of local governmental services;

(C) provide uniform oversight and accountability for the budgets for local governmental services;

(D) provide uniform oversight of pension funds for public safety employees;

(E) simplify the system of property taxation;

(F) provide more unified tax rates; and

(G) allow local government services to be provided more efficiently and at a lower cost than without consolidation.

(12) Efficient and fiscally responsible operation of local government benefits the health and welfare of the citizens of a consolidated city and is of public utility and benefit.

(13) The public purpose of this act is to provide a consolidated city with the means to perform essential governmental services for its citizens in an effective, efficient, and fiscally responsible manner.

SECTION 252. [EFFECTIVE JANUARY 1, 2007] **For property taxes first due and payable in 2007, the maximum permissible ad valorem property tax levy under IC 6-1.1-18.5 of a county having a consolidated city is increased by the amount levied in 2006 for assessor and related services by each township in the county.**

C o p y

SECTION 253. [EFFECTIVE JANUARY 1, 2006] **Each township district shall refer the township district's proposed budget, ad valorem property tax levy, and property tax rate for 2007 to the local government tax control board, which shall review and set the budget, levy, and rate as though the township district is covered by IC 6-1.1-18.5-7. For property taxes first due and payable in 2007, the maximum permissible ad valorem property tax limits and any other limits on ad valorem property taxes set forth in IC 6-1.1-18.5 of:**

(1) a central township district shall be based upon:

(A) the amount levied in 2006 for the general fund;

(B) the amount levied in 2006 for township assistance, including reasonable administrative costs, in the central township district in a county having a consolidated city; plus

(C) thirty-five percent (35%) of the amount levied in 2006 for township assistance, including reasonable administrative costs, by each other township located in the county containing a consolidated city; and

(2) a consolidated township district shall be based upon sixty-five percent (65%) of the amount levied in 2006 for township assistance, including reasonable administrative costs, by each township located in a county having a consolidated city, other than the central township district in a county having a consolidated city.

SECTION 254. [EFFECTIVE JULY 1, 2006] **(a) Any case pending in a township small claims court established by IC 33-34, as repealed by this act, after the close of business on December 31, 2005, is transferred on January 1, 2006, to the corresponding township division of the small claims division of the Marion superior court established by IC 33-33-49-14(c)(5) and IC 33-33-49-14.1, both as added by this act. A case transferred under this SECTION shall be treated as if the case were filed in the corresponding township division of the small claims division of the Marion superior court.**

(b) On January 1, 2006, all property and obligations of a township small claims court established by IC 33-34, as repealed by this act, become the property and obligations of the corresponding township division of the small claims division of the Marion superior court established by IC 33-33-49-14(c)(5) and IC 33-33-49-14.1, both as added by this act.

(c) This SECTION expires January 2, 2006.

C o p y

SECTION 255. [EFFECTIVE JULY 1, 2006] **(a) Notwithstanding the amendment and repeal by this act of provisions in IC 33-33-49 and IC 33-34, the term of a judge in office in a township small claims court established by IC 33-34, as repealed by this act, does not terminate until the date that the term would have terminated under the law in effect on December 31, 2005. The election for the initial small claims judges to be elected to the township divisions of the small claims division of the Marion superior court under IC 33-33-49-13.1, as added by this act, is the election to be held in the November immediately preceding the date that the corresponding term of the judge in office in a township small claims court established by IC 33-34, as repealed by this act, on December 31, 2005, would have terminated under the law in effect on December 31, 2005.**

(b) Notwithstanding the amendment and repeal by this act of provisions in IC 33-33-49 and IC 33-34, the term of a constable for a township small claims court established by IC 33-34, as repealed by this act, does not terminate until the date that the term would have terminated under the law in effect on December 31, 2005. The election for the initial small claims constables to be elected under IC 33-33-49-14.2, as added by this act, is the election to be held in the November immediately preceding the date that the corresponding term of the constable for a township small claims court established by IC 33-34, as repealed by this act, on December 31, 2005, would have terminated under the law in effect on December 31, 2005.

(c) This SECTION expires January 2, 2011.

SECTION 256. [EFFECTIVE JANUARY 1, 2006] **(a) For property taxes first due and payable in 2007, the maximum permissible ad valorem property tax levy under IC 6-1.1-18.5:**

(1) is increased for a consolidated city by the amount levied in 2006 for fire protection and related services by each:

(A) township;

(B) airport authority;

(C) fire protection territory; or

(D) excluded city;

whose fire department is consolidated into the fire department of a consolidated city under IC 36-3-1-6.1 or IC 36-3-1-6.3; and

(2) is reduced for:

(A) a township;

(B) an airport authority;

C o p y

(C) a fire protection territory; or

(D) an excluded city;

whose fire department is consolidated into the fire department of a consolidated city under IC 36-3-1-6.1 or IC 36-3-1-6.3 by the amount levied in 2006 for fire protection and related services by each township, airport authority, fire protection territory, or excluded city whose fire department is consolidated into the fire department of a consolidated city under IC 36-3-1-6.1 or IC 36-3-1-6.3.

(b) This SECTION expires January 1, 2007.

SECTION 257. [EFFECTIVE JANUARY 1, 2006] **For property taxes first due and payable in 2007, the amount levied in 2006 by each:**

(1) township;

(2) airport authority;

(3) fire protection territory; or

(4) excluded city;

whose fire department is consolidated into the fire department of a consolidated city under IC 36-3-1-6.1 or IC 36-3-1-6.3, both as added by this act, for its cumulative building and equipment fund for fire protection and related services is transferred to the consolidated city's cumulative building and equipment fund for fire protection and related services, which is hereby established. The consolidated city is exempted from the requirements of IC 36-8-14 and IC 6-1.1-41 regarding establishment of the cumulative building and equipment fund for fire protection and related services.

SECTION 258. [EFFECTIVE UPON PASSAGE] **The legislative services agency shall prepare legislation for introduction in the 2006 regular session of the general assembly to organize and correct statutes affected by this act, if necessary.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 638 as printed February 11, 2005.)

HINKLE, Chair

Committee Vote: yeas 9, nays 1.

C o p y