



January 28, 2005

HOUSE BILL No. 1155

DIGEST OF HB 1155 (Updated January 26, 2005 6:36 pm - DI 73)

Citations Affected: IC 14-21; IC 16-37; IC 23-14; IC 34-30; noncode.

Synopsis: Cemetery maintenance. Establishes the pioneer cemetery account within the cemetery and burial ground trust fund. Provides that if a fee is charged for a death certificate, an additional \$1 fee is imposed on the first death certificate issued to a person to be used by a county cemetery commission (commission) for maintenance of certain cemeteries. Allows a commission to maintain certain cemeteries established before 1900. Changes appointment requirements for commission members. Allows a commission to use certain tax revenue for township cemeteries. Requires a commission to file an annual report with the division of historic preservation and archeology. Requires township trustees to make an annual report to the commission. Allows the commission to accept donations and maintain pauper burial records. Adds commission duties. Provides that a private property owner who allows a person on the owner's land to access a cemetery is not liable, except for certain actions, for injuries to a person.

Effective: July 1, 2005.

Saunders, Adams T

January 6, 2005, read first time and referred to Committee on Local Government.
January 27, 2005, amended, reported — Do Pass.

C
o
p
y

HB 1155—LS 6533/DI 77+



January 28, 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.

C
O
P
Y

HOUSE BILL No. 1155

A BILL FOR AN ACT to amend the Indiana Code concerning business and other associations and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 14-21-1-13.5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13.5. (a) The division
3 may conduct a program to survey and register in a registry of Indiana
4 cemeteries and burial grounds that the division establishes and
5 maintains all cemeteries and burial grounds in each county in Indiana.
6 The division may conduct the program alone or by entering into an
7 agreement with one (1) or more of the following entities:
8 (1) The Indiana Historical Society established under IC 23-6-3.
9 (2) A historical society as defined in IC 20-5-17.5-1(a).
10 (3) The Historic Landmarks Foundation of Indiana.
11 (4) A professional archeologist or historian associated with a
12 college or university.
13 (5) A township trustee.
14 (6) Any other entity that the division selects.
15 (b) In conducting a program under subsection (a), the division may
16 receive gifts and grants under terms, obligations, and liabilities that the
17 director considers appropriate. The director shall use a gift or grant

HB 1155—LS 6533/DI 77+



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

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 cemetery and burial ground trust fund is established** for purposes of holding money received under subsection (b).

(d) The pioneer cemetery account is established within the trust fund from money received under IC 16-37-1-9 and IC 16-37-1-11. Money in the account shall be distributed to county cemetery commissions for the following purposes:

- (1) To maintain and repair cemeteries under IC 23-14-67.**
- (2) To purchase land that contains a cemetery that will be maintained by a county cemetery commission.**
- (3) To replace and repair grave markers located in cemeteries under IC 23-14-67. However, any replacement or repair conducted under this subdivision must be made in accordance with guidelines established by the division.**

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

~~(e)~~ **(f)** 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)~~ **(g)** Money in the trust fund at the end of a state fiscal year does not revert to the state general fund. **Money in the pioneer cemetery account at the end of a state fiscal year does not revert to the trust fund.**

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

(j) Money in the trust fund, including money in the pioneer cemetery account, is annually appropriated to the division for purposes of this section.

SECTION 2. IC 16-37-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) A local health department may ~~make a~~ charge ~~a~~ fee under IC 16-20-1-27 for each certificate of birth, death, or stillbirth registration.

(b) If the local department of health ~~makes a~~ charge ~~charges~~ a fee

C
O
P
Y



1 for a certificate of death under subsection (a), **the following shall be**
 2 **collected in addition to the fee for the certificate established under**
 3 **IC 16-20-1-27:**

4 (1) A one dollar (\$1) coroners continuing education fee. ~~must be~~
 5 ~~added to the rate established under IC 16-20-1-27.~~

6 (2) **A one dollar (\$1) fee for the pioneer cemetery account**
 7 **established by IC 14-21-1-13.5 that is imposed only on the first**
 8 **certificate of death for an individual that is requested by and**
 9 **issued to a person.**

10 The local department of health shall deposit any coroners continuing
 11 education fees **and any pioneer cemetery account fees** with the
 12 county auditor within thirty (30) days after collection. The county
 13 auditor shall transfer semiannually any coroners continuing education
 14 fees **and any pioneer cemetery account fees** to the treasurer of state.

15 (c) Notwithstanding IC 16-20-1-27, a ~~charge~~ **fee** may not be ~~made~~
 16 **charged** for furnishing a certificate of birth, death, or stillbirth
 17 registration to a person or to a member of the family of a person who
 18 needs the certificate for one (1) of the following purposes:

19 (1) To establish the person's age or the dependency of a member
 20 of the person's family in connection with:

21 (A) the person's service in the armed forces of the United
 22 States; or

23 (B) a death pension or disability pension of a person who is
 24 serving or has served in the armed forces of the United States.

25 (2) To establish or to verify the age of a child in school who
 26 desires to secure a work permit.

27 SECTION 3. IC 16-37-1-11 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) The state
 29 department shall charge and collect a fee of eight dollars (\$8) for each
 30 search of the records in the division of vital records. If the requested
 31 record is found, one (1) certification of the record will be issued
 32 without charge. Additional certifications of the same record will be
 33 issued at that time for an additional fee of four dollars (\$4) for each
 34 record.

35 (b) The state department shall charge and collect an additional fee
 36 of eight dollars (\$8) for any amendment to a record previously filed
 37 with the division of vital records.

38 (c) Verification without charge will be issued to an agency of local,
 39 state, or federal government upon written request by the agency.

40 (d) **The state department shall charge and collect an additional**
 41 **one dollar (\$1) fee that is imposed only on the first certificate of**
 42 **death for an individual that is requested by and issued to a person**

C
O
P
Y



1 under this section. The state department shall transfer
 2 semiannually the fees collected under this subsection to the
 3 treasurer of state for deposit in the pioneer cemetery account
 4 established by IC 14-21-1-13.5.

5 SECTION 4. IC 23-14-67-1 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. This chapter applies
 7 to cemeteries that **were established before 1900 and:**

8 (1) are without funds or sources of funds for reasonable
 9 maintenance;

10 (2) have suffered neglect and deterioration; **or**

11 (3) may be the burial grounds for Indiana pioneer leaders or
 12 veterans of an American war, including the Revolutionary War.

13 **and**

14 ~~(4) were established before 1850:~~

15 SECTION 5. IC 23-14-67-2 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The board of
 17 commissioners of a county may appoint a county cemetery commission
 18 consisting of **not less than** five (5) residents of the county. **One (1)**
 19 **member of the commission must be a township trustee. A township**
 20 **trustee appointed under this subsection may designate an**
 21 **individual to serve on the trustee's behalf.**

22 (b) The members of a county cemetery commission shall be
 23 appointed for a term of ~~five (5)~~ **four (4)** years. The board of county
 24 commissioners shall stagger the terms of the members to permit the
 25 appointment or a reappointment of **at least** one (1) commission
 26 member per year.

27 SECTION 6. IC 23-14-67-3 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. A county cemetery
 29 commission may request the levy of an annual tax for the purpose of
 30 restoring and maintaining one (1) or more cemeteries described in
 31 section 1 of this chapter **or IC 23-14-68** that are located in the county.
 32 The tax may not exceed fifty cents (\$0.50) on each one hundred dollars
 33 (\$100) of assessed valuation of property in the county.

34 SECTION 7. IC 23-14-67-3.5 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.5. (a) Before March
 36 1 of each year, a county cemetery commission shall file an annual
 37 report with the ~~Indiana historical bureau established by IC 4-23-7-3.~~
 38 **division of historic preservation and archeology of the department**
 39 **of natural resources.**

40 (b) An annual report filed under this section must include
 41 information on the following:

42 (1) The budget of the county cemetery commission for the

C
O
P
Y



- 1 preceding calendar year.
- 2 (2) Expenditures made by the county cemetery commission
- 3 during the preceding calendar year.
- 4 (3) Activities of the county cemetery commission during the
- 5 preceding calendar year.
- 6 (4) Plans of the county cemetery commission for the calendar year
- 7 during which the report is filed.

8 (c) ~~The Indiana historical bureau~~ **division of historic preservation**
 9 **and archeology of the department of natural resources** shall make
 10 reports filed under this section available for public inspection under
 11 IC 5-14-3.

12 SECTION 8. IC 23-14-67-4 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) A county
 14 cemetery commission established under this chapter shall:

- 15 (1) present an annual plan and budget; and
 - 16 (2) make an annual report;
- 17 to the board of county commissioners and the county council for
 18 approval.

19 (b) **Before March 1 of each year, each township trustee shall**
 20 **present an annual report to the county cemetery commission that**
 21 **includes the following information:**

- 22 (1) **Records of the pauper burials.**
- 23 (2) **Whether new burials are being allowed in a cemetery**
- 24 **maintained by the trustee under IC 23-14-68.**
- 25 (3) **A summary of all expenditures for cemetery restoration**
- 26 **and maintenance, including to whom each expenditure was**
- 27 **paid.**
- 28 (4) **Recommendations for future funding needs.**

29 SECTION 9. IC 23-14-67-5 IS ADDED TO THE INDIANA CODE
 30 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 31 1, 2005]: Sec. 5. (a) A county cemetery commission may do the
 32 following:

- 33 (1) **Accept for the county the donation of real property that**
- 34 **complies with the following conditions:**
 - 35 (A) **The real property contains a cemetery that is described**
 - 36 **under section 1 of this chapter.**
 - 37 (B) **The county surveyor has completed a survey of the real**
 - 38 **property and has provided a copy of the survey to the**
 - 39 **county cemetery commission.**
 - 40 (C) **The owner of the real property deeds the property to**
 - 41 **the county.**
- 42 (2) **Accept donations, apply for grants, and coordinate**

C
O
P
Y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34

- volunteers to restore and maintain cemeteries.
- (3) Accept and maintain pauper burial records from township trustees.
- (b) A county cemetery commission shall do the following:
 - (1) Assist township trustees with the restoration and maintenance of abandoned cemeteries under IC 23-14-68.
 - (2) Notify the county auditor and county recorder of the location of cemeteries within the county.
 - (3) Educate local officials and residents concerning the legal requirements regarding the care, protection, and preservation of cemeteries.
 - (4) Designate cemeteries within the county as active or inactive with regard to future burials.

SECTION 10. IC 23-14-67-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 6. (a) Except as provided in subsection (b), a private property owner who gratuitously allows a person on the owner's land to obtain access to or visit a cemetery is not liable for any injury to the person visiting or obtaining access to the cemetery.**

- (b) This section does not apply to the following:
 - (1) A property owner's willful, wanton, or intentional misconduct.
 - (2) A property owner's willful or malicious failure to warn of a dangerous condition.

SECTION 11. IC 34-30-2-91.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 91.5. IC 23-14-67-6 (Concerning a private property owner allowing access or a visit to a cemetery).**

SECTION 12. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding IC 23-14-67-2, as amended by this act, the term of a member of a county cemetery commission who was appointed to the member's current term before July 1, 2001, expires on July 1, 2005.

- (b) This SECTION expires July 1, 2006.

C
o
p
y



COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1155, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, delete lines 38 through 42.

Delete pages 3 through 4.

Page 5, delete lines 1 through 15, begin a new paragraph and insert:

"SECTION 2. IC 16-37-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) A local health department may ~~make a charge a fee~~ under IC 16-20-1-27 for each certificate of birth, death, or stillbirth registration.

(b) If the local department of health ~~makes a charge~~ **charges a fee** for a certificate of death under subsection (a), **the following shall be collected in addition to the fee for the certificate established under IC 16-20-1-27:**

(1) A one dollar (\$1) coroners continuing education fee. ~~must be added to the rate established under IC 16-20-1-27.~~

(2) **A one dollar (\$1) fee for the pioneer cemetery account established by IC 14-21-1-13.5 that is imposed only on the first certificate of death for an individual that is requested by and issued to a person.**

The local department of health shall deposit any coroners continuing education fees **and any pioneer cemetery account fees** with the county auditor within thirty (30) days after collection. The county auditor shall transfer semiannually any coroners continuing education fees **and any pioneer cemetery account fees** to the treasurer of state.

(c) Notwithstanding IC 16-20-1-27, a ~~charge fee~~ **made charged** for furnishing a certificate of birth, death, or stillbirth registration to a person or to a member of the family of a person who needs the certificate for one (1) of the following purposes:

(1) To establish the person's age or the dependency of a member of the person's family in connection with:

(A) the person's service in the armed forces of the United States; or

(B) a death pension or disability pension of a person who is serving or has served in the armed forces of the United States.

(2) To establish or to verify the age of a child in school who desires to secure a work permit.

SECTION 3. IC 16-37-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) The state department shall charge and collect a fee of eight dollars (\$8) for each

C
O
P
Y



search of the records in the division of vital records. If the requested record is found, one (1) certification of the record will be issued without charge. Additional certifications of the same record will be issued at that time for an additional fee of four dollars (\$4) for each record.

(b) The state department shall charge and collect an additional fee of eight dollars (\$8) for any amendment to a record previously filed with the division of vital records.

(c) Verification without charge will be issued to an agency of local, state, or federal government upon written request by the agency.

(d) The state department shall charge and collect an additional one dollar (\$1) fee that is imposed only on the first certificate of death for an individual that is requested by and issued to a person under this section. The state department shall transfer semiannually the fees collected under this subsection to the treasurer of state for deposit in the pioneer cemetery account established by IC 14-21-1-13.5."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1155 as introduced.)

HINKLE, Chair

Committee Vote: yeas 10, nays 0.

C
O
P
Y

