
HOUSE BILL No. 1022

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-3-21; IC 13-11-2-129.6; IC 13-15-3-1.3; IC 34-6-2; IC 34-30-21; IC 36-7-30.1.

Synopsis: Military base protection act. Establishes the military base planning council. Requires the council to study and report on issues related to military bases. Requires the department of environmental management to give priority to permit applications concerning operations that involve ordnance and other explosive materials at military bases. Provides immunity from civil liability for military bases for damages relating to: (1) noise that results from the operation of the military base that may be heard within two miles of the military base; and (2) interference with telecommunications that results from the operation of the military base and occurs within five miles of the military base. Requires a unit of local government to notify the commander of a military base located in the unit before the unit takes action concerning planning or zoning. Prohibits a unit of local government from taking action concerning planning or zoning that would have an adverse impact on the operation of a military base.

Effective: Upon passage.

Koch

January 4, 2005, read first time and referred to Committee on Public Safety and Homeland Security.

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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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HOUSE BILL No. 1022



A BILL FOR AN ACT to amend the Indiana Code concerning military bases.

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

1 SECTION 1. IC 4-3-21 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
3 PASSAGE]:

4 **Chapter 21. Military Base Planning Council**
5 **Sec. 1. As used in this chapter, "council" refers to the military**
6 **base planning council established by section 3 of this chapter.**

7 **Sec. 2. As used in this chapter, "military base" means a United**
8 **States government military installation that:**

- 9 (1) **has an area of at least sixty thousand (60,000) acres; and**
- 10 (2) **is used for the design, construction, maintenance, and**
- 11 **testing of electronic devices and ordnance.**

12 **Sec. 3. The military base planning council is established.**

13 **Sec. 4. The council consists of the following members:**

- 14 (1) **Each member of the house of representatives whose house**
- 15 **district includes all or part of a military base.**
- 16 (2) **Each member of the senate whose senate district includes**
- 17 **all or part of a military base.**



- 1 **(3) The lieutenant governor or the lieutenant governor's**
- 2 **designee.**
- 3 **(4) The adjutant general or the adjutant general's designee.**
- 4 **(5) The commissioner of the department of environmental**
- 5 **management or the commissioner's designee.**
- 6 **(6) The commissioner of the Indiana department of**
- 7 **transportation or the commissioner's designee.**
- 8 **(7) The director of the state emergency management agency**
- 9 **or the director's designee.**
- 10 **(8) The following local government representatives:**
- 11 **(A) One (1) member of the county executive of each county**
- 12 **that contains all or part of a military base, appointed by**
- 13 **the county executive.**
- 14 **(B) One (1) member of the county fiscal body of each**
- 15 **county that contains all or part of a military base,**
- 16 **appointed by the county fiscal body.**
- 17 **(C) One (1) member:**
- 18 **(i) who is the executive of the municipality having the**
- 19 **largest population in each county that contains all or**
- 20 **part of a military base if that municipality is a city; or**
- 21 **(ii) who is appointed from the membership of the fiscal**
- 22 **body of that town, if a town is the municipality having**
- 23 **the largest population in the county.**
- 24 **(D) One (1) member of the legislative body of the**
- 25 **municipality having the largest population in each county**
- 26 **that contains a military base, appointed by the legislative**
- 27 **body of that municipality.**
- 28 **Sec. 5. (a) Each member of the council who is not a state**
- 29 **employee is not entitled to the minimum salary per diem provided**
- 30 **by IC 4-10-11-2.1(b). The member is, however, entitled to**
- 31 **reimbursement for traveling expenses as provided under**
- 32 **IC 4-13-1-4 and other expenses actually incurred in connection**
- 33 **with the member's duties as provided in the state policies and**
- 34 **procedures established by the Indiana department of**
- 35 **administration and approved by the budget agency.**
- 36 **(b) Each member of the council who is a state employee but who**
- 37 **is not a member of the general assembly is entitled to**
- 38 **reimbursement for traveling expenses as provided under**
- 39 **IC 4-13-1-4 and other expenses actually incurred in connection**
- 40 **with the member's duties as provided in the state policies and**
- 41 **procedures established by the Indiana department of**
- 42 **administration and approved by the budget agency.**

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1 (c) Each member of the council who is a member of the general
2 assembly is entitled to receive the same per diem, mileage, and
3 travel allowances paid to legislative members of interim study
4 committees established by the legislative council. Per diem,
5 mileage, and travel allowances paid under this subsection shall be
6 paid from appropriations made to the legislative council or the
7 legislative services agency.

8 Sec. 6. The governor shall designate a member of the council to
9 serve as chairperson of the council.

10 Sec. 7. The council shall meet at the call of the chairperson.

11 Sec. 8. The governor shall provide staff assistance as the council
12 may require.

13 Sec. 9. A member of the council who is a member of the general
14 assembly is a nonvoting member.

15 Sec. 10. The affirmative votes of a majority of the voting
16 members of the council are required for the council to take action
17 on any measure, including reports required in section 12 of this
18 chapter.

19 Sec. 11. The council shall do the following:

20 (1) Identify the public infrastructure and other community
21 support necessary:

22 (A) to improve mission efficiencies; and

23 (B) for the development and expansion;
24 of military bases in Indiana.

25 (2) Identify existing and potential impacts of encroachment on
26 military bases in Indiana.

27 (3) Identify potential state and local government actions that
28 can:

29 (A) minimize the impacts of encroachment on; and

30 (B) enhance the long term potential of;
31 military bases.

32 (4) Identify opportunities for collaboration among:

33 (A) the state, including the military department of the
34 state;

35 (B) political subdivisions;

36 (C) military contractors; and

37 (D) academic institutions;

38 to enhance the economic potential of military bases and the
39 economic benefits of military bases to the state.

40 (5) Review state policies, including funding and legislation, to
41 identify actions necessary to prepare for the United States
42 Department of Defense Efficient Facilities Initiative scheduled

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to begin in 2005.

(6) Study how governmental entities outside Indiana have addressed issues regarding encroachment and partnership formation described in this section.

Sec. 12. The council shall submit a report to the:

- (1) governor; and
- (2) legislative services agency;

not later than July 1 of each year. The report submitted to the legislative services agency must be in an electronic format under IC 5-14-6.

SECTION 2. IC 13-11-2-129.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 129.6. "Military base", for purposes of IC 13-15-3-1.3, means a United States government military installation that:

- (1) has an area of at least sixty thousand (60,000) acres; and
- (2) is used for the design, construction, maintenance, and testing of electronic devices and ordnance.

SECTION 3. IC 13-15-3-1.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.3. The department shall give priority to permit applications that concern:

- (1) military bases; and
- (2) the destruction, reclamation, recycling, reprocessing, or demilitarization of ordnance and other explosive materials.

SECTION 4. IC 34-6-2-82.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 82.6. "Military base", for purposes of IC 34-30-21, means a United States government military installation that:

- (1) has an area of at least sixty thousand (60,000) acres; and
- (2) is used for the design, construction, maintenance, and testing of electronic devices and ordnance.

SECTION 5. IC 34-6-2-142.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 142.6. "Telecommunications", for purposes of IC 34-30-21, means the transmission of any document, picture, datum, sound, or other symbol by television, radio, microwave, optical, or other electromagnetic signal.

SECTION 6. IC 34-30-21 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE

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UPON PASSAGE]:

Chapter 21. Military Bases: Immunity for Noise Pollution and Telecommunications Interference

Sec. 1. This chapter does not grant immunity from civil liability to a person who commits an act that:

- (1) amounts to gross negligence or willful and wanton misconduct; or
- (2) does not comply with an applicable federal law.

Sec. 2. A military base, a person employed by a military base, or a person otherwise authorized by a military base to conduct operations on or use the military base is not liable for civil damages relating to noise or noise pollution that:

- (1) results from the normal operation or use of the military base, including the destruction of ordnance; and
- (2) may be heard within two (2) miles of the perimeter of the military base.

Sec. 3. A military base, a person employed by a military base, or a person otherwise authorized by a military base to conduct operations on or use the military base is not liable for civil damages relating to interference with telecommunications that:

- (1) results from the normal operation or use of the military base; and
- (2) occurs within five (5) miles of the perimeter of the military base.

SECTION 7. IC 36-7-30.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 30.1. Planning and Zoning Affecting Military Bases

Sec. 1. As used in this chapter, "military base" means a United States government military installation that:

- (1) has an area of at least sixty thousand (60,000) acres; and
- (2) is used for the design, construction, maintenance, and testing of electronic devices and ordnance.

Sec. 2. (a) Before a unit may take action to:

- (1) plan or regulate the:
 - (A) use, improvement, and maintenance of real property; or
 - (B) location, condition, and maintenance of structures and other improvements; or
- (2) regulate the platting and subdividing of real property; in a zoning district, a zoning classification, or, if the unit does not have a plan commission, an area in which a military base is

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1 located, the unit must notify the commander of the military base of
 2 the unit's intent to take action to ensure the action will not have an
 3 adverse impact on the operation of the military base.
 4 (b) The notice provided under subsection (a) must request that
 5 the commander of the military base respond to the notice:
 6 (1) with written recommendations and supporting facts
 7 concerning the action and its impact on the operation of the
 8 military base; and
 9 (2) not more than sixty (60) days after the date the
 10 commander receives the notice.
 11 (c) If the commander does not submit a response to the notice
 12 provided under subsection (a) not more than sixty (60) days after
 13 the date the commander receives the notice, the unit may presume
 14 that the action will not have an adverse impact on the operation of
 15 the military base.
 16 Sec. 3. A unit may not take action to:
 17 (1) plan or regulate the:
 18 (A) use, improvement, and maintenance of real property;
 19 or
 20 (B) location, condition, and maintenance of structures and
 21 other improvements; or
 22 (2) regulate the platting and subdividing of real property;
 23 in a zoning district, a zoning classification, or, if the unit does not
 24 have a plan commission, an area in which a military base is
 25 located, if the action will have an adverse impact on the operation
 26 of the military base.
 27 SECTION 8. An emergency is declared for this act.

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