February 14, 2007

HOUSE BILL No. 1663

DIGEST OF HB 1663 (Updated February 12, 2007 2:38 pm - DI 77)

Citations Affected: IC 5-10; IC 12-7; IC 16-22; IC 36-1; IC 36-7.

Synopsis: Health and hospital corporations. Adds: (1) municipal corporations as local units for purposes of providing group health insurance for public employees; and (2) hospitals and the health and hospital corporation of Marion County as facilities for purposes of voluntary and involuntary treatment of mentally ill individuals. Provides that the health and hospital corporation of Marion County may file certain civil actions. Authorizes the health and hospital corporation of Marion County to: (1) take certain actions; (2) condemn property; and (3) issue bonds to procure funds to pay costs of acquiring property and improving property for use as a hospital, a health care facility, or an administrative facility. Requires: (1) bonds to be issued by a resolution of the board of the health and hospital corporation of Marion County; and (2) bonds to be executed by the executive director in the name of the health and hospital corporation of Marion County. Allows a court in a civil action for an ordinance violation to order injunctions, judgments, penalties, costs, inspections, and compliance, and to order a municipal corporation to take appropriate action to bring a property into compliance. Excludes hospitals and the health and hospital corporation of Marion County from leasing and lease purchase laws. Amends notice requirements for unsafe building orders. Repeals a provision that requires the board of the health and hospital corporation of Marion County to provide an integrated administrative organization.

Effective: July 1, 2007.

Buell, Day

January 23, 2007, read first time and referred to Committee on Public Health.
February 13, 2007, reported — Do Pass.

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February 14, 2007

First Regular Session 115th General Assembly (2007)

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 2006 Regular Session of the General Assembly.

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HOUSE BILL No. 1663

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

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

SECTION 1. IC 5-10-8-1, AS AMENDED BY P.L.2-2006, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. The following definitions apply in this chapter:

(1) "Employee" means:

(A) an elected or appointed officer or official, or a full-time employee;

(B) if the individual is employed by a school corporation, a full-time or part-time employee;

(C) for a local unit public employer, a full-time or part-time employee or a person who provides personal services to the unit under contract during the contract period; or

(D) a senior judge appointed under IC 33-24-3-7;

whose services have continued without interruption at least thirty (30) days.

(2) "Group insurance" means any of the kinds of insurance fulfilling the definitions and requirements of group insurance contained in IC 27-1.

(3) "Insurance" means insurance upon or in relation to human life in all its forms, including life insurance, health insurance, disability insurance, accident insurance, hospitalization insurance, surgery insurance, medical insurance, and supplemental medical insurance.

(4) "Local unit" includes a city, town, county, township, public library, **municipal corporation (as defined in IC 5-10-9-1),** or school corporation.

(5) "New traditional plan" means a self-insurance program established under section 7(b) of this chapter to provide health care coverage.

(6) "Public employer" means the state or a local unit, including any board, commission, department, division, authority, institution, establishment, facility, or governmental unit under the supervision of either, having a payroll in relation to persons it immediately employs, even if it is not a separate taxing unit. With respect to the legislative branch of government, "public employer" or "employer" refers to the following:

(A) The president pro tempore of the senate, with respect to former members or employees of the senate.

(B) The speaker of the house, with respect to former members or employees of the house of representatives.

(C) The legislative council, with respect to former employees of the legislative services agency.

(7) "Public employer" does not include a state educational institution (as defined under IC 20-12-0.5-1).

(8) "Retired employee" means:

(A) in the case of a public employer that participates in the public employees' retirement fund, a former employee who qualifies for a benefit under IC 5-10.3-8 or IC 5-10.2-4;

(B) in the case of a public employer that participates in the teachers' retirement fund under IC 5-10.4, a former employee who qualifies for a benefit under IC 5-10.4-5; and

(C) in the case of any other public employer, a former employee who meets the requirements established by the public employer for participation in a group insurance plan for retired employees.

(9) "Retirement date" means the date that the employee has chosen to receive retirement benefits from the employees' retirement fund.

SECTION 2. IC 12-7-2-82 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 82. "Facility" means

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the following:

(1) For purposes of IC 12-17-12, the meaning set forth in IC 12-17-12-3.

(2) For purposes of IC 12-17-13, the meaning set forth in IC 12-17-13-2.

(3) For purposes of IC 12-26, **a hospital, a health and hospital corporation established under IC 16-22-8,** a psychiatric hospital, a community mental health center, another institution, a program, a managed care provider, or a child caring institution:

(A) where a mentally ill individual can receive rehabilitative treatment, or habilitation and care, in the least restrictive environment suitable for the necessary care, treatment, and protection of the individual and others; and

(B) that has adequate space and treatment staff appropriate to the needs of the individual as determined by the superintendent of the facility.

The term includes all services, programs, and centers of the facility, wherever located.

(4) For purposes of IC 12-15-32, the meaning set forth in IC 12-15-32-1.

SECTION 3. IC 16-22-8-31, AS AMENDED BY P.L.138-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 31. (a) The director of the division of public health has the powers, functions, and duties of a local health officer.

(b) Orders, citations, and administrative notices of violation issued by the director of the division of public health, the director's authorized representative, a supervisor in the division, or an environmental health specialist may be enforced by the corporation in a court with jurisdiction by filing a civil action in accordance with IC 16-42-5-28, IC 33-36-3-5(b), **IC 34-28-5-1,** ~~or~~ IC 36-1-6-4, **or IC 36-7-9-17.**

(c) A public health authority may petition a circuit or superior court for an order of isolation or quarantine by filing a civil action in accordance with IC 16-41-9.

(d) Unless otherwise provided by law, a change of venue from the county may not be granted for court proceedings initiated under this section.

(e) A change of venue from a judge must meet the requirements in IC 34-35-3-3 for court proceedings initiated under this section.

SECTION 4. IC 16-22-8-34, AS AMENDED BY P.L.88-2006, SECTION 5, AND AS AMENDED BY P.L.145-2006, SECTION 133, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 34. (a) The board or corporation

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may do all acts necessary or reasonably incident to carrying out the purposes of this chapter, including the following:

(1) As a municipal corporation, sue and be sued in any court with jurisdiction.

(2) To serve as the exclusive local board of health and local department of health within the county with the powers and duties conferred by law upon local boards of health and local departments of health.

(3) To adopt and enforce ordinances consistent with Indiana law and administrative rules for the following purposes:

(A) To protect property owned or managed by the corporation.

(B) To determine, prevent, and abate public health nuisances.

(C) To establish **isolation and** quarantine regulations. ~~impose restrictions on persons having infectious or contagious diseases and contacts of the persons, and regulate the disinfection of premises.~~

(D) To license, regulate, and establish minimum sanitary standards for the operation of a business handling, producing, processing, preparing, manufacturing, packing, storing, selling, distributing, or transporting articles used for food, drink, confectionery, or condiment in the interest of the public health.

(E) To control:

(i) rodents, mosquitos, and other animals, including insects, capable of transmitting microorganisms and disease to humans and other animals; and

(ii) the ~~animal's~~ **animals'** breeding places.

(F) To require persons to connect to available sewer systems and to regulate the disposal of domestic or sanitary sewage by private methods. However, the board and corporation have no jurisdiction over publicly owned or financed sewer systems or sanitation and disposal plants.

(G) To control rabies.

(H) For the sanitary regulation of water supplies for domestic use.

(I) To protect, promote, or improve public health. For public health activities and to enforce public health laws, the state health data center described in IC 16-19-10 shall provide health data, medical information, and epidemiological information to the corporation.

(J) To detect, report, prevent, and control disease affecting public health.

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(K) To investigate and diagnose health problems and health hazards.

(L) To regulate the sanitary and structural conditions of residential and nonresidential buildings and unsafe premises.

(M) To regulate the remediation of lead hazards.

~~(M)~~ **(N)** To license and regulate the design, construction, and operation of public pools, spas, and beaches.

~~(N)~~ **(O)** To regulate the storage, containment, handling, use, and disposal of hazardous materials.

~~(O)~~ **(P)** To license and regulate tattoo parlors and body piercing facilities.

(4) To manage the corporation's hospitals, medical facilities, and mental health facilities.

(5) To ~~furnish~~ **provide school based** health ~~and nursing~~ services. ~~to elementary and secondary schools within the county.~~

(6) To furnish medical care to ~~the indigent within~~ **insured and uninsured residents of** the county. ~~unless medical care is furnished to the indigent by the division of family~~ *~~and children. resources.~~*

(7) To ~~determine the~~ **establish** public health ~~policies and~~ programs. ~~to be carried out and administered by the corporation.~~

(8) To adopt an annual budget ordinance and levy taxes.

(9) To incur indebtedness in the name of the corporation.

(10) To organize ~~the personnel and functions of~~ the corporation into divisions. ~~and subdivisions to carry out the corporation's powers and duties and to consolidate, divide, or abolish the divisions and subdivisions.~~

(11) To acquire and dispose of property.

(12) To receive *charitable contributions* and ~~*make*~~ gifts *as provided in 26 U.S.C. 170.*

(13) To make charitable contributions and gifts.

(14) To establish a charitable foundation as provided in 26 U.S.C. 501.

~~*(13)*~~ *(15)* To receive and distribute federal, state, local, or private grants.

(16) To receive and distribute grants from charitable foundations.

(17) To establish nonprofit corporations to carry out the purposes of the corporation.

~~*(14)*~~ *(18)* To erect, **improve, remodel, or repair corporation** buildings. ~~or structures or improvements to existing buildings or structures.~~

~~*(15)*~~ *(19)* To determine ~~matters of policy regarding internal~~

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~~organization and~~ operating procedures.

~~(16)~~ *(20)* To do the following:

(A) Adopt a schedule of reasonable charges for nonresidents of the county for medical and mental health services.

(B) Collect the charges from the patient, **the patient's insurance company,** or ~~from the governmental unit where the patient resided at the time of the service.~~ **a government program.**

(C) Require security for the payment of the charges.

~~(17)~~ *(21)* To adopt a schedule of and to collect reasonable charges for ~~patients able to pay in full or in part.~~ **medical and mental health services.**

~~(18)~~ *(22)* To enforce Indiana laws, administrative rules, **ordinances,** and the code of the health and hospital corporation of the county.

~~(19)~~ *(23)* To purchase supplies, materials, and equipment. ~~for the corporation.~~

~~(20)~~ *(24)* To employ personnel and establish personnel policies. ~~to carry out the duties, functions, and powers of the corporation.~~

~~(21)~~ *(25)* To employ attorneys admitted to practice law in Indiana.

~~(22)~~ *(26)* To acquire, erect, equip, and operate the corporation's hospitals, medical facilities, and mental health facilities.

~~(23)~~ *(27)* To dispose of surplus property in accordance with a policy by the board.

~~(24)~~ *(28)* To determine the duties of officers and division directors.

~~(25)~~ *(29)* To fix the compensation of the officers and division directors.

~~(26)~~ *(30)* To carry out the purposes and object of the corporation.

~~(27)~~ *(31)* To obtain loans for hospital expenses in amounts and upon terms agreeable to the board. The board may secure the loans by pledging accounts receivable or other security in hospital funds.

~~(28)~~ *(32)* To establish fees for licenses, services, and records. The corporation may accept payment by credit card for fees.

(b) The board shall exercise the board's powers and duties in a manner consistent with Indiana law, administrative rules, and the code of the health and hospital corporation of the county.

SECTION 5. IC 16-22-8-42 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 42. If the ~~board~~ **corporation** and the owner of real property desired for **a** hospital, **a health care facility,** or ~~other purposes in carrying out this chapter~~ **an**

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administrative facility cannot agree on the price, the corporation has the right to condemn. Condemnation proceedings may be instituted in the name of the corporation under IC 32-24.

SECTION 6. IC 16-22-8-43 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 43. (a) The ~~board~~ **corporation** may issue general obligation bonds ~~of the corporation~~ to procure funds to pay the cost of acquiring real property or constructing, enlarging, improving, remodeling, repairing, or equipping buildings ~~and other structures~~ for use as ~~or in connection with hospitals, clinics, health centers, dispensaries,~~ **a hospital, a health care facility,** or ~~for~~ **an** administrative ~~purposes.~~ **facility.** The issuance of the bonds shall be authorized by ~~ordinance of the~~ **a** board **resolution** providing for the amount, terms, and tenor of the bonds, for the time and character of notice, and the mode of making the sale. The bonds shall be payable not more than forty (40) years after the date of issuance. ~~and~~ **The bonds** shall be executed in the name of the corporation by the ~~chairman of the board and attested by the~~ executive director. ~~who shall affix to each of the bonds the official seal of the corporation. The interest coupons attached to the bonds may be executed by facsimile signature of the chairman of the board.~~

(b) The executive director shall manage and supervise the preparation, advertisement, and sale of bonds, subject to the provisions of the authorizing ordinance. Before the sale of the bonds, the executive director shall publish notice of the sale in accordance with IC 5-3-1, setting out the time and place where bids will be received, the amount and maturity dates of the issue, the maximum interest rate, and the terms and conditions of sale and delivery of the bonds. The bonds shall be sold to the highest and best bidder. After the bonds have been sold and executed, the executive director shall deliver the bonds to the treasurer of the corporation and take the treasurer's receipt, and shall certify to the treasurer the amount that the purchaser is to pay, together with the name and address of the purchaser. On payment of the purchase price, the treasurer shall deliver the bonds to the purchaser, and the treasurer and executive director shall report the actions to the board.

(c) IC 5-1 and IC 6-1.1-20 apply to the following proceedings:

(1) Notice and filing of the petition requesting the issuance of the bonds.

(2) Notice of determination to issue bonds.

(3) Notice of hearing on the appropriation of the proceeds of the bonds and the right of taxpayers to appeal and be heard.

(4) Approval by the department of local government finance.

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(5) The right to remonstrate.

(6) Sale of bonds at public sale for not less than the par value.

(d) The bonds are the direct general obligations of the corporation and are payable out of unlimited ad valorem taxes levied and collected on all the taxable property within the county of the corporation. All officials and bodies having to do with the levying of taxes for the corporation shall see that sufficient levies are made to meet the principal and interest on the bonds at the time fixed for payment.

(e) The bonds are exempt from taxation for all purposes but the interest is subject to the adjusted gross income tax.

SECTION 7. IC 36-1-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. **(a)** A municipal corporation may bring a civil action ~~to enjoin any~~ **as provided under IC 34-28-5-1 if a** person: ~~from:~~

(1) ~~violating~~ **violates** an ordinance regulating or prohibiting a condition or use of property; or

(2) ~~engaging~~ **engages** in conduct without a license **or permit** if an ordinance requires a license **or permit** to engage in the conduct.

(b) In a court proceeding under this section, a court may do one (1) or more of the following:

(1) Issue an injunction.

(2) Enter a judgment.

(3) Order an inspection.

(4) Order a property vacated.

(5) Impose a penalty not to exceed an amount described in IC 36-1-3-8(a)(10).

(6) Impose court costs in accordance with IC 33-37-4-2 and IC 33-37-5.

(7) Order the defendant to take appropriate action to bring the property into compliance with an ordinance within a specified time.

(8) Order a municipal corporation to take appropriate action to bring a property into compliance with an ordinance in accordance with IC 36-1-6-2.

SECTION 8. IC 36-1-10-1, AS AMENDED BY P.L.2-2006, SECTION 186, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) Except as provided in subsection (b), this chapter applies to:

(1) political subdivisions and agencies of political subdivisions that determine to acquire structures, transportation projects, or systems by lease or lease-purchase;

(2) a convention and visitor bureau established under IC 6-9-2

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that determines to acquire a visitor center by lease or lease purchase; and

(3) a convention and visitor commission established by IC 6-9-11 that determines to acquire a sports and recreation facility by lease or lease purchase.

(b) This chapter does not apply to:

(1) the lease of library buildings under IC 36-12-10, unless the library board of the public library adopts a resolution to proceed under this chapter instead of IC 36-12-10;

(2) the lease of school buildings under IC 20-47;

~~(3) county hospitals organized or operating under IC 16-22-1 through IC 16-22-5;~~

~~(4) municipal hospitals organized or operating under IC 16-23-1; or~~

(3) a hospital established and operated under IC 16-22 or IC 16-23;

(4) a health and hospital corporation established and operated under IC 16-22-8; or

(5) boards of aviation commissioners established under IC 8-22-2.

SECTION 9. IC 36-1-10.5-1, AS AMENDED BY P.L.2-2006, SECTION 187, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) Except as provided in subsection (b), this chapter applies to:

(1) political subdivisions; and

(2) their agencies.

(b) This chapter does not apply to the purchase of:

(1) real property having a total price (including land and structures, if any) of twenty-five thousand dollars ($25,000) or less;

(2) airport land or structures under IC 8-22;

(3) library land or structures under IC 36-12;

(4) school land or structures under IC 20-47;

(5) hospital land or structures by ~~hospitals~~ **a hospital or health and hospital corporation** ~~organized or~~ **established and** operated under ~~IC 16-22-1 through IC 16-22-5 or IC 16-23-1;~~ **IC 16-22 or IC 16-23;**

(6) land or structures acquired for a road or street right-of-way for a federal-aid project funded in any part under 23 U.S.C. 101 et seq.;

(7) land or structures by redevelopment commissions under IC 36-7-14 or IC 36-7-15.1, or redevelopment authorities under IC 36-7-14.5; or

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(8) land by a municipally owned water utility, if:

(A) the municipally owned water utility has performed or contracted with another party to perform sampling and drilling tests of the land; and

(B) the sampling and drilling tests indicate the land has water resources.

SECTION 10. IC 36-7-9-25, AS AMENDED BY P.L.169-2006, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 25. (a) Notice of orders, notice of continued hearings without a specified date, notice of a statement that public bids are to be let, and notice of claims for payment must be given by:

(1) sending a copy of the order or statement by registered or certified mail to the residence or place of business or employment of the person to be notified, with return receipt requested;

(2) delivering a copy of the order or statement personally to the person to be notified; ~~or~~

(3) leaving a copy of the order or statement at the dwelling or usual place of abode of the person to be notified and sending by first class mail a copy of the order or statement to the last known address of the person to be notified; **or**

(4) sending a copy of the order or statement by first class mail to the last known address of the person to be notified.

If a notice described in subdivision (1) is returned undelivered, a copy of the order or statement must be given in accordance with subdivision (2), (3), or (4).

(b) If service is not obtained by a means described in subsection (a) and the hearing authority concludes that a reasonable effort has been made to obtain service, service may be made by publishing a notice of the order or statement in accordance with IC 5-3-1 in the county where the unsafe premises are located. However, publication may be made on consecutive days. If service of an order is made by publication, the publication must include the information required by subdivisions (1), (2), (4), (5), (6), (7), and (9) of section 5(b) of this chapter, and must also include a statement indicating generally what action is required by the order and that the exact terms of the order may be obtained from the enforcement authority. The hearing authority may make a determination about whether a reasonable effort has been made to obtain service by the means described in subsection (a) on the basis of information provided by the department (or, in the case of a consolidated city, the enforcement authority). The hearing authority is not required to make the determination at a hearing. The hearing authority must make the determination in writing.

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(c) When service is made by any of the means described in this section, except by mailing or by publication, the person making service must make an affidavit stating that he has made the service, the manner in which service was made, to whom the order or statement was issued, the nature of the order or statement, and the date of service. The affidavit must be placed on file with the enforcement authority.

(d) The date when notice of the order or statement is considered given is as follows:

(1) If the order or statement is delivered personally or left at the dwelling or usual place of abode, notice is considered given on the day when the order or statement is delivered to the person or left at the person's dwelling or usual place of abode.

(2) If the order or statement is mailed, notice is considered given on the date shown on the return receipt, or, if no date is shown, on the date when the return receipt is received by the enforcement authority.

(3) Notice by publication is considered given on the date of the second day that publication was made.

(e) A person with a property interest in an unsafe premises who does not:

(1) record an instrument reflecting the interest in the recorder's office of the county where the unsafe premises is located; or

(2) if an instrument reflecting the interest is not recorded, provide to the department (or, in the case of a consolidated city, the enforcement authority) in writing the person's name and address and the location of the unsafe premises;

is considered to consent to reasonable action taken under this chapter for which notice would be required and relinquish a claim to notice under this chapter.

(f) The department (or, in the case of a consolidated city, the enforcement authority) may, for the sake of administrative convenience, publish notice under subsection (b) at the same time notice is attempted under subsection (a). If published notice is given as described in subsection (b), the hearing authority shall subsequently make a determination about whether a reasonable effort has been made to obtain service by the means described in subsection (a).

SECTION 11. IC 16-22-8-36 IS REPEALED [EFFECTIVE JULY 1, 2007].

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1663, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

BROWN C, Chair

Committee Vote: yeas 12, nays 0.

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