
HOUSE BILL No. 1630

DIGEST OF INTRODUCED BILL

Citations Affected: IC 2-5-1.1-7.5; IC 4-2-6-4; IC 5-14; IC 8-1-22.5-6.1; IC 8-5-15-3; IC 33-23-5-4; IC 33-27-3-2.

Synopsis: Access to economic development proposals. Provides that a nonprofit corporation engaged in economic development activities that is a public agency for purposes of the open meetings law and open records law may conduct discussions and negotiations with commercial and industrial prospects in an executive session. Allows the corporation to withhold records relating to the discussions and negotiations from public inspection and copying. Requires the corporation to disclose an economic development contract or commitment or other final offer to a prospect after discussions and negotiations have ended.

Effective: July 1, 2007.

Harris T

January 23, 2007, read first time and referred to Committee on Public Policy.

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Introduced

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. 1630

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

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

1 SECTION 1. IC 2-5-1.1-7.5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7.5. (a) For purposes
3 of ~~IC 5-14-3-4(b)(13)~~, **IC 5-14-3-4(b)(14)**, the work product of the
4 legislative services agency includes an electronic geographic
5 information system produced from data:

6 (1) gathered by the legislative services agency; and
7 (2) processed using proprietary software that has been licensed to
8 the legislative services agency.

9 (b) This subsection applies to a public agency (as defined by
10 IC 5-14-3-2) with access to the information described by subsection
11 (a). A paper copy of a map that can be printed using the geographic
12 information system described in subsection (a) must be available to any
13 person under rules approved by the legislative council. Electronic
14 copies of the information are available only under rules approved by
15 the legislative council.

16 SECTION 2. IC 4-2-6-4, AS AMENDED BY P.L.89-2006,
17 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2007]: Sec. 4. (a) The commission may do any of the
2 following:

3 (1) Upon a vote of four (4) members, refer any matter within the
4 inspector general's authority to the inspector general for
5 investigation.

6 (2) Receive and hear any complaint filed with the commission by
7 the inspector general that alleges a violation of:

8 (A) this chapter;

9 (B) a rule adopted under this chapter;

10 (C) IC 4-2-7;

11 (D) a rule adopted under IC 4-2-7;

12 (E) IC 4-2-8; or

13 (F) a rule adopted under IC 4-2-8.

14 (3) Obtain information and, upon a vote of four (4) members,
15 compel the attendance and testimony of witnesses and the
16 production of pertinent books and papers by a subpoena
17 enforceable by the circuit or superior court of the county where
18 the subpoena is to be issued.

19 (4) Recommend legislation to the general assembly relating to the
20 conduct and ethics of state officers, employees, special state
21 appointees, and persons who have business relationships with
22 agencies.

23 (5) Adopt rules under IC 4-22-2 to implement this chapter.

24 (6) Accept and file information:

25 (A) voluntarily supplied; and

26 (B) that exceeds the requirements of this chapter.

27 (7) Conduct research.

28 (b) The commission shall do the following:

29 (1) Act as an advisory body by issuing advisory opinions to
30 interpret this chapter, IC 4-2-7, or the rules adopted under this
31 chapter or IC 4-2-7, upon:

32 (A) request of:

33 (i) a state officer or a former state officer;

34 (ii) an employee or a former employee;

35 (iii) a person who has or had a business relationship with an
36 agency;

37 (iv) a special state appointee or former special state
38 appointee; or

39 (v) the inspector general; or

40 (B) motion of the commission.

41 (2) Conduct its proceedings in the following manner:

42 (A) When a complaint is filed with the commission, the

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commission may:

- (i) reject, without further proceedings, a complaint that the commission considers frivolous or inconsequential;
- (ii) reject, without further proceedings, a complaint that the commission is satisfied has been dealt with appropriately by an agency;
- (iii) upon the vote of four (4) members, determine that the complaint does not allege facts sufficient to constitute a violation of this chapter or the code of ethics and dismiss the complaint; or
- (iv) forward a copy of the complaint to the attorney general, the prosecuting attorney of the county in which the alleged violation occurred, the state board of accounts, a state officer, the appointing authority, or other appropriate person for action, and stay the commission's proceedings pending the other action.

(B) If a complaint is not disposed of under clause (A), a copy of the complaint shall be sent to the person alleged to have committed the violation.

(C) If the complaint is not disposed of under clause (A), the commission may promptly refer the alleged violation for additional investigation by the inspector general. If the commission finds by a majority vote that probable cause exists to support an alleged violation, it shall set a public hearing on the matter. The respondent shall be notified within fifteen (15) days of the commission's determination. Except as provided in this section, the commission's evidence relating to an investigation is confidential.

(D) A complaint filed with the commission is open for public inspection after the commission finds that probable cause exists. However, a complaint filed by the inspector general that contains confidential information under IC 4-2-7-8 may be redacted to exclude the confidential information. Every hearing and other proceeding in which evidence is received by the commission is open to the public. Investigative reports by the inspector general that are not filed with the commission may be kept confidential.

(E) A:

- (i) complaint that is filed with; or
- (ii) proceeding that is held by;

the commission before the commission has found probable cause is confidential unless the target of the investigation

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1 elects to have information disclosed, or the commission elects
2 to respond to public statements by the person who filed the
3 complaint.

4 (F) The commission may acknowledge:

5 (i) the existence and scope of an investigation before the
6 finding of probable cause; or

7 (ii) that the commission did not find probable cause to
8 support an alleged violation.

9 (G) If a hearing is to be held, the respondent may examine and
10 make copies of all evidence in the commission's possession
11 relating to the charges. At the hearing, the charged party shall
12 be afforded appropriate due process protection consistent with
13 IC 4-21.5, including the right to be represented by counsel, the
14 right to call and examine witnesses, the right to introduce
15 exhibits, and the right to cross-examine opposing witnesses.

16 (H) After the hearing, the commission shall state its findings
17 of fact. If the commission, based on a preponderance of the
18 evidence, finds by a majority vote that the respondent has
19 violated this chapter, IC 4-2-7, IC 4-2-8, or a rule adopted
20 under this chapter, IC 4-2-7, or IC 4-2-8, it shall state its
21 findings in writing in a report, which shall be supported and
22 signed by a majority of the commission members and shall be
23 made public.

24 (I) If the commission, based on a preponderance of the
25 evidence, finds by a majority vote a violation of this chapter,
26 IC 4-2-7, IC 4-2-8, or a rule adopted under this chapter,
27 IC 4-2-7, or IC 4-2-8, the commission may also take any of the
28 actions provided in section 12 of this chapter.

29 (J) The report required under clause (H) shall be presented to:

30 (i) the respondent;

31 (ii) the appointing authority or state officer of the employee,
32 former employee, or special state appointee;

33 (iii) the appointing authority or state officer of an agency or
34 office that has a business relationship with the person
35 sanctioned; and

36 (iv) the governor.

37 (K) The commission may also forward the report to any of the
38 following:

39 (i) The prosecuting attorney of each county in which the
40 violation occurred.

41 (ii) The state board of accounts.

42 (iii) The state personnel director.

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- 1 (iv) The attorney general.
- 2 (v) A state officer.
- 3 (vi) The appointing authority of the state employee or
- 4 agency that has a business relationship with the person
- 5 sanctioned.
- 6 (vii) Any other appropriate person.

7 (L) If the commission finds the respondent has not violated a
 8 code or statutory provision or a rule adopted under this
 9 chapter, IC 4-2-7, or IC 4-2-8, it shall dismiss the charges.

10 (3) Review all conflict of interest disclosures received by the
 11 commission under IC 35-44-1-3, maintain an index of those
 12 disclosures, and issue advisory opinions and screening procedures
 13 as set forth in section 9 of this chapter.

14 (c) Notwithstanding ~~IC 5-14-3-4(b)(8)(C)~~, **IC 5-14-3-4(b)(9)(C)**,
 15 the records of the commission concerning the case of a respondent that
 16 are not confidential under IC 5-14-3-4(b)(2)(C) shall be available for
 17 inspection and copying in accordance with IC 5-14-3.

18 SECTION 3. IC 5-14-1.5-6.1, AS AMENDED BY P.L.101-2006,
 19 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2007]: Sec. 6.1. (a) As used in this section, "public official"
 21 means a person:

- 22 (1) who is a member of a governing body of a public agency; or
- 23 (2) whose tenure and compensation are fixed by law and who
- 24 executes an oath.

25 (b) Executive sessions may be held only in the following instances:

- 26 (1) Where authorized by federal or state statute.
- 27 (2) For discussion of strategy with respect to any of the following:
- 28 (A) Collective bargaining.
- 29 (B) Initiation of litigation or litigation that is either pending or
- 30 has been threatened specifically in writing.
- 31 (C) The implementation of security systems.
- 32 (D) The purchase or lease of real property by the governing
- 33 body up to the time a contract or option to purchase or lease is
- 34 executed by the parties.

35 However, all such strategy discussions must be necessary for
 36 competitive or bargaining reasons and may not include
 37 competitive or bargaining adversaries.

38 (3) For discussion of the assessment, design, and implementation
 39 of school safety and security measures, plans, and systems.

40 (4) Interviews with industrial or commercial prospects or agents
 41 of industrial or commercial prospects by the Indiana economic
 42 development corporation, the office of tourism development, the

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Indiana finance authority, or economic development commissions.

(5) Discussions or negotiations with industrial or commercial prospects or agents of industrial or commercial prospects by a public agency that is a nonprofit corporation engaged in whole or in part in economic development activities. As used in this subdivision, "economic development activities" includes any of the following:

- (A) Recruitment, retention, or expansion of industry and business.**
- (B) Promotion and development of tourism.**
- (C) Creation of new jobs.**
- (D) Acquisition of land or infrastructure for industrial purposes.**
- (E) Promotion of general job and business growth.**
- (F) Stimulation of private investment.**

~~(5)~~ **(6)** To receive information about and interview prospective employees.

~~(6)~~ **(7)** With respect to any individual over whom the governing body has jurisdiction:

- (A) to receive information concerning the individual's alleged misconduct; and
- (B) to discuss, before a determination, the individual's status as an employee, a student, or an independent contractor who is:
 - (i) a physician; or
 - (ii) a school bus driver.

~~(7)~~ **(8)** For discussion of records classified as confidential by state or federal statute.

~~(8)~~ **(9)** To discuss before a placement decision an individual student's abilities, past performance, behavior, and needs.

~~(9)~~ **(10)** To discuss a job performance evaluation of individual employees. This subdivision does not apply to a discussion of the salary, compensation, or benefits of employees during a budget process.

~~(10)~~ **(11)** When considering the appointment of a public official, to do the following:

- (A) Develop a list of prospective appointees.
- (B) Consider applications.
- (C) Make one (1) initial exclusion of prospective appointees from further consideration.

Notwithstanding ~~IC 5-14-3-4(b)(12)~~, **IC 5-14-3-4(b)(13)**, a

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governing body may release and shall make available for inspection and copying in accordance with IC 5-14-3-3 identifying information concerning prospective appointees not initially excluded from further consideration. An initial exclusion of prospective appointees from further consideration may not reduce the number of prospective appointees to fewer than three (3) unless there are fewer than three (3) prospective appointees. Interviews of prospective appointees must be conducted at a meeting that is open to the public.

~~(11)~~ **(12)** To train school board members with an outside consultant about the performance of the role of the members as public officials.

~~(12)~~ **(13)** To prepare or score examinations used in issuing licenses, certificates, permits, or registrations under IC 15-5-1.1 or IC 25.

~~(13)~~ **(14)** To discuss information and intelligence intended to prevent, mitigate, or respond to the threat of terrorism.

(c) A final action must be taken at a meeting open to the public.

(d) Public notice of executive sessions must state the subject matter by specific reference to the enumerated instance or instances for which executive sessions may be held under subsection (b). The requirements stated in section 4 of this chapter for memoranda and minutes being made available to the public ~~is~~ **are** modified as to executive sessions in that the memoranda and minutes must identify the subject matter considered by specific reference to the enumerated instance or instances for which public notice was given. The governing body shall certify by a statement in the memoranda and minutes of the governing body that no subject matter was discussed in the executive session other than the subject matter specified in the public notice.

(e) A governing body may not conduct an executive session during a meeting, except as otherwise permitted by applicable statute. A meeting may not be recessed and reconvened with the intent of circumventing this subsection.

SECTION 4. IC 5-14-3-4, AS AMENDED BY P.L.101-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

(1) Those declared confidential by state statute.

(2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as

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- 1 confidential granted to the public agency by statute.
- 2 (3) Those required to be kept confidential by federal law.
- 3 (4) Records containing trade secrets.
- 4 (5) Confidential financial information obtained, upon request,
- 5 from a person. However, this does not include information that is
- 6 filed with or received by a public agency pursuant to state statute.
- 7 (6) Information concerning research, including actual research
- 8 documents, conducted under the auspices of an institution of
- 9 higher education, including information:
 - 10 (A) concerning any negotiations made with respect to the
 - 11 research; and
 - 12 (B) received from another party involved in the research.
- 13 (7) Grade transcripts and license examination scores obtained as
- 14 part of a licensure process.
- 15 (8) Those declared confidential by or under rules adopted by the
- 16 supreme court of Indiana.
- 17 (9) Patient medical records and charts created by a provider,
- 18 unless the patient gives written consent under IC 16-39.
- 19 (10) Application information declared confidential by the board
- 20 of the Indiana economic development corporation under
- 21 IC 5-28-16.
- 22 (11) A photograph, a video recording, or an audio recording of an
- 23 autopsy, except as provided in IC 36-2-14-10.
- 24 (12) A Social Security number contained in the records of a
- 25 public agency.
- 26 (b) Except as otherwise provided by subsection (a), the following
- 27 public records shall be excepted from section 3 of this chapter at the
- 28 discretion of a public agency:
 - 29 (1) Investigatory records of law enforcement agencies. However,
 - 30 certain law enforcement records must be made available for
 - 31 inspection and copying as provided in section 5 of this chapter.
 - 32 (2) The work product of an attorney representing, pursuant to
 - 33 state employment or an appointment by a public agency:
 - 34 (A) a public agency;
 - 35 (B) the state; or
 - 36 (C) an individual.
 - 37 (3) Test questions, scoring keys, and other examination data used
 - 38 in administering a licensing examination, examination for
 - 39 employment, or academic examination before the examination is
 - 40 given or if it is to be given again.
 - 41 (4) Scores of tests if the person is identified by name and has not
 - 42 consented to the release of the person's scores.

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- 1 (5) The following:
- 2 (A) Records relating to negotiations between the Indiana
- 3 economic development corporation, the Indiana finance
- 4 authority, or economic development commissions with
- 5 industrial, research, or commercial prospects, if the records are
- 6 created while negotiations are in progress.
- 7 (B) Notwithstanding clause (A), the terms of the final offer of
- 8 public financial resources communicated by the Indiana
- 9 economic development corporation, the Indiana finance
- 10 authority, or economic development commissions to an
- 11 industrial, a research, or a commercial prospect shall be
- 12 available for inspection and copying under section 3 of this
- 13 chapter after negotiations with that prospect have terminated.
- 14 (C) When disclosing a final offer under clause (B), the Indiana
- 15 economic development corporation shall certify that the
- 16 information being disclosed accurately and completely
- 17 represents the terms of the final offer.
- 18 **(6) Records relating to discussions and negotiations under**
- 19 **IC 5-14-1.5-6.1(b)(5) if the records are created while the**
- 20 **discussions or negotiations are in progress. However, an**
- 21 **economic development contract or commitment or other final**
- 22 **offer to a prospect must be available for inspection and**
- 23 **copying under section 3 of this chapter after discussions and**
- 24 **negotiations with that prospect have ended.**
- 25 ~~(6)~~ (7) Records that are intra-agency or interagency advisory or
- 26 deliberative material, including material developed by a private
- 27 contractor under a contract with a public agency, that are
- 28 expressions of opinion or are of a speculative nature, and that are
- 29 communicated for the purpose of decision making.
- 30 ~~(7)~~ (8) Diaries, journals, or other personal notes serving as the
- 31 functional equivalent of a diary or journal.
- 32 ~~(8)~~ (9) Personnel files of public employees and files of applicants
- 33 for public employment, except for:
- 34 (A) the name, compensation, job title, business address,
- 35 business telephone number, job description, education and
- 36 training background, previous work experience, or dates of
- 37 first and last employment of present or former officers or
- 38 employees of the agency;
- 39 (B) information relating to the status of any formal charges
- 40 against the employee; and
- 41 (C) the factual basis for a disciplinary action in which final
- 42 action has been taken and that resulted in the employee being

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1 suspended, demoted, or discharged.
 2 However, all personnel file information shall be made available
 3 to the affected employee or the employee's representative. This
 4 subdivision does not apply to disclosure of personnel information
 5 generally on all employees or for groups of employees without the
 6 request being particularized by employee name.
 7 ~~(9)~~ **(10)** Minutes or records of hospital medical staff meetings.
 8 ~~(10)~~ **(11)** Administrative or technical information that would
 9 jeopardize a record keeping or security system.
 10 ~~(11)~~ **(12)** Computer programs, computer codes, computer filing
 11 systems, and other software that are owned by the public agency
 12 or entrusted to it and portions of electronic maps entrusted to a
 13 public agency by a utility.
 14 ~~(12)~~ **(13)** Records specifically prepared for discussion or
 15 developed during discussion in an executive session under
 16 IC 5-14-1.5-6.1. However, this subdivision does not apply to that
 17 information required to be available for inspection and copying
 18 under subdivision ~~(8)~~: **(9)**.
 19 ~~(13)~~ **(14)** The work product of the legislative services agency
 20 under personnel rules approved by the legislative council.
 21 ~~(14)~~ **(15)** The work product of individual members and the
 22 partisan staffs of the general assembly.
 23 ~~(15)~~ **(16)** The identity of a donor of a gift made to a public agency
 24 if:
 25 (A) the donor requires nondisclosure of the donor's identity as
 26 a condition of making the gift; or
 27 (B) after the gift is made, the donor or a member of the donor's
 28 family requests nondisclosure.
 29 ~~(16)~~ **(17)** Library or archival records:
 30 (A) which can be used to identify any library patron; or
 31 (B) deposited with or acquired by a library upon a condition
 32 that the records be disclosed only:
 33 (i) to qualified researchers;
 34 (ii) after the passing of a period of years that is specified in
 35 the documents under which the deposit or acquisition is
 36 made; or
 37 (iii) after the death of persons specified at the time of the
 38 acquisition or deposit.
 39 However, nothing in this subdivision shall limit or affect contracts
 40 entered into by the Indiana state library pursuant to IC 4-1-6-8.
 41 ~~(17)~~ **(18)** The identity of any person who contacts the bureau of
 42 motor vehicles concerning the ability of a driver to operate a

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1 motor vehicle safely and the medical records and evaluations
 2 made by the bureau of motor vehicles staff or members of the
 3 driver licensing medical advisory board regarding the ability of a
 4 driver to operate a motor vehicle safely. However, upon written
 5 request to the commissioner of the bureau of motor vehicles, the
 6 driver must be given copies of the driver's medical records and
 7 evaluations.
 8 ~~(18)~~ **(19)** School safety and security measures, plans, and systems,
 9 including emergency preparedness plans developed under 511
 10 IAC 6.1-2-2.5.
 11 ~~(19)~~ **(20)** A record or a part of a record, the public disclosure of
 12 which would have a reasonable likelihood of threatening public
 13 safety by exposing a vulnerability to terrorist attack. A record
 14 described under this subdivision includes:
 15 (A) a record assembled, prepared, or maintained to prevent,
 16 mitigate, or respond to an act of terrorism under IC 35-47-12-1
 17 or an act of agricultural terrorism under IC 35-47-12-2;
 18 (B) vulnerability assessments;
 19 (C) risk planning documents;
 20 (D) needs assessments;
 21 (E) threat assessments;
 22 (F) intelligence assessments;
 23 (G) domestic preparedness strategies;
 24 (H) the location of community drinking water wells and
 25 surface water intakes;
 26 (I) the emergency contact information of emergency
 27 responders and volunteers;
 28 (J) infrastructure records that disclose the configuration of
 29 critical systems such as communication, electrical, ventilation,
 30 water, and wastewater systems; and
 31 (K) detailed drawings or specifications of structural elements,
 32 floor plans, and operating, utility, or security systems, whether
 33 in paper or electronic form, of any building or facility located
 34 on an airport (as defined in IC 8-21-1-1) that is owned,
 35 occupied, leased, or maintained by a public agency. A record
 36 described in this clause may not be released for public
 37 inspection by any public agency without the prior approval of
 38 the public agency that owns, occupies, leases, or maintains the
 39 airport. The public agency that owns, occupies, leases, or
 40 maintains the airport:
 41 (i) is responsible for determining whether the public
 42 disclosure of a record or a part of a record has a reasonable

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1 likelihood of threatening public safety by exposing a
 2 vulnerability to terrorist attack; and
 3 (ii) must identify a record described under item (i) and
 4 clearly mark the record as "confidential and not subject to
 5 public disclosure under ~~IC 5-14-3-4(b)(19)(J)~~
 6 **IC 5-14-3-4(b)(20)(J)** without approval of (insert name of
 7 submitting public agency)".

8 This subdivision does not apply to a record or portion of a record
 9 pertaining to a location or structure owned or protected by a
 10 public agency in the event that an act of terrorism under
 11 IC 35-47-12-1 or an act of agricultural terrorism under
 12 IC 35-47-12-2 has occurred at that location or structure, unless
 13 release of the record or portion of the record would have a
 14 reasonable likelihood of threatening public safety by exposing a
 15 vulnerability of other locations or structures to terrorist attack.

16 ~~(20)~~ **(21)** The following personal information concerning a
 17 customer of a municipally owned utility (as defined in
 18 IC 8-1-2-1):

- 19 (A) Telephone number.
- 20 (B) Address.
- 21 (C) Social Security number.

22 ~~(21)~~ **(22)** The following personal information about a complainant
 23 contained in records of a law enforcement agency:

- 24 (A) Telephone number.
- 25 (B) The complainant's address. However, if the complainant's
 26 address is the location of the suspected crime, infraction,
 27 accident, or complaint reported, the address shall be made
 28 available for public inspection and copying.

29 (c) Nothing contained in subsection (b) shall limit or affect the right
 30 of a person to inspect and copy a public record required or directed to
 31 be made by any statute or by any rule of a public agency.

32 (d) Notwithstanding any other law, a public record that is classified
 33 as confidential, other than a record concerning an adoption, shall be
 34 made available for inspection and copying seventy-five (75) years after
 35 the creation of that record.

- 36 (e) Notwithstanding subsection (d) and section 7 of this chapter:
 - 37 (1) public records subject to IC 5-15 may be destroyed only in
 38 accordance with record retention schedules under IC 5-15; or
 - 39 (2) public records not subject to IC 5-15 may be destroyed in the
 40 ordinary course of business.

41 SECTION 5. IC 8-1-22.5-6.1, AS ADDED BY P.L.118-2006,
 42 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 JULY 1, 2007]: Sec. 6.1. (a) If the commission or division determines
2 that a report or part of a report filed under this chapter is confidential
3 under IC 5-14-3-4(a), the report or part of the report shall be excepted
4 from disclosure under IC 5-14-3-3 as provided in IC 5-14-3-4(a).

5 (b) If the commission or division determines under
6 ~~IC 5-14-3-4(b)(19)~~ IC 5-14-3-4(b)(20) that the disclosure of a report
7 or part of a report filed under this chapter has a reasonable likelihood
8 of threatening public safety by exposing a vulnerability to terrorist
9 attack, the commission or division may except the report or part of the
10 report from disclosure under IC 5-14-3-3 as provided in IC 5-14-3-4(b).

11 SECTION 6. IC 8-5-15-3 IS AMENDED TO READ AS FOLLOWS
12 [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) The district shall be
13 supervised and managed by a board of trustees, which consists of the
14 following:

15 (1) Four (4) members, one (1) from each county that is a member
16 of the district, appointed by that county's board of county
17 commissioners.

18 (2) Four (4) members, one (1) from each county that is a member
19 of the district, each of whom is the president of that county's
20 county council or another council member designated by the
21 president as a board member.

22 (3) One (1) member representing the rest of the state, appointed
23 by the governor.

24 (4) One (1) passenger member appointed by the governor. The
25 member appointed under this subdivision must be selected from
26 passengers who have submitted a letter of interest to the governor.
27 To be considered for this position, a passenger must submit a
28 letter of interest to the governor during a two (2) week period that
29 begins sixty (60) days before the expiration of the term of the
30 member appointed under this subdivision. A member of the board
31 serving under this subdivision is not required to submit a letter of
32 interest to be eligible for appointment to a successive term.

33 (5) One (1) member who is an employee of the district, appointed
34 by the governor from a list of names submitted by the labor
35 unions representing the employees of the district. Each labor
36 union representing employees of the district may submit one (1)
37 name to be included on the list of names under this subdivision.

38 (b) A member shall serve for a term of two (2) years from the
39 beginning of the term for which the member was appointed and until
40 a successor has qualified for the office. Each member shall serve at the
41 pleasure of the appointing authority but is eligible for reappointment
42 for successive terms.

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1 (c) The members of the board shall elect for a one (1) year term:
 2 (1) one (1) member as chairman;
 3 (2) one (1) member to serve as vice chairman;
 4 (3) one (1) member to serve as secretary; and
 5 (4) one (1) member to serve as treasurer.
 6 (d) Ninety (90) days before the expiration of the term of the board
 7 member appointed under subsection (a)(4), the district shall post in
 8 each commuter station in the district a notice of the opening on the
 9 board of trustees. The notice must announce the opening for a
 10 passenger member on the board of trustees and provide information on
 11 submitting a letter of interest. The notice must state the period in which
 12 the passenger must submit a letter of interest. The notice must remain
 13 posted until the expiration of the two (2) week period described in
 14 subsection (a)(4).
 15 (e) A member appointed under subsection (a)(4) or (a)(5) may not:
 16 (1) vote on issues involving perceived or actual financial conflicts
 17 of interest, including personnel issues, collective bargaining, and
 18 assessment or levy of taxes; or
 19 (2) participate in an executive session of the board under
 20 IC 5-14-1.5-6.1, on issues regarding:
 21 (A) the discussion of strategy for:
 22 (i) collective bargaining; or
 23 (ii) the initiation of litigation or litigation that is either
 24 pending or has been threatened specifically in writing;
 25 as described in IC 5-14-1.5-6.1(b)(2); or
 26 (B) the discussion of job performance evaluation of individual
 27 employees, except for a discussion of the salary,
 28 compensation, or benefits of employees during a budget
 29 process, as described in ~~IC 5-14-1.5-6.1(b)(9)~~.
 30 **IC 5-14-1.5-6.1(b)(10).**
 31 (f) The members appointed under subsection (a)(4) and (a)(5) must
 32 reside in different counties.
 33 SECTION 7. IC 33-23-5-4 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. The files of
 35 applicants for appointment as a magistrate, including the names of
 36 applicants, are confidential as provided in ~~IC 5-14-3-4(b)(8)~~.
 37 **IC 5-14-3-4(b)(9).**
 38 SECTION 8. IC 33-27-3-2 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) The judicial
 40 nominating commission shall submit to the governor, from those names
 41 the commission considers for a vacancy, the names of only the three (3)
 42 most highly qualified candidates. In determining which candidates are

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1 most highly qualified, each commission member shall evaluate each
2 candidate, in writing, on the following considerations:

3 (1) Legal education, including law schools attended and education
4 after law school, and any academic honors and awards achieved.

5 (2) Legal writings, including legislative draftings, legal briefs, and
6 contributions to legal journals and publications.

7 (3) Reputation in the practice of law, as evaluated by attorneys
8 and judges with whom the candidate has had professional contact,
9 and the type of legal practice, including experience and reputation
10 as a trial lawyer or trial judge.

11 (4) Physical condition, including general health, stamina, vigor,
12 and age.

13 (5) Financial interests, including any interest that might conflict
14 with the performance of judicial responsibilities.

15 (6) Activities in public service, including writings and speeches
16 concerning public affairs and contemporary problems, and efforts
17 and achievements in improving the administration of justice.

18 (7) Any other pertinent information that the commission feels is
19 important in selecting the most highly qualified individuals for
20 judicial office.

21 (b) The commission may not make an investigation to determine
22 these considerations until the individual states in writing that the
23 individual desires to hold a judicial office that has been or will be
24 created by a vacancy and that the individual consents to the public
25 disclosure of information under subsections (d) and (g).

26 (c) The commission shall inquire into the personal and legal
27 backgrounds of each candidate by investigations made independent
28 from the statements on an application of the candidate or in an
29 interview with the candidate. In completing these investigations, the
30 commission may use information or assistance provided by:

31 (1) a law enforcement agency;

32 (2) any organization of lawyers, judges, or individual
33 practitioners; or

34 (3) any other person or association.

35 (d) The commission shall publicly disclose the names of all
36 candidates who have filed for judicial appointment after the
37 commission has received the consent required by subsection (b) but
38 before the commission has begun to evaluate any of the candidates. If
39 the commission's screening of the candidates for judicial appointment
40 occurs in an executive session conducted under ~~IC 5-14-1.5-6.1(b)(10)~~;
41 **IC 5-14-1.5-6.1(b)(11)**, the screening may not reduce the number of
42 candidates for further consideration to fewer than ten (10) individuals

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1 unless there are fewer than ten (10) individuals from which to choose
2 before the screening. When the commission's screening has reduced the
3 number of candidates for further consideration to not less than ten (10)
4 or it has less than ten (10) eligible candidates otherwise from which to
5 choose, the commission shall:

6 (1) publicly disclose the names of the individuals and their
7 applications before taking any further action; and

8 (2) give notice of any further action in the same manner that
9 notice is given under IC 5-14-1.5.

10 (e) Information described in subsection (d)(1) is identifying
11 information for the purposes of ~~IC 5-14-1.5-6.1(b)(10)~~.
12 **IC 5-14-1.5-6.1(b)(11)**.

13 (f) The commission shall submit with the list of three (3) nominees
14 to the governor its written evaluation of each nominee, based on the
15 considerations set forth in subsection (a). The list of names submitted
16 to the governor and the written evaluation of each nominee shall be
17 publicly disclosed by the commission.

18 (g) Notwithstanding IC 5-14-3-4, all public records (as defined in
19 IC 5-14-3-2) of the judicial nominating commission are subject to
20 IC 5-14-3-3, including records described in ~~IC 5-14-3-4(b)(12)~~.
21 **IC 5-14-3-4(b)(13)**. However, the following records are excepted from
22 public inspection and copying at the discretion of the judicial
23 nominating commission:

24 (1) Personnel files of commission employees and files of
25 applicants for employment with the commission to the extent
26 permitted under ~~IC 5-14-3-4(b)(8)~~. **IC 5-14-3-4(b)(9)**.

27 (2) Records specifically prepared for discussion or developed
28 during discussion in an executive session under IC 5-14-1.5-6.1,
29 unless the records are prepared for use in the consideration of a
30 candidate for judicial appointment.

31 (3) Investigatory records prepared for the commission under
32 subsection (c) until:

33 (A) the records are filed or introduced into evidence in
34 connection with the consideration of a candidate;

35 (B) the records are publicly discussed by the commission in
36 connection with the consideration of a candidate;

37 (C) a candidate elects to have the records released by the
38 commission; or

39 (D) the commission elects to release the records that the
40 commission considers appropriate in response to publicly
41 disseminated statements relating to the activities or actions of
42 the commission;

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1 whichever occurs first.

2 (4) Applications of candidates for judicial appointment who are

3 not among the applicants eligible for further consideration

4 following the commission's screening under subsection (d).

5 (5) The work product of an attorney (as defined in IC 5-14-3-2)

6 representing the commission.

7 (h) When an event described by subsection (g)(3) occurs, the

8 investigatory record becomes available for public inspection and

9 copying under IC 5-14-3-3.

10 (i) As used in this subsection, "attributable communication" refers

11 to a communication containing the sender's name, address, and

12 telephone number. The commission shall provide a copy of all

13 attributable communications concerning a candidate for judicial

14 appointment to each member of the commission. An attributable

15 communication becomes available for public inspection and copying

16 under IC 5-14-3-3 after a copy is provided to each member of the

17 commission. The commission may not consider a communication other

18 than an attributable communication in evaluating a candidate for

19 judicial appointment.

20 (j) The commission shall release the investigatory records prepared

21 for the commission under subsection (c) to the candidate for judicial

22 appointment described by the records.

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