



Reprinted
February 2, 2010

SENATE BILL No. 230

DIGEST OF SB 230 (Updated February 1, 2010 4:21 pm - DI 87)

Citations Affected: IC 5-14.

Synopsis: E-mail notification of local government meetings. Provides that if the governing body of a public agency of a political subdivision provides initial notice of public meetings to members of the governing body or public officials by electronic mail, the governing body of a public agency shall also give initial public notice by electronic mail to any person (excluding news media) who annually requests notice of meetings. Provides that a governing body that fails to give initial notice by electronic mail: (1) does not invalidate any proceedings of the governing body including the validity of any bonds issued; and (2) a court may not declare void any policy, decision, or final action or final action of the governing body based on the failure to give notice.

Effective: July 1, 2010.

Waltz, Schneider, Mrvan

January 11, 2010, read first time and referred to Committee on Local Government.
January 28, 2010, reported favorably — Do Pass.
February 1, 2010, read second time, amended, ordered engrossed.

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SB 230—LS 6397/DI 87+



Second Regular Session 116th General Assembly (2010)

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 2009 Regular and Special Sessions of the General Assembly.

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SENATE BILL No. 230

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 5-14-1.5-5, AS AMENDED BY P.L.177-2005,
2 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2010]: Sec. 5. (a) Public notice of the date, time, and place of
4 any meetings, executive sessions, or of any rescheduled or reconvened
5 meeting, shall be given at least forty-eight (48) hours (excluding
6 Saturdays, Sundays, and legal holidays) before the meeting. This
7 requirement does not apply to reconvened meetings (not including
8 executive sessions) where announcement of the date, time, and place
9 of the reconvened meeting is made at the original meeting and recorded
10 in the memoranda and minutes thereof, and there is no change in the
11 agenda.

12 (b) Public notice shall be given by the governing body of a public
13 agency ~~by:~~ **as follows:**

14 (1) **The governing body of a public agency shall give public**
15 **notice by** posting a copy of the notice at the principal office of the
16 public agency holding the meeting or, if no such office exists, at
17 the building where the meeting is to be held. ~~and~~



1 (2) **The governing body of a public agency shall give public**
2 **notice by** delivering notice to all news media ~~which that~~ deliver
3 **by January †** an annual written request for ~~such the~~ notices **not**
4 **later than December 31** for the next succeeding calendar year to
5 the governing body of the public agency. The governing body
6 shall give notice by one (1) of the following methods:

- 7 (A) Depositing the notice in the United States mail with
- 8 postage prepaid.
- 9 (B) Transmitting the notice by electronic mail.
- 10 (C) Transmitting the notice by facsimile (fax).

11 (3) **If the governing body of a public agency of a political**
12 **subdivision described in section 2(a)(2), 2(a)(4), or 2(a)(5) of**
13 **this chapter delivers initial notice of public meetings to**
14 **members of the governing body or public officials by**
15 **electronic mail, the governing body of the public agency shall**
16 **also give the initial public notice by electronic mail to any**
17 **person (excluding news media) who delivers an annual written**
18 **request for the notices not later than December 31 for the next**
19 **succeeding calendar year to the governing body of the public**
20 **agency. For purposes of this subdivision, "initial notice"**
21 **means the first notice provided of a meeting and does not**
22 **include any subsequent notices, unless the meeting date, time,**
23 **or location is changed. If a governing body fails to give initial**
24 **notice under this subdivision:**

- 25 (A) **the failure to give notice does not invalidate any**
- 26 **proceedings taken by the governing body, including the**
- 27 **validity of any bonds issued that are the subject of the**
- 28 **proceeding; and**
- 29 (B) **a court may not declare void any policy, decision, or**
- 30 **final action under section 7 of this chapter based on the**
- 31 **failure to give a person notice under this subdivision.**

32 If a governing body comes into existence after ~~January †~~, **December**
33 **31**, it shall comply with this ~~subdivision~~ **subsection** upon receipt of a
34 written request for notice. In addition, a state agency (as defined in
35 IC 4-13-1-1) shall provide electronic access to the notice through the
36 computer gateway administered by the office of technology established
37 by IC 4-13.1-2-1.

38 (c) Notice of regular meetings need be given only once each year,
39 except that an additional notice shall be given where the date, time, or
40 place of a regular meeting or meetings is changed. This subsection does
41 not apply to executive sessions.

42 (d) If a meeting is called to deal with an emergency involving actual

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1 or threatened injury to person or property, or actual or threatened
2 disruption of the governmental activity under the jurisdiction of the
3 public agency by any event, then the time requirements of notice under
4 this section shall not apply, but:

5 (1) news media which have requested notice of meetings must be
6 given the same notice as is given to the members of the governing
7 body; and

8 (2) the public must be notified by posting a copy of the notice
9 according to this section.

10 **Notice of the meeting is not required to be given under subsection**
11 **(b)(3).**

12 (e) This section shall not apply where notice by publication is
13 required by statute, ordinance, rule, or regulation.

14 (f) This section shall not apply to:

15 (1) the department of local government finance, the Indiana board
16 of tax review, or any other governing body which meets in
17 continuous session, except that this section applies to meetings of
18 these governing bodies which are required by or held pursuant to
19 statute, ordinance, rule, or regulation; or

20 (2) the executive of a county or the legislative body of a town if
21 the meetings are held solely to receive information or
22 recommendations in order to carry out administrative functions,
23 to carry out administrative functions, or confer with staff
24 members on matters relating to the internal management of the
25 unit. "Administrative functions" do not include the awarding of
26 contracts, the entering into contracts, or any other action creating
27 an obligation or otherwise binding a county or town.

28 (g) This section does not apply to the general assembly.

29 (h) Notice has not been given in accordance with this section if a
30 governing body of a public agency convenes a meeting at a time so
31 unreasonably departing from the time stated in its public notice that the
32 public is misled or substantially deprived of the opportunity to attend,
33 observe, and record the meeting.

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COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred Senate Bill No. 230, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 230 as introduced.)

LAWSON C, Chairperson

Committee Vote: Yeas 10, Nays 0.

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SENATE MOTION

Madam President: I move that Senate Bill 230 be amended to read as follows:

Page 2, line 13, after "delivers" insert "**initial**".

Page 2, line 15, after "give" insert "**the initial**".

Page 2, line 19, after "agency." insert "**For purposes of this subdivision, "initial notice" means the first notice provided of a meeting and does not include any subsequent notices, unless the meeting date, time, or location is changed. If a governing body fails to give initial notice under this subdivision:**

(A) the failure to give notice does not invalidate any proceedings taken by the governing body, including the validity of any bonds issued that are the subject of the proceeding; and

(B) a court may not declare void any policy, decision, or final action under section 7 of this chapter based on the failure to give a person notice under this subdivision."

Page 2, line 35, reset in roman "which".

Page 2, line 35, delete "and persons who".

Page 2, line 36, delete "under subsection (b)(2) or (b)(3)".

Page 2, line 40, reset in roman "according to this section".

Page 2, line 40, delete "under subsection (b)(1)".

Page 2, between lines 40 and 41, begin a new line blocked left and insert "**Notice of the meeting is not required to be given under subsection (b)(3).**".

(Reference is to SB 230 as printed January 29, 2010.)

WALTZ

