



April 1, 2011

**ENGROSSED  
HOUSE BILL No. 1025**

DIGEST OF HB 1025 (Updated March 30, 2011 5:45 pm - DI 87)

**Citations Affected:** IC 5-4; IC 5-11; IC 36-8.

**Synopsis:** Public official bonding and internal control systems of local units. Removes language requiring an annual coverage amount under an individual surety bond filed by a public official. Specifies the aggregate liability under a required bond or crime insurance policy. Requires the secretary of a 1937 firefighters' pension fund board to execute a bond conditioned upon the faithful discharge of the secretary's duties. Requires the state board of accounts to define the acceptable minimum level of internal control standards and internal control procedures for internal control systems of counties, cities, towns, and townships. If a loss is reported, requires the state board of accounts to determine the internal control weakness that caused or contributed to the loss and make recommendations for correcting the condition and modifying internal control standards and procedures to prevent a recurrence.

**Effective:** July 1, 2011.

**Lehman**

(SENATE SPONSOR — HOLDMAN)

January 5, 2011, read first time and referred to Committee on Local Government.  
February 7, 2011, amended, reported — Do Pass.  
February 14, 2011, read second time, amended, ordered engrossed.  
February 15, 2011, engrossed. Read third time, passed. Yeas 94, nays 0.

**SENATE ACTION**

February 17, 2011, read first time and referred to Committee on Local Government.  
March 31, 2011, amended, reported favorably — Do Pass.

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April 1, 2011

First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

# ENGROSSED HOUSE BILL No. 1025



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 5-4-1-18, AS AMENDED BY P.L.176-2009,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2011]: Sec. 18. (a) Except as provided in subsection (b), the  
4 following city, town, county, or township officers and employees shall  
5 file an individual surety bond:  
6 (1) City judges, controllers, clerks, and clerk-treasurers.  
7 (2) Town judges and clerk-treasurers.  
8 (3) Auditors, treasurers, recorders, surveyors, sheriffs, coroners,  
9 assessors, and clerks.  
10 (4) Township trustees.  
11 (5) Those employees directed to file an individual bond by the  
12 fiscal body of a city, town, or county.  
13 (6) Township assessors (if any).  
14 (b) The fiscal body of a city, town, county, or township may by  
15 ordinance authorize the purchase of a blanket bond or a crime  
16 insurance policy endorsed to include faithful performance to cover the  
17 faithful performance of all employees, commission members, and

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1 persons acting on behalf of the local government unit, including those  
2 officers described in subsection (a).

3 (c) Except as provided in subsections (h) and (i), the fiscal bodies  
4 of the respective units shall fix the amount of the bond of city  
5 controllers, city clerk-treasurers, town clerk-treasurers, Barrett Law  
6 fund custodians, county treasurers, county sheriffs, circuit court clerks,  
7 township trustees, and conservancy district financial clerks as follows:

8 (1) The amount of ~~annual coverage~~ must equal thirty thousand  
9 dollars (\$30,000) for each one million dollars (\$1,000,000) of  
10 receipts of the officer's office during the last complete fiscal year  
11 before the purchase of the bond, subject to subdivision (2).

12 (2) The amount of ~~annual coverage~~ may not be less than thirty  
13 thousand dollars (\$30,000) nor more than three hundred thousand  
14 dollars (\$300,000) unless the fiscal body approves a greater  
15 amount of ~~annual coverage~~ for the officer or employee.

16 County auditors shall file bonds ~~that provide annual coverage in~~  
17 **amounts** of not less than thirty thousand dollars (\$30,000), as fixed by  
18 the fiscal body of the county. The amount of ~~annual coverage~~ of the  
19 bond of any other person required to file an individual bond shall be  
20 fixed by the fiscal body of the unit at not less than fifteen thousand  
21 dollars (\$15,000).

22 (d) Except as provided in subsection (j), a controller of a solid waste  
23 management district established under IC 13-21 or IC 13-9.5 (before  
24 its repeal) shall file an individual surety bond in an amount:

25 (1) fixed by the board of directors of the solid waste management  
26 district; and

27 (2) that is at least thirty thousand dollars (\$30,000). ~~in annual~~  
28 ~~coverage.~~

29 (e) Except as provided under subsection (d), a person who is  
30 required to file an individual surety bond by the board of directors of  
31 a solid waste management district established under IC 13-21 or  
32 IC 13-9.5 (before its repeal) shall file a bond in an amount fixed by the  
33 board of directors.

34 (f) In 1982 and every four (4) years after that, the state examiner  
35 shall review the bond amounts fixed under this section and report in an  
36 electronic format under IC 5-14-6 to the general assembly whether  
37 changes are necessary to ensure adequate and economical coverage.

38 (g) The commissioner of insurance shall prescribe the form of the  
39 bonds or crime policies required by this section, in consultation with  
40 the commission on public records under IC 5-15-5.1-6.

41 (h) Notwithstanding subsection (c), the state board of accounts may  
42 fix the amount of the bond for a city controller, city clerk-treasurer,

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1 town clerk-treasurer, Barrett Law fund custodian, county treasurer,  
 2 county sheriff, circuit court clerk, township trustee, or conservancy  
 3 district financial clerk at an amount that exceeds thirty thousand dollars  
 4 (\$30,000) for each one million dollars (\$1,000,000) of receipts of the  
 5 officer's office during the last complete fiscal year before the purchase  
 6 of the bond. However, the bond amount may not exceed three hundred  
 7 thousand dollars (\$300,000). An increased bond amount may be  
 8 established under this subsection only if the state examiner issues a  
 9 report under IC 5-11-5-1 that includes a finding that the officer  
 10 engaged in malfeasance, misfeasance, or nonfeasance that resulted in  
 11 the misappropriation of, diversion of, or inability to account for public  
 12 funds.

13 (i) Notwithstanding subsection (c), the state board of accounts may  
 14 fix the amount of the bond for any person who is not described in  
 15 subsection (h) and is required to file an individual bond at an amount  
 16 that exceeds fifteen thousand dollars (\$15,000). An increased bond  
 17 amount may be established under this subsection only if the state  
 18 examiner issues a report under IC 5-11-5-1 that includes a finding that  
 19 the person engaged in malfeasance, misfeasance, or nonfeasance that  
 20 resulted in the misappropriation of, diversion of, or inability to account  
 21 for public funds.

22 (j) Notwithstanding subsection (d), the state board of accounts may  
 23 fix the amount of the bond for a controller of a solid waste management  
 24 district established under IC 13-21 or IC 13-9.5 (before its repeal) at an  
 25 amount that exceeds thirty thousand dollars (\$30,000). An increased  
 26 bond amount may be established under this subsection only if the state  
 27 examiner issues a report under IC 5-11-5-1 that includes a finding that  
 28 the controller engaged in malfeasance, misfeasance, or nonfeasance  
 29 that resulted in the misappropriation of, diversion of, or inability to  
 30 account for public funds.

31 **(k) Both of the following apply to a bond or crime insurance**  
 32 **policy that is filed to comply with this section:**

33 **(1) Unless the bond or policy is canceled, the bond or policy**  
 34 **must continue in force for the term of office of the individual**  
 35 **who files the bond or policy.**

36 **(2) The aggregate liability of the surety or insurer is the**  
 37 **amount specified in the bond or policy.**

38 SECTION 2. IC 5-11-1-27 IS ADDED TO THE INDIANA CODE  
 39 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 40 1, 2011]: **Sec. 27. (a) As used in this section, "local government"**  
 41 **means county, city, town, or township.**

42 **(b) In the compliance guidelines authorized under section 24 of**

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1 this chapter, the state board of accounts shall define the acceptable  
2 minimum level of:

- 3 (1) internal control standards; and
  - 4 (2) internal control procedures;
- 5 for internal control systems of local governments. The internal  
6 control standards and procedures shall be developed to promote  
7 government accountability and transparency.

8 (c) All erroneous or irregular variances, losses, shortages, or  
9 thefts of local government funds or property shall be reported  
10 immediately to the state board of accounts. The state board of  
11 accounts shall:

- 12 (1) determine the amount of funds involved and report the  
13 amount to the appropriate government and law enforcement  
14 officials;
- 15 (2) determine the internal control weakness that contributed  
16 to or caused the condition; and
- 17 (3) make written recommendations to the appropriate  
18 legislative body or appropriate official overseeing the internal  
19 control system addressing:
  - 20 (A) the method of correcting the condition; and
  - 21 (B) the necessary internal control policies and internal  
22 control procedures that must be modified to prevent a  
23 recurrence of the condition.

24 (d) The legislative body or the appropriate official overseeing  
25 the internal control system shall immediately implement the  
26 policies and procedures recommended by the state board of  
27 accounts under subsection (c)(3)(B).

28 SECTION 3. IC 36-8-7-7, AS AMENDED BY P.L.227-2005,  
29 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
30 JULY 1, 2011]: Sec. 7. (a) The fire chief is the president of the local  
31 board.

32 (b) At the first meeting after each election, the local board shall  
33 elect a secretary, who may be chosen from among the trustees.  
34 However, the local board may consider it proper to have a secretary  
35 who is a member of the fire department, to be elected by the companies  
36 for a term of four (4) years in the same manner as the election for  
37 trustees. The secretary shall keep a full record of all the proceedings of  
38 the local board in a book provided for that purpose. **The secretary  
39 shall, in the manner prescribed by IC 5-4-1, execute a bond  
40 conditioned upon the faithful discharge of the secretary's duties.**

41 (c) The local board shall make all rules necessary for the discharge  
42 of its duties and shall hear and determine all applications for relief or

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- 1 pensions under this chapter.
- 2 (d) This section does not apply to a township if the fire department
- 3 of the township is consolidated under IC 36-3-1-6.1.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1025, 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 3, after line 30, begin a new paragraph and insert:

"SECTION 2. IC 36-8-7-7, AS AMENDED BY P.L.227-2005, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 7. (a) The fire chief is the president of the local board.

(b) At the first meeting after each election, the local board shall elect a secretary, who may be chosen from among the trustees. However, the local board may consider it proper to have a secretary who is a member of the fire department, to be elected by the companies for a term of four (4) years in the same manner as the election for trustees. The secretary shall keep a full record of all the proceedings of the local board in a book provided for that purpose. **The secretary shall, in the manner prescribed by IC 5-4-1, execute a bond conditioned upon the faithful discharge of the secretary's duties.**

(c) The local board shall make all rules necessary for the discharge of its duties and shall hear and determine all applications for relief or pensions under this chapter.

(d) This section does not apply to a township if the fire department of the township is consolidated under IC 36-3-1-6.1."

and when so amended that said bill do pass.

(Reference is to HB 1025 as introduced.)

NEESE, Chair

Committee Vote: yeas 7, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1025 be amended to read as follows:

Page 3, between lines 30 and 31, begin a new paragraph and insert:

**"(k) A bond or crime insurance policy that is filed to comply with this section must, unless the bond or policy is cancelled, continue in force for the term of office of the individual who files**

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**the bond or policy. The aggregate liability of the surety or insurer is the amount specified in the bond or policy without regard to the number of years the bond or policy is in force or the number of times a premium is paid for the bond or policy."**

(Reference is to HB 1025 as printed February 8, 2011.)

LEHMAN

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COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred House Bill No. 1025, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, line 31, delete "A bond or crime insurance policy that is filed to comply with" and insert **"Both of the following apply to a bond or crime insurance policy that is filed to comply with this section:**

- (1) Unless the bond or policy is canceled, the bond or policy must continue in force for the term of office of the individual who files the bond or policy.**
- (2) The aggregate liability of the surety or insurer is the amount specified in the bond or policy."**

Page 3, delete lines 32 through 37, begin a new paragraph and insert:

"SECTION 2. IC 5-11-1-27 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 27. (a) As used in this section, "local government" means county, city, town, or township.**

**(b) In the compliance guidelines authorized under section 24 of this chapter, the state board of accounts shall define the acceptable minimum level of:**

- (1) internal control standards; and**
- (2) internal control procedures;**

**for internal control systems of local governments. The internal control standards and procedures shall be developed to promote government accountability and transparency.**

**(c) All erroneous or irregular variances, losses, shortages, or thefts of local government funds or property shall be reported immediately to the state board of accounts. The state board of accounts shall:**

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- (1) determine the amount of funds involved and report the amount to the appropriate government and law enforcement officials;**
- (2) determine the internal control weakness that contributed to or caused the condition; and**
- (3) make written recommendations to the appropriate legislative body or appropriate official overseeing the internal control system addressing:**
  - (A) the method of correcting the condition; and**
  - (B) the necessary internal control policies and internal control procedures that must be modified to prevent a recurrence of the condition.**

**(d) The legislative body or the appropriate official overseeing the internal control system shall immediately implement the policies and procedures recommended by the state board of accounts under subsection (c)(3)(B)."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1025 as reprinted February 15, 2011.)

LAWSON C, Chairperson

Committee Vote: Yeas 7, Nays 0.

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**Y**

