

**CONFERENCE COMMITTEE REPORT
DIGEST FOR EHB 1022**

Citations Affected: IC 3-5-9; IC 5-8-7; IC 5-11-13-1; IC 25-1; IC 33-42-2-7; IC 36-1; IC 36-4-4-2; IC 36-8; IC 36-9-37-7; IC 36-9-37-7.

Synopsis: Officeholder qualifications, nepotism, and public contracts. Provides that the following are not lucrative offices: (1) Notary public. (2) Membership on a board administered by the professional licensing agency. Provides that an employee of a county, city, town, or township (unit) is considered to have resigned from employment with the unit if the employee assumes the elected executive office of the unit or becomes an elected member of the unit's legislative or fiscal body. Provides that an individual who is serving as a volunteer firefighter may not: (1) assume the office of executive of the unit; or (2) become a member of the executive, legislative, or fiscal body of the unit; that oversees the budget and operations of the fire department in which the volunteer firefighter serves. Specifies that an elected officer may also be appointed to and serve on a board, commission, or committee of the unit. Provides that an employee or volunteer firefighter who: (1) on December 31, 2011, holds an elected office of the unit; or (2) on January 1, 2012, assumes an elected office of the unit; may serve the remainder of the employee's or volunteer firefighter's elected term of office without resigning as a government employee or a volunteer firefighter. Provides that the restriction does not prohibit an employee or volunteer firefighter from holding an elected office of another unit. Provides that provisions concerning nepotism apply to a person who contracts with a unit to fill a vacancy in a position with the unit that was formerly held by an employee. Provides that the performance of duties of a precinct election officer or a volunteer firefighter is not considered employment by the unit for purpose of the nepotism law. Provides that an individual who is: (1) a relative of an elected officer of the unit; or (2) a relative of an employee of the unit; may not be employed in a position in which the individual is in the line of supervision of the elected officer or employee. Specifies that an employee includes an appointed officer of the unit. Allows a person who has been employed in the same position with the unit for at least 12 consecutive months on June 30, 2011, or for at least 12 consecutive months immediately preceding the date the relative assumes office, to remain employed by the unit and be within the relative's line of supervision unless the person: (1) is a merit police officer; and (2) is promoted after June 30, 2011, to a higher rank other than a merit rank. Allows a person to remain employed by the unit and be in the relative's line of supervision, if the person is: (1) a police officer employed by a police department on June 30, 2011, and serving a probationary period with the intent of becoming a merit employee of the police department; or (2) a firefighter employed by a fire department on

June 30, 2011, and serving a probationary period with the intent of becoming a merit employee of the fire department; unless the police officer or firefighter is promoted after June 30, 2011, to a higher rank other than a merit rank. Makes the following additional exceptions: (1) Allows a township trustee whose office is located in the trustee's personal residence to employ not more than one relative to work in the township trustee's office and be in the trustee's line of supervision. (2) Allows a coroner who is ineligible for another term of office due to term limits to be hired by the coroner's successor, even though the successor is a relative and will result in the coroner working in the successor's line of supervision. (3) Allows a sheriff to hire the sheriff's spouse as prison matron for the county and work in the sheriff's line of supervision. Limits the total compensation of the township trustee's employed relative to \$5,000 per year. Requires a unit to implement a policy that complies with the nepotism law and contracting law. Requires each elected official of the unit to annually certify in writing, subject to the penalties for perjury, that the official is in compliance with the nepotism and contracting law and submit the certification to the executive of the local unit. Requires the executive of the local unit to file with the annual personnel report filed with the state board of accounts a statement regarding whether the unit has implemented a policy that complies with the nepotism law and contracting law. Provides that a unit can enter into or renew: (1) a contract for the procurement of goods and services; or (2) a contract for public works; with a relative of an elected official or a business entity in which a relative has an ownership interest if: (1) the elected official does not violate the criminal conflict of interest statute; and (2) the elected official makes full written disclosure and satisfies any other requirements of the public purchasing law or the public works law. Provides that a local elected officeholder may be suspended from office if the officeholder is charged with certain felonies and a two-thirds majority of the legislative body finds that the offense with which the local elected official is charged is relevant to the official's suitability for office and that it is in the best interests of the unit that the official be suspended from office. Specifies that a member of the legislative body who is charged with an offense is not eligible to vote on the member's suitability for office, and provides that certain relatives of the member are likewise ineligible to vote. Specifies that the local elected official will be reinstated with back pay if the official is acquitted or charges are dropped. Makes a technical correction. **(This conference committee report does the following: (1) Removes from the bill a provision prohibiting a relative of an executive, a member of the legislative body, or a member of the fiscal body of a county, city, town, or township (unit) from being employed by the unit. (2) Adds to the bill a provision requiring a unit that contracts with: (A) a relative of an elected official; or (B) a business entity that is owned by a relative of an elected official; to certify that the contract amount or price is the lowest that was bid or offered or certify the reasons why the vendor or contractor was awarded the contract. (3) Adds a provision that specifies that an elected officer may also be appointed to and serve on a board, commission, or committee of the unit. (4) Adds a provision that prohibits an individual who is serving as a volunteer firefighter from: (A) assuming the office of executive of the unit; or (B) becoming a member of the executive, legislative, or fiscal body of the unit; that oversees the budget and operations of the fire department in which the volunteer firefighter serves. (5) Removes from the bill a provision that limits an exemption from the nepotism law to volunteer firefighters who are members of volunteer fire departments. (6) Removes from the bill a provision that makes an elected official subject to a prosecution for perjury if the unit has not implemented a policy that complies with the nepotism law and contracting law. (7) Removes from the bill a provision that allows a local elected officeholder to be suspended from office if the officeholder is charged with a misdemeanor involving a breach of the peace that is committed while a local official is performing the official's official duties. (8) Makes a technical correction.)**

Effective: July 1, 2011.

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill No. 1022 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert:
- 2 SECTION 1. IC 3-5-9 IS ADDED TO THE INDIANA CODE AS
- 3 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
- 4 1, 2011]:
- 5 **Chapter 9. Government Employees Holding Office**
- 6 **Sec. 1. As used in this chapter, "elected office" refers only to the**
- 7 **following:**
- 8 (1) The executive of a unit.
- 9 (2) A member of the legislative body or fiscal body of a unit.
- 10 **Sec. 2. As used in this chapter, "government employee" refers**
- 11 **to an employee of a unit. The term does not include an individual**
- 12 **who holds an elected office and is not otherwise employed by the**
- 13 **unit.**
- 14 **Sec. 3. As used in this chapter, "unit" means a county, city,**
- 15 **town, or township.**
- 16 **Sec. 4. An individual who is serving as a volunteer firefighter**
- 17 **may not assume an elected office of the unit that oversees the**
- 18 **budget and operations of the fire department in which the**
- 19 **volunteer firefighter serves.**
- 20 **Sec. 5. Except as provided in section 7 of this chapter, an**
- 21 **individual is considered to have resigned as a government**
- 22 **employee when the individual assumes an elected office of the unit**

1 that employs the individual.

2 **Sec. 6. This chapter does not prohibit:**

3 (1) a government employee from holding an elected office of
4 a unit other than the unit that employs the government
5 employee;

6 (2) a volunteer firefighter from assuming an elected office of
7 a unit other than the unit that oversees the budget and
8 operations of the fire department in which the volunteer
9 firefighter serves; or

10 (3) an individual who holds an elected office from also being
11 appointed to and serving on a board, commission, or
12 committee of the unit.

13 **Sec. 7. (a) A:**

14 (1) government employee; or

15 (2) a volunteer firefighter described in section 4 of this
16 chapter;

17 who holds an elected office of the unit on December 31, 2011, is not
18 subject to this chapter until the term of office that the employee or
19 volunteer firefighter is serving on December 31, 2011, expires.

20 (b) A:

21 (1) government employee; or

22 (2) a volunteer firefighter described in section 4 of this
23 chapter;

24 who assumes an elected office of the unit on January 1, 2012, is not
25 subject to this chapter until the term of office that the employee or
26 volunteer firefighter is serving on January 1, 2012, expires.

27 SECTION 2. IC 5-8-7 IS ADDED TO THE INDIANA CODE AS
28 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
29 1, 2011]:

30 **Chapter 7. Suspension of Local Officeholders**

31 **Sec. 1. As used in this chapter, "eligible offense" means:**

32 (1) a felony under IC 35;

33 (2) a felony under IC 9-30-5; or

34 (3) a felony concerning an election under IC 3.

35 **Sec. 2. As used in this chapter, "legislative body" has the
36 meaning set forth in IC 36-1-2-9.**

37 **Sec. 3. As used in this chapter, "local elected official" means an
38 elected official of a unit who is not a judge or a prosecuting
39 attorney subject to discipline by the supreme court.**

40 **Sec. 4. As used in this chapter, "unit" has the meaning set forth
41 in IC 36-1-2-23.**

42 **Sec. 5. A local elected official may be suspended from office as
43 described in this chapter if the official is charged with an eligible
44 offense.**

45 **Sec. 6. If:**

46 (1) a prosecuting attorney charges a local elected official with
47 an eligible offense; and

48 (2) a court finds probable cause to believe that the offense has
49 been committed;

50 the prosecuting attorney shall notify the legislative body of the
51 appropriate unit.

1 **Sec. 7. (a) If the appropriate legislative body adopts a resolution**
 2 **by a two-thirds (2/3) vote of all of the members of the legislative**
 3 **body finding that:**

- 4 (1) the eligible offense with which the local elected official is
 5 charged is relevant to the official's suitability for office; and
 6 (2) it is in the best interests of the unit that the local elected
 7 official be suspended from office;

8 **the local elected official shall be suspended from office until the**
 9 **official is convicted or acquitted, charges against the official are**
 10 **dropped, or the end of the official's term of office.**

11 **(b) If the local elected official charged with the eligible offense**
 12 **is a member of the legislative body of a unit, the local elected**
 13 **official is ineligible to vote on the resolution described in subsection**
 14 **(a).**

15 **(c) If a member of the legislative body of a unit is related to the**
 16 **local elected official as:**

- 17 (1) father;
 18 (2) mother;
 19 (3) son;
 20 (4) daughter;
 21 (5) husband;
 22 (6) wife;
 23 (7) brother;
 24 (8) sister;
 25 (9) uncle;
 26 (10) aunt;
 27 (11) nephew;
 28 (12) niece;
 29 (13) father in law;
 30 (14) mother in law;
 31 (15) son in law;
 32 (16) daughter in law;
 33 (17) brother in law; or
 34 (18) sister in law;

35 **the member is ineligible to vote on the resolution described in**
 36 **subsection (a).**

37 **(d) If the number of:**

- 38 (1) local elected officials who are members of the legislative
 39 body of a unit charged with an eligible offense; or
 40 (2) members of the legislative body of the unit who are
 41 ineligible to vote under subsection (b);

42 **results in the legislative body of the unit being unable to reach a**
 43 **quorum or adopt a resolution by a two-thirds (2/3) vote of all of the**
 44 **members of the unit, the resolution may be adopted by a majority**
 45 **of the voting members.**

46 **Sec. 8. (a) A local elected official who has been suspended under**
 47 **section 7 of this chapter may seek judicial review of the suspension**
 48 **by filing a petition for review with a circuit court located:**

- 49 (1) in the county where the local elected official served; or
 50 (2) in a county adjacent to the county where the local elected
 51 official served;

1 not later than thirty (30) days after the date on which the local
2 elected official was suspended. The official shall serve a copy of the
3 petition on the prosecuting attorney and on the legislative body.

4 (b) A petition for review filed under this section must be verified
5 and set forth specific facts to demonstrate:

6 (1) that the prosecuting attorney did not charge the local
7 elected official with an eligible offense;

8 (2) that a court did not find probable cause to believe that the
9 offense was committed;

10 (3) that the appropriate legislative body abused its discretion
11 in determining that the offense is relevant to the official's
12 suitability for office; or

13 (4) that the appropriate legislative body abused its discretion
14 in determining it is in the best interests of the unit that the
15 local elected official be suspended from office.

16 (c) The court shall set a hearing on the suspension of the local
17 elected official not later than thirty (30) days after the petition for
18 judicial review is filed. Judicial review of the suspension of a local
19 elected official shall be determined on an expedited basis.

20 (d) The petitioner, the prosecuting attorney, and one (1) or more
21 members of the legislative body have the right to appear and
22 present relevant evidence at the hearing, in person or by counsel.

23 (e) The court conducting judicial review of the suspension of a
24 local elected official may stay the suspension pending the resolution
25 of the judicial review.

26 (f) If the reviewing court finds that the petitioner has established
27 one (1) of the elements described in subsection (b)(1) through
28 (b)(4), the court shall order the petitioner immediately reinstated
29 with back pay, if applicable.

30 (g) The court's determination granting or denying relief is a
31 final judgment.

32 **Sec. 9. (a)** A local elected official who is suspended from office
33 under this chapter shall not act in the official's official capacity and
34 is not entitled to receive any salary or remuneration as a local
35 elected official during the suspension period.

36 (b) A local elected official who is suspended from office under
37 this chapter is entitled to continue to receive any health benefits the
38 local elected official would have been entitled to receive if the local
39 elected official had not been suspended.

40 **Sec. 10. (a)** This section does not apply if a legislative body
41 suspends a local elected official who is a member of the legislative
42 body.

43 (b) If a legislative body suspends a local elected official under
44 section 7 of this chapter, the legislative body shall ensure that the
45 duties of the suspended local elected official are carried out and
46 may appoint an acting replacement for the suspended local elected
47 official.

48 **Sec. 11.** If a local elected official suspended under section 7 of
49 this chapter is convicted of an eligible offense, the local elected
50 official shall be removed from office in accordance with
51 IC 5-8-1-38.

1 **Sec. 12. (a) If:**

2 **(1) a local elected official suspended under section 7 of this**
 3 **chapter is acquitted or charges against the official are**
 4 **dropped; or**

5 **(2) a local elected official was charged with a felony but is**
 6 **convicted only of a misdemeanor;**

7 **the official is reinstated in office by operation of law if the term of**
 8 **the official has not expired.**

9 **(b) If a local elected official suspended under section 7 of this**
 10 **chapter is acquitted or charges are dropped, the local elected**
 11 **official is entitled to back pay for the suspension period.**

12 **(c) If a local elected official suspended under section 7 of this**
 13 **chapter is convicted only of a misdemeanor as described in**
 14 **subsection (a)(2), the legislative body may award full or partial**
 15 **back pay to the official, if the legislative body adopts a resolution**
 16 **finding that:**

17 **(1) the misdemeanor of which the local elected official is**
 18 **convicted does not reflect upon the official's suitability for**
 19 **office; and**

20 **(2) fairness and the best interests of the unit require that the**
 21 **local elected official be awarded back pay.**

22 **A local elected official who is convicted of a misdemeanor is not**
 23 **entitled to vote to award back pay under this subsection.**

24 SECTION 3. IC 5-11-13-1, AS AMENDED BY P.L.169-2006,
 25 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2011]: Sec. 1. **(a)** Every state, county, city, town, township, or
 27 school official, elective or appointive, who is the head of or in charge
 28 of any office, department, board, or commission of the state or of any
 29 county, city, town, or township, and every state, county, city, town, or
 30 township employee or agent who is the head of, or in charge of, or the
 31 executive officer of any department, bureau, board, or commission of
 32 the state, county, city, town, or township, and every executive officer
 33 by whatever title designated, who is in charge of any state educational
 34 institution or of any other state, county, or city institution, shall during
 35 the month of January of each year prepare, make, and sign a written or
 36 printed certified report, correctly and completely showing the names
 37 and business addresses of each and all officers, employees, and agents
 38 in their respective offices, departments, boards, commissions, and
 39 institutions, and the respective duties and compensation of each, and
 40 shall forthwith file said report in the office of the state examiner of the
 41 state board of accounts. However, no more than one (1) report covering
 42 the same officers, employees, and agents need be made from the state
 43 or any county, city, town, township, or school unit in any one (1) year.

44 **(b) This subsection applies to a unit (as defined in IC 36-1-2-23).**
 45 **A report under subsection (a) that is submitted after December 31,**
 46 **2011, must include a statement by the executive (as defined in**
 47 **IC 36-1-2-5) of the unit regarding whether the unit has**
 48 **implemented a policy that complies with IC 36-1-20.2 and**
 49 **IC 36-1-21. The unit is subject to the penalties set forth in**
 50 **IC 36-1-20.2 and IC 36-1-21.**

51 SECTION 4. IC 25-1-5-3.5 IS ADDED TO THE INDIANA CODE

1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
2 1, 2011]: **Sec. 3.5. For purposes of Article 2, Section 9 of the**
3 **Constitution of the State of Indiana, membership on a board is not**
4 **a lucrative office.**

5 SECTION 5. IC 25-1-6-3.5 IS ADDED TO THE INDIANA CODE
6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
7 1, 2011]: **Sec. 3.5. For purposes of Article 2, Section 9 of the**
8 **Constitution of the State of Indiana, membership on a board is not**
9 **a lucrative office.**

10 SECTION 6. IC 33-42-2-7 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 7. (a) ~~A person who~~
12 ~~holds any lucrative office or appointment under the United States or~~
13 ~~under this state, and prohibited by the Constitution of the State of~~
14 ~~Indiana from holding more than one (1) lucrative office, may not serve~~
15 ~~as a notary public. If a person accepts a lucrative office or appointment,~~
16 ~~the person shall vacate the person's appointment as a notary. For~~
17 **purposes of Article 2, Section 9 of the Constitution of the State of**
18 **Indiana, notary public is not a lucrative office.**

19 (b) Subsection (a) does not apply to a person who holds a lucrative
20 office or appointment under any civil or school city or town of Indiana.
21 A person who is a public official, or a deputy or appointee acting for or
22 serving under a public official, may not make any charge for services
23 as a notary public in connection with any official business of that
24 office, or of any other office in the governmental unit in which the
25 person serves unless the charges are specifically authorized by a statute
26 other than the statute that establishes generally the fees and charges of
27 notaries public.

28 SECTION 7. IC 36-1-8-10.5, AS AMENDED BY P.L.1-2005,
29 SECTION 231, IS AMENDED TO READ AS FOLLOWS
30 [EFFECTIVE JULY 1, 2011]: Sec. 10.5. (a) This section does not
31 apply to the following:

- 32 (1) An elected or appointed officer.
- 33 (2) An individual described in IC 20-26-4-11.

34 (b) **Subject to IC 3-5-9**, an employee of a political subdivision may:

- 35 (1) be a candidate for any elected office and serve in that office if
36 elected; or
- 37 (2) be appointed to any office and serve in that office if appointed;

38 without having to resign as an employee of the political subdivision.

39 SECTION 8. IC 36-1-20.2 IS ADDED TO THE INDIANA CODE
40 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
41 JULY 1, 2011]:

42 **Chapter 20.2 Nepotism**

43 **Sec. 1. (a) This chapter applies only to a unit.**

44 **(b) This chapter applies to a person who contracts with a unit to**
45 **fill a vacancy in a position with the unit that was formerly held by**
46 **an employee.**

47 **Sec. 2. For purposes of this chapter, the performance of the**
48 **duties of:**

- 49 (1) a precinct election officer (as defined in IC 3-5-2-40.1) that
50 are imposed by IC 3; or
- 51 (2) a volunteer firefighter;

1 is not considered employment by a unit.

2 **Sec. 3. As used in this chapter, "employee" means an individual**
 3 **who is employed by a unit on a full-time, part-time, temporary,**
 4 **intermittent, or hourly basis. The term includes an appointed**
 5 **officer of a unit. The term does not include an individual who holds**
 6 **an elected office and is not otherwise employed by the unit.**

7 **Sec. 4. As used in this chapter, "police officer" means the**
 8 **following:**

- 9 (1) A regular member of a city or town police department.
- 10 (2) A town marshal or town marshal deputy.
- 11 (3) A regular member of a county sheriff's department.

12 **Sec. 5. (a) As used in this chapter "relative" means any of the**
 13 **following:**

- 14 (1) A spouse.
- 15 (2) A parent or stepparent.
- 16 (3) A child or stepchild.
- 17 (4) A brother, sister, stepbrother, or stepsister.
- 18 (5) A niece or nephew.
- 19 (6) An aunt or uncle.
- 20 (7) A daughter-in-law or son-in-law.

21 **(b) For purposes of this section, an adopted child of an**
 22 **individual is treated as a natural child of the individual.**

23 **(c) For purposes of this section, the terms "brother" and**
 24 **"sister" include a brother or sister by the half blood.**

25 **Sec. 6. Except as provided in sections 7 through 12 of this**
 26 **chapter, individuals who are:**

- 27 (1) relatives; and
- 28 (2) employees or elected officers of the unit;

29 **may not be employed in a position in which the elected officer or**
 30 **employee is in the line of supervision over the individual.**

31 **Sec. 7. An individual who is employed on June 30, 2011, in the**
 32 **same position with the unit that the person has held for at least**
 33 **twelve (12) consecutive months is not subject to section 6 of this**
 34 **chapter. However, if the individual meets the requirements of this**
 35 **section and is a merit police officer or merit firefighter, section 6**
 36 **of this chapter applies to the individual only if the individual is**
 37 **promoted after June 30, 2011, to a higher rank other than a merit**
 38 **rank.**

39 **Sec. 8. An individual who:**

- 40 (1) is employed after June 30, 2011; and
- 41 (2) has been employed in the same position with the unit for
- 42 at least twelve (12) consecutive months immediately preceding
- 43 the date the relative assumes an elected office of the unit;

44 **is not subject to section 6 of this chapter. However, if the individual**
 45 **meets the requirements of this section and is a merit police officer**
 46 **or merit firefighter, section 6 of this chapter apply to the individual**
 47 **only if the individual is promoted to a higher rank other than a**
 48 **merit rank.**

49 **Sec. 9. An individual who:**

- 50 (1) is a police officer employed by a police department on
- 51 June 30, 2011, and serving a probationary period with the

1 **intent of becoming a merit employee of the police department;**
 2 **or**
 3 **(2) is a firefighter employed by a fire department on June 30,**
 4 **2011, and serving a probationary period with the intent of**
 5 **becoming a merit employee of the fire department;**
 6 **is not subject to section 6 of this chapter. However, section 6 of this**
 7 **chapter applies to an individual described in this section if the**
 8 **individual is promoted after June 30, 2011, to a higher rank other**
 9 **than a merit rank.**

10 **Sec. 10. (a) This section applies to an individual who meets all of**
 11 **the following requirements:**

- 12 **(1) The individual:**
 - 13 **(A) served as coroner; and**
 - 14 **(B) is currently ineligible to serve as coroner under Article**
 15 **6, Section 2(b) of the Constitution of the State of Indiana.**
- 16 **(2) The individual received certification under IC 36-2-14.**
- 17 **(3) The individual's successor in the office of coroner is a**
 18 **relative of the individual.**

19 **(b) An individual described in subsection (a) may be hired in the**
 20 **position of deputy coroner and is not subject to section 6 of this**
 21 **chapter.**

22 **Sec. 11. If the township trustee's office is located in the township**
 23 **trustee's personal residence, the township trustee may not hire**
 24 **more than one (1) employee who is a relative. The employee:**

- 25 **(1) may be hired to work only in the township trustee's office;**
 26 **and**
- 27 **(2) may not receive total salary, benefits, and compensation**
 28 **that exceed five thousand dollars (\$5,000) per year.**

29 **An individual employed under this section is not subject to section**
 30 **6 of this chapter.**

31 **Sec. 12. A sheriff may hire the sheriff's spouse as prison matron**
 32 **for the county under IC 36-8-10-5. An individual employed under**
 33 **this section is not subject to section 6 of this chapter.**

34 **Sec. 13. (a) Each elected officer of the unit shall annually certify**
 35 **in writing, subject to the penalties for perjury, that the officer is in**
 36 **compliance with this chapter. An officer shall submit the**
 37 **certification to the executive of the unit not later than December 31**
 38 **of each year.**

39 **(b) The unit must implement a policy that complies with this**
 40 **chapter. The annual report filed by a unit with the state board of**
 41 **accounts under IC 5-11-13-1 must include a statement by the**
 42 **executive of the unit stating whether the unit has implemented a**
 43 **policy that complies with this chapter.**

44 **Sec. 14. If the state board of accounts finds that a unit has not**
 45 **implemented a policy that complies with this chapter, the state**
 46 **board of accounts shall forward the information to the department**
 47 **of local government finance.**

48 **Sec. 15. If a unit has not implemented a policy that complies**
 49 **with this chapter the department of local government finance may**
 50 **not approve:**

- 51 **(1) the unit's budget; or**

1 **(2) any additional appropriations for the unit;**
 2 **for the ensuing calendar year until the state board of accounts**
 3 **certifies to the department of local government finance that the**
 4 **unit is in compliance with this chapter.**

5 SECTION 9. IC 36-1-21 IS ADDED TO THE INDIANA CODE AS
 6 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 7 1, 2011]:

8 **Chapter 21. Contracting With a Unit**

9 **Sec. 1. This chapter applies only to a unit.**

10 **Sec. 2. As used in this chapter, "elected official" means:**

- 11 **(1) the executive or a member of the executive body of the**
 12 **unit;**
 13 **(2) a member of the legislative body of the unit; or**
 14 **(3) a member of the fiscal body of the unit.**

15 **Sec. 3. (a) As used in this chapter "relative" means any of the**
 16 **following:**

- 17 **(1) A spouse.**
 18 **(2) A parent or stepparent.**
 19 **(3) A child or stepchild.**
 20 **(4) A brother, sister, stepbrother, or stepsister.**
 21 **(5) A niece or nephew.**
 22 **(6) An aunt or uncle.**
 23 **(7) A daughter-in-law or son-in-law.**

24 **(b) For purposes of this section, an adopted child of an**
 25 **individual is treated as a natural child of the individual.**

26 **(c) For purposes of this section, the terms "brother" and**
 27 **"sister" include a brother or sister by the half blood.**

28 **Sec. 4. (a) A unit may enter into a contract or renew a contract**
 29 **for the procurement of goods and services or a contract for public**
 30 **works with:**

- 31 **(1) an individual who is a relative of an elected official; or**
 32 **(2) a business entity that is wholly or partially owned by a**
 33 **relative of an elected official;**

34 **only if the requirements of this section are satisfied and the elected**
 35 **official does not violate IC 35-44-1-3.**

36 **(b) A unit may enter into a contract or renew a contract with an**
 37 **individual or business entity described in subsection (a) if:**

- 38 **(1) the elected official files with the unit a full disclosure,**
 39 **which must:**
 40 **(A) be in writing;**
 41 **(B) describe the contract or purchase to be made by the**
 42 **unit;**
 43 **(C) describe the relationship that the elected official has to**
 44 **the business entity or individual that contracts or**
 45 **purchases;**
 46 **(D) be affirmed under penalty of perjury;**
 47 **(E) be submitted to the legislative body of the unit and be**
 48 **accepted by the legislative body in a public meeting of the**
 49 **unit prior to final action on the contract or purchase; and**
 50 **(F) be filed, not later than fifteen (15) days after final**
 51 **action on the contract or purchase, with:**

- 1 (i) the state board of accounts; and
- 2 (ii) the clerk of the circuit court in the county where the
- 3 unit takes final action on the contract or purchase;
- 4 (2) the appropriate agency of the unit:
- 5 (A) makes a certified statement that the contract amount
- 6 or purchase price was the lowest amount or price bid or
- 7 offered; or
- 8 (B) makes a certified statement of the reasons why the
- 9 vendor or contractor was selected; and
- 10 (3) the unit satisfies any other requirements under IC 5-22 or
- 11 IC 36-1-12.

12 (c) An elected official shall also comply with the disclosure
 13 provisions of IC 35-44-1-3, if applicable.

14 (d) This section does not affect the initial term of a contract in
 15 existence at the time the term of office of the elected official of the
 16 unit begins.

17 **Sec. 5. (a) Each elected officer of the unit shall annually certify**
 18 **in writing that the officer is in compliance with this chapter. An**
 19 **officer shall submit the certification to the executive of the unit not**
 20 **later than December 31 of each year.**

21 (b) The unit must implement a policy that complies with this
 22 chapter. The annual report filed by a unit with the state board of
 23 accounts under IC 5-11-13-1 must include a statement by the
 24 executive of the unit stating whether the unit has implemented a
 25 policy that complies with this chapter.

26 **Sec. 6. If the state board of accounts finds that a unit has not**
 27 **implemented a policy that complies with this chapter, the state**
 28 **board of accounts shall forward the information to the department**
 29 **of local government finance.**

30 **Sec. 7. If a unit has not implemented a policy that complies with**
 31 **this chapter the department of local government finance may not**
 32 **approve:**

- 33 (1) the unit's budget; or
 - 34 (2) any additional appropriations for the unit;
- 35 **for the ensuing calendar year until the state board of accounts**
 36 **certifies to the department of local government finance that the**
 37 **unit is in compliance with this chapter.**

38 SECTION 10. IC 36-4-4-2 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) The powers of a
 40 city are divided between the executive and legislative branches of its
 41 government. A power belonging to one (1) branch of a city's
 42 government may not be exercised by the other branch.

43 (b) **Subject to IC 3-5-9**, a city employee other than an elected or
 44 appointed public officer may:

- 45 (1) be a candidate for any elective office and serve in that office
- 46 if elected; or
- 47 (2) be appointed to any office and serve in that office if appointed;
- 48 without having to resign as a city employee.

49 SECTION 11. IC 36-8-3-12 IS AMENDED TO READ AS
 50 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 12. **Subject to**
 51 **IC 3-5-9**, members of the safety board and members of any township,

1 town, or city (including a consolidated city) police department, fire
 2 department, or volunteer fire department (as defined by IC 36-8-12-2)
 3 may:

- 4 (1) be candidates for elective office and serve in that office if
 5 elected;
- 6 (2) be appointed to any office and serve in that office if appointed;
 7 and
- 8 (3) as long as they are not in uniform and not on duty, solicit votes
 9 and campaign funds and challenge voters for the office for which
 10 they are candidates.

11 SECTION 12. IC 36-8-10-11 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 11. (a) The sheriff may
 13 dismiss, demote, or temporarily suspend a county police officer for
 14 cause after preferring charges in writing and after a fair public hearing
 15 before the board, which is reviewable in the circuit court. Written
 16 notice of the charges and hearing must be delivered by certified mail
 17 to the officer to be disciplined at least fourteen (14) days before the
 18 date set for the hearing. The officer may be represented by counsel. The
 19 board shall make specific findings of fact in writing to support its
 20 decision.

21 (b) The sheriff may temporarily suspend an officer with or without
 22 pay for a period not exceeding fifteen (15) days, without a hearing
 23 before the board, after preferring charges of misconduct in writing
 24 delivered to the officer.

25 (c) A county police officer may not be dismissed, demoted, or
 26 temporarily suspended because of political affiliation nor after the
 27 officer's probationary period, except as provided in this section.

28 **Subject to IC 3-5-9**, an officer may:

- 29 (1) be a candidate for elective office and serve in that office if
 30 elected;
- 31 (2) be appointed to an office and serve in that office if appointed;
 32 and
- 33 (3) except when in uniform or on duty, solicit votes or campaign
 34 funds for the officer or others.

35 (d) The board has subpoena powers enforceable by the circuit court
 36 for hearings under this section. An officer on probation may be
 37 dismissed by the sheriff without a right to a hearing.

38 (e) An appeal under subsection (a) must be taken by filing in court,
 39 within thirty (30) days after the date the decision is rendered, a verified
 40 complaint stating in a concise manner the general nature of the charges
 41 against the officer, the decision of the board, and a demand for the
 42 relief asserted by the officer. A bond must also be filed that guarantees
 43 the appeal will be prosecuted to a final determination and that the
 44 plaintiff will pay all costs only if the court finds that the board's
 45 decision should be affirmed. The bond must be approved as bonds for
 46 costs are approved in other cases. The county must be named as the
 47 sole defendant and the plaintiff shall have a summons issued as in other
 48 cases against the county. Neither the board nor the members of it may
 49 be made parties defendant to the complaint, but all are bound by
 50 service upon the county and the judgment rendered by the court.

51 (f) All appeals shall be tried by the court. The appeal shall be heard

1 de novo only upon any new issues related to the charges upon which
 2 the decision of the board was made. Within ten (10) days after the
 3 service of summons, the board shall file in court a complete written
 4 transcript of all papers, entries, and other parts of the record relating to
 5 the particular case. Inspection of these documents by the person
 6 affected, or by the person's agent, must be permitted by the board
 7 before the appeal is filed, if requested. The court shall review the
 8 record and decision of the board on appeal.

9 (g) The court shall make specific findings and state the conclusions
 10 of law upon which its decision is made. If the court finds that the
 11 decision of the board appealed from should in all things be affirmed,
 12 its judgment should so state. If the court finds that the decision of the
 13 board appealed from should not be affirmed in all things, then the court
 14 shall make a general finding, setting out sufficient facts to show the
 15 nature of the proceeding and the court's decision on it. The court shall
 16 either:

- 17 (1) reverse the decision of the board; or
- 18 (2) order the decision of the board to be modified.

19 (h) The final judgment of the court may be appealed by either party.
 20 Upon the final disposition of the appeal by the courts, the clerk shall
 21 certify and file a copy of the final judgment of the court to the board,
 22 which shall conform its decisions and records to the order and
 23 judgment of the court. If the decision is reversed or modified, then the
 24 board shall pay to the party entitled to it any salary or wages withheld
 25 from the party pending the appeal and to which the party is entitled
 26 under the judgment of the court.

27 (i) Either party shall be allowed a change of venue from the court or
 28 a change of judge in the same manner as such changes are allowed in
 29 civil cases. The rules of trial procedure govern in all matters of
 30 procedure upon the appeal that are not otherwise provided for by this
 31 section.

32 (j) An appeal takes precedence over other pending litigation and
 33 shall be tried and determined by the court as soon as practical.

34 SECTION 13. IC 36-9-37-7 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 7. (a) A municipal
 36 fiscal officer acting under this chapter shall, in the manner prescribed
 37 by IC 5-4-1, obtain, execute, and file a bond conditioned upon the
 38 following:

- 39 (1) The faithful compliance of the municipal fiscal officer with
 40 this chapter.
- 41 (2) The faithful accounting for all money coming into the
 42 municipal fiscal officer's possession under the Barrett Law.

43 (b) A municipal fiscal officer who does any of the following is
 44 personally liable to a person suffering loss due to that action and may
 45 be ~~removed from office by proper action filed under IC 5-8-1-35:~~
 46 **subject to other action as prescribed by law:**

- 47 (1) Fails to collect the interest or penalties provided for by this
 48 chapter on delinquent assessments and installments of
 49 assessments.
- 50 (2) Fails to enforce the collection of the assessments by the sale
 51 of the property. However, this subdivision does not apply to a

1 municipal fiscal officer of a municipality that has adopted an
2 ordinance under section 24(a) of this chapter.

3 (3) Otherwise fails to comply with this chapter.

4 (c) The surety on the municipal fiscal officer's bond is also liable to
5 the extent of the bond.

 (Reference is to EHB 1022 as reprinted April 8, 2011.)

Conference Committee Report
on
Engrossed House Bill 1022

Signed by:

Representative Saunders
Chairperson

Senator Lawson C

Representative Bartlett

Senator Young R

House Conferees

Senate Conferees