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# SENATE BILL No. 302

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 3-5-9; IC 5-11-13-1; IC 36-1-20.

**Synopsis:** Nepotism; public employee holding elected office. Provides that an employee of a political subdivision is considered to have resigned from employment with the political subdivision if the employee assumes the elected executive office of the political subdivision or becomes an elected member of the political subdivision's legislative or fiscal body. Specifies that the restriction applies to an employee of a political subdivision who assumes an elected office after June 30, 2011, but provides that the restriction does not apply to an employee of a political subdivision who holds elective office on June 30, 2011, as long as the individual continues to hold or be reelected to that office. Provides that the restriction does not prohibit an employee of a political subdivision from holding an elected office of a political subdivision other than the political subdivision that employs the government employee. Prohibits a relative of an executive of a political subdivision from being employed by the political subdivision. Prohibits a relative of an employee of a political subdivision from being employed by the political subdivision in a position that would put the relative in a direct supervisory or subordinate relationship with the employee. Specifies that an employee of a political subdivision is not required by these provisions to be terminated or reassigned from any position held by that individual before July 1, 2011, but provides that this grandfathering provision expires January 1, 2015. Prohibits a political subdivision from entering into or renewing a contract with: (1) an individual to provide goods or services to the political subdivision if the individual is a relative of an executive of a political subdivision; or (2) a business entity to provide goods or services if a relative of an executive of the political subdivision has an ownership interest in the business entity.

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**Effective:** July 1, 2011.

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January 6, 2011, read first time and referred to Committee on Local Government.

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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.

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## SENATE BILL No. 302



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

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

1 SECTION 1. IC 3-5-9 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2011]:

4 **Chapter 9. Government Employees Holding Office**

5 **Sec. 1. (a) Except as provided in subsection (b), this chapter**  
6 **applies to a government employee who, after June 30, 2011,**  
7 **assumes an elected office of the political subdivision that employs**  
8 **the individual.**

9 **(b) This chapter does not apply to a government employee who,**  
10 **on June 30, 2011, holds an elected office of the political subdivision**  
11 **that employs the individual, as long as the individual continues to:**

- 12 (1) hold; or
- 13 (2) be reelected to;

14 **the elected office the individual held on June 30, 2011.**

15 **Sec. 2. This chapter does not prohibit a government employee**  
16 **from holding an elected office of a political subdivision other than**  
17 **the political subdivision that employs the government employee.**



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**Sec. 3. As used in this chapter, "elected office" refers only to the following:**

- (1) The elected executive of a political subdivision.**
- (2) An elected member of the legislative body or fiscal body of a political subdivision.**

**Sec. 4. As used in this chapter, "government employee" refers to an employee of a political subdivision. The term does not include an individual who holds an elected office.**

**Sec. 5. An individual is considered to have resigned as a government employee when the individual assumes an elected office of the political subdivision that employs the individual.**

SECTION 2. IC 5-11-13-1, AS AMENDED BY P.L.169-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. **(a)** Every state, county, city, town, township, or school official, elective or appointive, who is the head of or in charge of any office, department, board, or commission of the state or of any county, city, town, or township, and every state, county, city, town, or township employee or agent who is the head of, or in charge of, or the executive officer of any department, bureau, board, or commission of the state, county, city, town, or township, and every executive officer by whatever title designated, who is in charge of any state educational institution or of any other state, county, or city institution, shall during the month of January of each year prepare, make, and sign a written or printed certified report, correctly and completely showing the names and business addresses of each and all officers, employees, and agents in their respective offices, departments, boards, commissions, and institutions, and the respective duties and compensation of each, and shall forthwith file said report in the office of the state examiner of the state board of accounts. However, no more than one (1) report covering the same officers, employees, and agents need be made from the state or any county, city, town, township, or school unit in any one (1) year.

**(b) This subsection applies to a political subdivision (as defined in IC 36-1-2-13). The report must include a statement by the executive (as defined in IC 36-1-2-5) of the political subdivision, certified under the penalties for perjury, that the political subdivision is in compliance with IC 36-1-20. The executive (as defined in IC 36-1-2-5) and the political subdivision are subject to the penalties set forth in IC 36-1-20 for failure to comply with this subsection.**

SECTION 3. IC 36-1-20 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

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1 Chapter 20. Employment of Relatives; Contracting With  
2 Relatives

3 Sec. 1. This chapter does not apply to the following:

4 (1) An individual who is a vendor or employed by a vendor for  
5 a purchase of mowing services or property maintenance  
6 services.

7 (2) An individual who is a member of a paid fire department  
8 or a volunteer fire department that renders fire protection  
9 services to the political subdivision.

10 Sec. 2. For purposes of this chapter, the performance of the  
11 duties of a precinct election officer (as defined in IC 3-5-2-40.1)  
12 that are imposed by IC 3 is not considered employment by a  
13 political subdivision.

14 Sec. 3. As used in this chapter, "employee" means an individual  
15 who is employed by a political subdivision on a full-time, a  
16 part-time, a temporary, an intermittent, or an hourly basis. The  
17 term does not include a member of a paid fire department or a  
18 volunteer fire department that renders fire protection services to  
19 the political subdivision.

20 Sec. 4. (a) As used in this chapter, "relative" means any of the  
21 following:

- 22 (1) A husband.
- 23 (2) A wife.
- 24 (3) A father, grandfather, or stepfather.
- 25 (4) A mother, grandmother, or stepmother.
- 26 (5) A son, grandson, stepson, or son-in-law.
- 27 (6) A daughter, granddaughter, stepdaughter, or  
28 daughter-in-law.
- 29 (7) A brother or stepbrother.
- 30 (8) A sister or stepsister.
- 31 (9) An aunt.
- 32 (10) An uncle.
- 33 (11) A niece.
- 34 (12) A nephew.
- 35 (13) A first cousin.

36 (b) A relative by adoption, half-blood, marriage, or remarriage  
37 is considered a relative of whole kinship for purposes of this  
38 chapter.

39 Sec. 5. (a) An individual who is a relative of an executive of a  
40 political subdivision may not be employed by the political  
41 subdivision.

42 (b) An individual who is a relative of an employee of a political

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1 subdivision may not be employed by the political subdivision in a  
2 position in which the individual would have a direct supervisory or  
3 subordinate relationship with the employee who is the individual's  
4 relative.

5 Sec. 6. (a) A political subdivision may not enter into a contract  
6 or renew a contract with:

- 7 (1) an individual to provide goods or services to the political
- 8 subdivision if the individual is a relative of an executive of a
- 9 political subdivision; or
- 10 (2) a business entity to provide goods or services if a relative
- 11 of an executive of the political subdivision has an ownership
- 12 interest in the business entity.

13 (b) This section does not prohibit a political subdivision from  
14 entering into a contract or renewing a contract if an employee of:

- 15 (1) an individual contractor under subsection (a)(1); or
- 16 (2) a business entity under subsection (a)(2);

17 is a relative of an executive of the political subdivision.

18 (c) This section does not affect the initial term of a contract in  
19 existence at the time the term of office of the executive of the  
20 political subdivision begins.

21 Sec. 7. (a) This chapter does not require the termination or  
22 reassignment of any employee of a political subdivision from any  
23 position held by that individual before July 1, 2011.

24 (b) This subsection expires January 1, 2015.

25 Sec. 8. The annual report filed by a political subdivision with the  
26 state board of accounts under IC 5-11-13-1 must include a  
27 statement by the executive of the political subdivision that the  
28 political subdivision is in compliance with this chapter. The  
29 executive's statement must be certified under penalties for perjury.

30 Sec. 9. If the state board of accounts finds that a political  
31 subdivision is not in compliance with this chapter, the state board  
32 of accounts shall forward the information to:

- 33 (1) the prosecuting attorney of each county where the unit is
- 34 located; and
- 35 (2) the department of local government finance.

36 Sec. 10. If a political subdivision fails to comply with this  
37 chapter:

- 38 (1) the executive of the political subdivision may be subject to
- 39 prosecution for perjury under IC 35-44-2-1; and
- 40 (2) the department of local government finance may not
- 41 approve:
- 42 (A) the political subdivision's budget; or

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

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