

---

---

# HOUSE BILL No. 1303

---

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 3-5-9; IC 36-1-8-10.5; IC 36-4-4-2; IC 36-8.

**Synopsis:** Local employees serving on governing bodies. Provides that an employee of a political subdivision is considered to have resigned from employment with the political subdivision if the employee becomes an elected member of the political subdivision's legislative body. 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.

**Effective:** July 1, 2011.

---

---

### Friend, Davisson

---

---

January 13, 2011, read first time and referred to Committee on Government and Regulatory Reform.

---

---

C  
o  
p  
y



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.

C  
o  
p  
y

## HOUSE BILL No. 1303



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) Subject to subsection (b), this chapter does not apply**  
6 **to a government employee who, on June 30, 2011, holds an elected**  
7 **office of the political subdivision that employs the individual.**

8 **(b) This chapter applies to a government employee who, after**  
9 **June 30, 2011, assumes an elected office of the political subdivision**  
10 **that employs the individual, even if the office the individual**  
11 **assumes is the same office the individual held on June 30, 2011.**

12 **Sec. 2. As used in this chapter, "elected office" refers only to an**  
13 **elected member of the legislative body of a political subdivision.**

14 **Sec. 3. As used in this chapter, "government employee" refers**  
15 **to an employee of a political subdivision. The term does not include**  
16 **an individual who holds only an elected office.**

17 **Sec. 4. An individual is considered to have resigned as a**



1 **government employee when the individual assumes an elected**  
2 **office of the political subdivision that employs the individual.**

3 **Sec. 5. This chapter does not prohibit a government employee**  
4 **from holding an elected office of a political subdivision other than**  
5 **the political subdivision that employs the government employee.**

6 SECTION 2. IC 36-1-8-10.5, AS AMENDED BY P.L.1-2005,  
7 SECTION 231, IS AMENDED TO READ AS FOLLOWS  
8 [EFFECTIVE JULY 1, 2011]: Sec. 10.5. (a) This section does not  
9 apply to the following:

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

12 (b) **Subject to IC 3-5-9-4**, an employee of a political subdivision  
13 may:

- 14 (1) be a candidate for any elected office and serve in that office if  
15 elected; or
- 16 (2) be appointed to any office and serve in that office if appointed;  
17 without having to resign as an employee of the political subdivision.

18 SECTION 3. IC 36-4-4-2 IS AMENDED TO READ AS FOLLOWS  
19 [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) The powers of a city are  
20 divided between the executive and legislative branches of its  
21 government. A power belonging to one (1) branch of a city's  
22 government may not be exercised by the other branch.

23 (b) **Subject to IC 3-5-9-4**, a city employee other than an elected or  
24 appointed public officer may:

- 25 (1) be a candidate for any elective office and serve in that office  
26 if elected; or
- 27 (2) be appointed to any office and serve in that office if appointed;  
28 without having to resign as a city employee.

29 SECTION 4. IC 36-8-3-12 IS AMENDED TO READ AS  
30 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 12. **Subject to**  
31 **IC 3-5-9-4**, members of the safety board and members of any township,  
32 town, or city (including a consolidated city) police department, fire  
33 department, or volunteer fire department (as defined by IC 36-8-12-2)  
34 may:

- 35 (1) be candidates for elective office and serve in that office if  
36 elected;
- 37 (2) be appointed to any office and serve in that office if appointed;  
38 and
- 39 (3) as long as they are not in uniform and not on duty, solicit votes  
40 and campaign funds and challenge voters for the office for which  
41 they are candidates.

42 SECTION 5. IC 36-8-10-11 IS AMENDED TO READ AS

C  
O  
P  
Y



1 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 11. (a) The sheriff may  
 2 dismiss, demote, or temporarily suspend a county police officer for  
 3 cause after preferring charges in writing and after a fair public hearing  
 4 before the board, which is reviewable in the circuit court. Written  
 5 notice of the charges and hearing must be delivered by certified mail  
 6 to the officer to be disciplined at least fourteen (14) days before the  
 7 date set for the hearing. The officer may be represented by counsel. The  
 8 board shall make specific findings of fact in writing to support its  
 9 decision.

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

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

17 **Subject to IC 3-5-9-4**, an officer may:

18 (1) be a candidate for elective office and serve in that office if  
 19 elected;

20 (2) be appointed to an office and serve in that office if appointed;  
 21 and

22 (3) except when in uniform or on duty, solicit votes or campaign  
 23 funds for the officer or others.

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

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

40 (f) All appeals shall be tried by the court. The appeal shall be heard  
 41 de novo only upon any new issues related to the charges upon which  
 42 the decision of the board was made. Within ten (10) days after the

C  
o  
p  
y



1 service of summons, the board shall file in court a complete written  
2 transcript of all papers, entries, and other parts of the record relating to  
3 the particular case. Inspection of these documents by the person  
4 affected, or by the person's agent, must be permitted by the board  
5 before the appeal is filed, if requested. The court shall review the  
6 record and decision of the board on appeal.

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

15 (1) reverse the decision of the board; or

16 (2) order the decision of the board to be modified.

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

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

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

**C**  
**O**  
**P**  
**Y**

