

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.

## SENATE ENROLLED ACT No. 199

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 16-22-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) This section applies to hospitals operated under IC 16-12-1 (before its repeal on July 1, 1993).

(b) The management of a hospital shall be under the control of a governing board consisting of eleven (11) members. Three (3) of the members of the governing board must be the members of the county executive.

(c) **Subject to subsection (e)**, if the hospital is acquired or equipped without the aid of a hospital association:

- (1) three (3) members of the governing board shall be appointed by the county executive; and
- (2) five (5) members of the governing board, one (1) of whom may be a licensed physician, shall be appointed by the county fiscal body.

(d) **Subject to subsection (e)**, if the hospital is acquired or equipped with the aid of a hospital association:

- (1) four (4) members of the governing board, one (1) of whom may be a licensed physician, shall be appointed by the hospital association;
- (2) two (2) members of the governing board shall be appointed by the county executive; and

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(3) two (2) members of the governing board shall be appointed by the county fiscal body.

**(e) Not more than two (2) members of a governing board appointed under this section may reside in a county other than the county in which the hospital is located. A member who is not a resident of the county in which the hospital is located must:**

- (1) be an Indiana resident; and**
- (2) be appointed upon a submission made under section 11 of this chapter by the governing board of the hospital to the appointing authority.**

~~(e)~~ **(f)** The term of an appointed member of the governing board is two (2) years, except a person appointed by the county executive under subsection (c)(1) or (d)(2) serves a one (1) year term. Thereafter, the persons appointed by the county executive to succeed initial persons serve two (2) year terms.

SECTION 2. IC 16-22-2-3.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.1. (a) This section applies to a hospital operated under IC 16-12-4-2 (before its repeal on July 1, 1993) that is located in a county having a population of more than forty-one thousand (41,000) but less than forty-three thousand (43,000).

(b) The management of a hospital is under the control of a governing board. The governing board consists of nine (9) members appointed by the county executive as follows:

- (1) Three (3) members must be members of the county executive.
- (2) Six (6) members **meeting the following requirements:**
  - (A) At least four (4) members** must be residents of the county.
  - (B) Not more than two (2) members appointed under this subdivision may reside in a county other than the county in which the hospital is located. A member who is not a resident of the county in which the hospital is located must:**
    - (i) be an Indiana resident; and**
    - (ii) be appointed upon a submission made under section 11 of this chapter by the governing board of the hospital to the appointing authority.**
  - (C) One (1) member appointed under this subdivision may also be a licensed physician.**

(c) The term of each member of the governing board is three (3) years.

(d) If a vacancy occurs due to the expiration of an appointed member's term and the county executive does not fill the vacancy

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within sixty (60) days from the date of expiration, the member whose term has expired is automatically reappointed for another term.

SECTION 3. IC 16-22-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) This section applies to the governing boards of county hospitals in a county having a population of more than thirty-nine thousand (39,000) but less than thirty-nine thousand six hundred (39,600).

(b) **Subject to subsection (c)**, the governing board of a county hospital consists of seven (7) members, as follows:

- (1) Three (3) members must be the members of the county executive.
- (2) Four (4) members, one (1) of whom may be a licensed physician, shall be appointed by the judge of the circuit court of the county.

**(c) Not more than two (2) members of a governing board appointed under this section may reside in a county other than the county in which the hospital is located. A member who is not a resident of the county in which the hospital is located must:**

- (1) be an Indiana resident; and**
- (2) be appointed upon a submission made under section 11 of this chapter by the governing board of the hospital to the appointing authority.**

~~(c)~~ **(d)** The term of office for members of the governing board, other than the members of the county executive, is two (2) years.

SECTION 4. IC 16-22-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) This section applies to county hospitals in counties having a population of more than eighteen thousand (18,000) but less than eighteen thousand three hundred (18,300).

(b) **Subject to subsection (e)**, the hospital and the affairs and business of the hospital shall be under the management and control of a governing board consisting of seven (7) members as follows:

- (1) Three (3) members must be ~~the~~ members of the county executive.
- (2) Two (2) members shall be appointed by the county fiscal body, one (1) of whom may be a licensed physician.
- (3) Two (2) members shall be appointed by the county executive.

(c) One (1) of the members initially appointed by the county fiscal body serves for one (1) year and one (1) of the members initially appointed serves for two (2) years. After the initial appointment, the members serve for two (2) years.

(d) One (1) of the members initially appointed by the county

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executive serves for one (1) year and one (1) of the members initially appointed serves for two (2) years. After the initial appointment, the members serve for two (2) years.

**(e) Not more than two (2) members of a governing board appointed under this section may reside in a county other than the county in which the hospital is located. A member who is not a resident of the county in which the hospital is located must:**

- (1) be an Indiana resident; and**
- (2) be appointed upon a submission made under section 11 of this chapter by the governing board of the hospital to the appointing authority.**

SECTION 5. IC 16-22-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Except as provided in subsection (d), a governing board of four (4) members in existence on September 2, 1971, may petition the county executive to increase the size of the board to five (5), six (6), seven (7), eight (8), or nine (9) members. If the county executive approves the petition, the county executive shall appoint new members to increase the number of board members to the chosen size in the following manner:

(1) All members must be residents of the county in which the hospital is located **except in the following circumstances:**

**(A) If a determination is made to increase a board size to five (5) or six (6) members, one (1) member may be a resident of an Indiana county other than the county in which the hospital is located if the member to be appointed was recommended by the governing board as set forth in section 11 of this chapter to fill the vacancy.**

**(B) If a determination is made to increase a board size to at least seven (7) members, not more than two (2) members may be residents of an Indiana county other than the county in which the hospital is located if the member to be appointed was recommended by the governing board as set forth in section 11 of this chapter to fill the vacancy.**

(2) If a board size of five (5) members is chosen, a new member shall be appointed for an initial term of one (1) year.

(3) If a board size of six (6) members is chosen, the new members shall be appointed in the following order as necessary:

(A) One (1) new member for an initial term of one (1) year.

(B) One (1) new member for an initial term of two (2) years.

(4) If a board size of seven (7) members is chosen, the new members shall be appointed in the following order as necessary:

(A) One (1) new member for an initial term of one (1) year.

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- (B) One (1) new member for an initial term of two (2) years.
  - (C) One (1) new member for an initial term of three (3) years.
  - (5) If a board size of eight (8) members is chosen, the new members shall be appointed in the following order as necessary:
    - (A) One (1) new member for an initial term of one (1) year.
    - (B) One (1) new member for an initial term of two (2) years.
    - (C) One (1) new member for an initial term of three (3) years.
    - (D) One (1) new member for an initial term of four (4) years.
  - (6) If a board size of nine (9) members is chosen, the new members shall be appointed in the following order as necessary:
    - (A) Two (2) new members for an initial term of one (1) year.
    - (B) One (1) new member for an initial term of two (2) years.
    - (C) One (1) new member for an initial term of three (3) years.
    - (D) One (1) new member for an initial term of four (4) years.
  - (7) If a board size of seven (7), eight (8), or nine (9) members is chosen, two (2) members may be licensed physicians.
  - (b) A governing board that has increased its size may petition the county executive to decrease the size of the board. However, a decrease under this subsection may only be accomplished through:
    - (1) the vacancy of a member's position, either through expiration of the member's term or any other cause; or
    - (2) removal of a member as provided under applicable law.
  - (c) There is no limit to the number of times a governing board may seek to increase or decrease its size under this section.
  - (d) For a governing board of four (4) members located in a county having a population of:
    - (1) more than fourteen thousand five hundred (14,500) but less than fourteen thousand nine hundred (14,900);
    - (2) more than twenty-five thousand (25,000) but less than twenty-five thousand five hundred (25,500); or
    - (3) more than thirty-three thousand eight hundred (33,800) but less than thirty-four thousand three hundred (34,300);
 the county executive may increase the number of board members to five (5), six (6), or seven (7), subject to the limitations of this section. After the initial appointments, each board member shall be appointed to serve for a term of four (4) years.
- SECTION 6. IC 16-22-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) This section applies to a county where a city hospital is operated under IC 16-23-1.
- (b) A county hospital may be created by an order of the county executive without filing a petition or holding an election.
  - (c) The county executive may create a hospital association under

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(d) An appointing board shall be formed to appoint the members of the governing board of the county hospital. The appointing board shall consist of three (3) members, as follows:

- (1) The executive of the city where the city hospital is located.
- (2) The judge of the circuit court of the county.
- (3) A member of the county executive chosen by the county executive of the county.

(e) Each member must take and subscribe an oath for the honest and faithful performance of the member's duties, which shall be filed in the auditor's office of the county.

(f) **Subject to subsection (g)**, the governing board consists of seven (7) members with the following qualifications:

- (1) ~~Each member~~ **At least five (5) members** must be a qualified voter voters in the county.
- (2) Not more than two (2) members may be licensed physicians.
- (3) One (1) member may be a registered nurse licensed to practice in Indiana.

**(g) Not more than two (2) members of a governing board appointed under this section may reside in a county other than the county in which the hospital is located. A member who is not a resident of the county in which the hospital is located must:**

- (1) be an Indiana resident; and**
- (2) be appointed upon a submission made under section 11 of this chapter by the governing board of the hospital to the appointing authority.**

~~(g)~~ **(h)** Initial and subsequent appointments to the hospital board shall be made for staggered terms ending on February 1 to coincide with the terms of members of the city hospital board of directors created by IC 16-23-1.

~~(h)~~ **(i)** The appointing board members may serve without bond. The regular meeting of the appointing board for the appointment of members to the hospital board shall be on the third Monday in January of each year following the year of the initial appointments. The meeting may adjourn periodically until the appointments for all expired or vacant memberships are made. Vacancies occurring on the hospital board may be filled at a special meeting of the appointing board called by the county auditor or by two (2) members of the appointing board on five (5) days notice to all appointing board members, or without notice if all of the appointing board members are present at the meeting. Each meeting of the appointing board shall be held at the county executive's room of the county, unless by unanimous consent

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the board determines to hold the meeting at another location.

(j) The county executive shall choose the board's member of the appointing board each year following the year of initial appointments at the board's regular January meeting.

(k) The governing board may operate the county hospital jointly with the city hospital operated in the same county under IC 16-23-1. The joint operation may include joint employment of an administrator and other personnel, joint policies, joint purchases, joint services, and other programs to deliver health care at a reduced cost. The governing board of the county hospital may contract with the governing board of the city hospital to allocate revenues and expenditures and for the administration of the hospitals, but records must be kept that reflect the separate ownership, financial obligations, and existence of the county hospital and the city hospital.

SECTION 7. IC 16-22-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Except as provided in section 12 of this chapter, whenever a vacancy occurs on the governing board, the existing governing board shall submit a list of **the following:**

- (1) **At least one (1) but not more than three (3) candidates for each vacancy to be filled to the appointing authority.**
- (2) **Qualifications for assessment of a candidate for each vacancy.**

(b) For each vacancy, the appointing authority may do one (1) of the following:

- (1) Appoint one (1) of the ~~three (3)~~ candidates submitted by the governing board.
- (2) Request and receive from the governing board a second list of **at least one (1) but not more than three (3) candidates.**
- (3) Appoint an individual who meets the requirements concerning board members and who was not named in the initial list submitted by the governing board.

**The appointing authority shall consider the list of qualifications submitted by the governing board under subsection (a)(2) when making an appointment.**

(c) If the appointing authority requests and receives a second list of ~~three (3)~~ candidates under subsection (b)(2), the appointing authority may do one (1) of the following:

- (1) Appoint one (1) ~~of the three (3) candidates~~ **candidate** named in the second list.
- (2) Appoint an individual who meets the requirements concerning board members and who was not named in the second list of ~~three~~

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(3) candidates submitted by the governing board.

(d) The appointment for a vacancy shall be made not more than sixty (60) days after submission of the initial list of candidates under subsection (a).

(e) If the vacancy occurred due to the expiration of a member's term and the vacancy is not filled within sixty (60) days of the expiration date, the member whose term expired is automatically reappointed for another term.

(f) Each candidate submitted by the governing board must meet the requirements concerning governing board members.

SECTION 8. IC 16-22-3-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) The governing board may mortgage all or part of an interest in real or personal property owned by the hospital and may enter into a sale and leaseback of hospital property on terms and conditions acceptable to the board.

(b) The following property may be disposed of on terms and conditions acceptable to the board:

- (1) Real or personal property subject to a mortgage or sale and leaseback arrangement.
- (2) Real or personal property in which the hospital has an ownership interest as a participant in an organization or activity described in section 1(b) of this chapter.
- (3) An arrangement in which at least two (2) hospitals participate for the provision of any hospital or related services, including participation or ownership as a tenant in common with other hospitals.

(c) Except as provided in subsection (b), real or personal property or an interest in real or personal property owned by the hospital may be disposed of as follows:

- (1) Personal property:
  - (A) that has limited or no use to the hospital; and
  - (B) that:
    - (i) has value not exceeding ~~fifteen~~ **thirty** thousand dollars ~~(\$15,000); (\$30,000);~~ or
    - (ii) is traded upon purchase of other personal property; may be disposed of without the necessity of advertising, auctioning, or requesting bids.
- (2) Real property that the board considers no longer necessary for hospital purposes shall be sold after the following occur:
  - (A) The property is appraised by three (3) disinterested owners of taxable real property of the county.

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(B) The board publishes notice of the sale one (1) time at least seven (7) days before the date of the sale.

(C) The sale is approved by the commissioners.

The board shall determine the time, terms, and conditions of the sale of property.

(3) Personal property other than property described in subdivision (1) shall be sold at public auction. The board shall publish notice of the sale one (1) time at least seven (7) days before the date of the sale. If sealed bids are solicited in the published notice of the sale, the bids must be opened in public on the date and time of the sale to satisfy the public auction requirement.

Upon the sale of real property under this subsection and the payment of the purchase price, the board and the commissioners shall execute a deed of conveyance to the purchaser. The proceeds of all sales are a part of the hospital funds to be held and used for the use and benefit of the hospital.

(d) If a trust (as defined in IC 30-4-1-1(a)) submits a bid in a sale or lease conducted under subsection (b), (c), or (e), the bid must identify each:

- (1) beneficiary of the trust; and
- (2) settlor empowered to revoke or modify the trust.

(e) If it is determined by the board, the county executive, and the county fiscal body, by joint resolution, that:

- (1) the hospital should cease doing business as a county hospital;
- (2) the hospital should be terminated and dissolved; and
- (3) the entire hospital building or buildings should be sold or leased to a for-profit corporation, partnership, or entity;

the proposed sale or lease shall be considered publicly, and the board, the county executive, and the county fiscal body shall follow the procedures of IC 16-22-6-18 concerning notice and hearing on the terms and provisions of the sale or lease. The terms and provisions of the sale or lease shall be determined by the board, the county executive, and the county fiscal body and shall be presented at a hearing as required by IC 16-22-6-18.

(f) An individual who is a:

- (1) board member in the member's capacity as a board member; or
- (2) member of:
  - (A) the county executive; or
  - (B) the county fiscal body;

is immune from potential or actual liability attributable to the individual with respect to a sale or lease under subsection (e).

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(g) In the event of a sale or lease under this section, the county is not liable for:

- (1) any liabilities of the hospital that:
  - (A) were incurred on or before; or
  - (B) are incurred at any time after; the sale or lease date; or

(2) any future liabilities incurred by the successor entity; unless otherwise agreed to by the county at the time of the sale or lease in the sale or lease document. Any liabilities described in this subsection are the responsibility of the purchasing or leasing entity, unless agreed to otherwise in the sale or lease document.

(h) After the hearing on the proposed sale or lease, if it is determined by the board, the county executive, and the county fiscal body that the sale or lease should proceed, the hospital building or buildings shall be sold or leased in accordance with proposed terms and provisions.

(i) The board, the county executive, and the county fiscal body shall execute:

- (1) a deed of conveyance upon payment of the purchase price if the buildings are sold; or
- (2) a lease upon terms the board, the county executive, and the county fiscal body consider reasonable if the buildings are leased.

(j) The proceeds of the sale or lease of all of the hospital buildings must first be applied to outstanding indebtedness attributable to the hospital buildings. The commissioners shall deposit the balance of the proceeds from the sale or lease and any property in the hospital fund in:

- (1) a nonexpendable interest bearing trust fund from which claims are paid for county hospital claims for the indigent or any other fund that the county executive and county fiscal body designate; or
- (2) the county general fund.

**SECTION 9. [EFFECTIVE JULY 1, 2011] (a) Before November 1, 2011, the health finance commission established by IC 2-5-23-3 shall study and make recommendations on issues concerning the credentialing of vendors in hospitals.**

**(b) This SECTION expires December 1, 2011.**

**SECTION 10. An emergency is declared for this act.**

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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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