February 15, 2012

ENGROSSED
HOUSE BILL No. 1003

DIGEST OF HB 1003 (Updated February 13, 2012 4:02 pm - DI 110)

Citations Affected: IC 4-2; IC 4-12; IC 4-13.6; IC 4-15; IC 5-1.5; IC 5-2; IC 5-10.5; IC 5-13; IC 5-14; IC 5-15; IC 21-9; IC 21-22; IC 21-25; IC 21-27; IC 22-4; IC 25-1; IC 25-37.5; IC 28-11; IC 31-26.

Synopsis: State agency issues. Allows a member of the governing body of any public agency of the state to participate in a meeting of the governing body by electronic communication only if: (1) the meeting meets all other requirements of the open door law; and (2) a majority of the governing body adopts a policy regarding the use of meetings by electronic communication. Provides that if a meeting by electronic communication is conducted the governing body is required to: (1) have the greater of two members or one-third of the governing body physically present at the meeting place; and (2) take only roll call votes. Provides that unless a policy adopted by the governing body provides otherwise, a member who participates in a meeting by electronic communication: (1) is considered to be present at the meeting; (2) must be counted for purposes of establishing a quorum; and (3) may vote at the meeting. Requires each member of the governing body to physically attend at least one meeting annually.
(Continued next page)

Effective: July 1, 2012; January 1, 2013.

Crouch, Dobis, Karickhoff
(SENATE SPONSORS — HOLDMAN, ALTING, BECKER)

January 9, 2012, read first time and referred to Select Committee on Government Reduction.
January 23, 2012, amended, reported — Do Pass.
January 26, 2012, read second time, amended, ordered engrossed.
January 27, 2012, engrossed. Read third time, passed. Yeas 92, nays 0.

SENATE ACTION
February 1, 2012, read first time and referred to Committee on Public Policy.
February 14, 2012, reported favorably — Do Pass.

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Digest Continued

Specifies that a governing body may adopt a policy that allows the public to attend meetings conducted by electronic communication at a public place and where a member is physically present and participates by electronic communication, excluding executive sessions. Requires a governing body to post the governing body's electronic meeting policy on the Internet web site of the governing body or public agency. Specifies that the electronic meeting law does not affect a governing body's right to exclude the public from an executive session conducted by electronic communication. Repeals the individual statutory authorizations for the following state entities to have meetings by electronic communication: (1) State ethics commission. (2) Indiana bond bank board of directors. (3) Indiana public retirement system board of trustees. (4) Board for depositories. (5) Education savings authority board of directors. (6) State board of trustees or a committee of the state board of trustees of Ivy Tech Community College of Indiana, Vincennes University, Ball State University, Indiana State University, Indiana University, Purdue University, and University of Southern Indiana. (7) Commission for higher education. (8) State workforce innovation council. (9) Boards, committees, or commissions administered by the professional licensing agency. (10) Department of financial institutions governing board. (11) Regional services council. Changes the number of annual meetings the following state entities are required to conduct: (1) The state budget committee. (2) The state employees appeals commission (3) The board for depositories. (4) The commission for a drug free Indiana. Provides that a "record", for purposes of the provisions concerning the state commission on public records, includes electronically stored data. Eliminates a requirement that the public works division of the department of administration solicit sealed bids for public works projects by sending notices by mail and posting notices on a bulletin board in the agency's office. Requires the state police department to publish the following on the state police Internet web site: (1) The forms to be used by valuable metal dealers when purchasing valuable metal. (2) A list that describes valuable metal products that are particularly susceptible to theft. (3) The statutes and rules adopted by the superintendent of the state police department concerning the regulation of valuable metal dealers.

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February 15, 2012

Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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ENGROSSED
HOUSE BILL No. 1003

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

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

SECTION 1. IC 4-2-6-4.3, AS ADDED BY P.L.89-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 4.3. ~~(a) This section applies to a commission meeting at which at least three (3) members of the commission are physically present at the place where the meeting is being conducted.~~ The commission may not conduct a hearing under section 4(b)(2)(G) of this chapter ~~under this section.~~ **by using electronic communication under IC 5-14-1.5-3.6.**

~~(b) A commission member may participate in a commission meeting by using a means of communication that permits:~~

~~(1) all other commission members participating in the meeting; and~~

~~(2) all members of the public physically present at the place where the meeting is being conducted;~~

~~to communicate simultaneously with each other during the meeting.~~

~~(c) A commission member who participates in a meeting under subsection (b) is considered to be present at the meeting.~~

~~(d) A commission member who participates in a meeting under subsection (b) may act as a voting member on official action only if at least two (2) commission members physically present at the place where the meeting is being conducted concur in the official action.~~

~~(e) The memoranda of the meeting prepared under IC 5-14-1.5-4 must also state the name of each member who:~~

~~(1) was physically present at the place where the meeting was conducted;~~

~~(2) participated in the meeting by using a means of communication described in subsection (b); or~~

~~(3) was absent.~~

~~(f) A commission member who participates in a meeting under subsection (b) may not cast the deciding vote on any official action.~~

SECTION 2. IC 4-12-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 10. The budget committee shall meet at least once during the two (2) ~~months~~ **month** period after adjournment of each regular session of the general assembly sine die ~~except that beginning with July the committee shall meet at least once each month,~~ and upon call of the chairman. The committee shall fix the time and place for such meetings.

SECTION 3. IC 4-13.6-5-8, AS AMENDED BY P.L.177-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 8. (a) This section applies only to public works contracts bid under section 2 of this chapter.

(b) The division shall solicit sealed bids by public notice inserted once each week for two (2) successive weeks before the final date of submitting bids in:

(1) one (1) newspaper of general circulation in Marion County, Indiana; and

(2) if any part of the project is located in an area outside Marion County, Indiana, one (1) newspaper of general circulation in that area.

The commissioner shall designate the newspapers for these publications. The commissioner may designate different newspapers according to the nature of the project and may direct that additional notices be published.

(c) The division shall also solicit sealed bids for public works projects by ~~(1) sending notices by mail to prospective contractors known to the division; (2) posting notices on a public bulletin board in its office; and (3)~~ providing electronic access to notices through the

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computer gateway administered by the office of technology established by IC 4-13.1-2-1 at least seven (7) days before the final date for submitting bids for the public works project.

SECTION 4. IC 4-15-1.5-5, AS AMENDED BY P.L.178-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. The commission shall meet in rooms provided by the personnel department and assume the duties of office. Three (3) members of the commission shall constitute a quorum for the transaction of business, and a majority of votes cast shall be required for the adoption or approval of any official action. The commission shall elect one (1) of the members as the chairman and another member as vice-chairman and the persons so elected shall hold office for one (1) year and until their successors are elected and qualified. The commission shall hold **at least one (1) annual meeting and** such regular and special meetings ~~each year~~ **as needed** as ~~it~~ **the commission** may prescribe by rule ~~or resolution shall meet on~~ **or upon** the call of the chairman. ~~and shall hold at least one (1) meeting each month.~~

SECTION 5. IC 5-1.5-2-2.5 IS REPEALED [EFFECTIVE JANUARY 1, 2013]. ~~Sec. 2.5. (a) This section applies to a meeting of the board at which at least four (4) members of the board are physically present at the place where the meeting is conducted.~~

~~(b) A member of the board may participate in a meeting of the board by using a means of communication that permits:~~

~~(1) all other members participating in the meeting; and~~

~~(2) all members of the public physically present at the place where the meeting is conducted;~~

~~to simultaneously communicate with each other during the meeting.~~

~~(c) A member who participates in a meeting under subsection (b) is considered to be present at the meeting.~~

~~(d) The memoranda of the meeting prepared under IC 5-14-1.5-4 must also state the name of each member who:~~

~~(1) was physically present at the place where the meeting was conducted;~~

~~(2) participated in the meeting by using a means of communication described in subsection (b); and~~

~~(3) was absent.~~

SECTION 6. IC 5-2-6-16, AS AMENDED BY P.L.44-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 16. (a) As used in this chapter, "local coordinating council" means a countywide citizen body approved and appointed by the commission for a drug free Indiana to plan, monitor, and evaluate comprehensive local alcohol and drug abuse plans.

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(b) The commission for a drug free Indiana is established (referred to in this section as "commission"). The criminal justice institute may adopt rules under IC 4-22-2 to administer the commission. The commission must consist of twenty (20) members described under subsections (d) and (e) who have distinguished themselves in their respective fields and who have experience or an interest in attempting to eliminate alcohol and other drug abuse in Indiana.

(c) The commission's purpose is to improve the coordination of alcohol and other drug abuse efforts at both the state and local levels in an effort to eliminate duplication of efforts while ensuring that comprehensive alcohol and other drug programs are available throughout Indiana. The commission's responsibilities include the following:

(1) Establishing an interagency council on drugs to coordinate the alcohol and other drug education, prevention, treatment, and justice programming and funding responsibilities of state agencies, commissions, and boards including the approval of alcohol and other drug plans and funding applications by state agencies, commissions, and boards.

(2) Coordinating the collection of data concerning alcohol and other drug abuse and the needs, programming, and effectiveness of state supported programs and services.

(3) Maintaining a system of support to assist local coordinating councils with technical assistance, guidance, or direct funding resources.

(4) Continuing to assist the development of local coordinating councils to identify community drug programs, coordinate community initiatives, design comprehensive, collaborative community strategies, and monitor anti-drug activities at the local level.

(5) Establishing roles, responsibilities, and performance standards for the local coordinating councils.

(6) Recommending to the governor and general assembly long and short range goals, objectives, and strategies, including legislative proposals to be implemented on the state and local level to reduce drug abuse.

(7) Assisting local communities in the development of citizen based drug related crime control efforts.

(d) The commission must be comprised of the following voting members:

(1) The governor or the governor's designee.

(2) Fifteen (15) members appointed by the governor for a two (2)

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year term, who have experience or expertise in at least one (1) of the following areas:

(A) Family relations.
(B) Religion.
(C) Education.
(D) Civic or private organizations.
(E) Business.
(F) Media.
(G) Drug treatment.
(H) Medicine.
(I) Local government.
(J) Judiciary.
(K) Law enforcement.
(L) Self-help organizations.
(M) Youth.
(N) A representative of the interagency council against drugs established under subsection (c)(1).
(O) Labor.

(e) Four (4) members of the general assembly shall serve as nonvoting members of the commission. The president pro tempore of the senate shall appoint two (2) senators, both of whom may not be members of the same political party. The speaker of the house of representatives shall appoint two (2) representatives, both of whom may not be members of the same political party.

(f) The governor or the governor's designee shall serve as the chairman of the commission.

(g) The commission shall meet ~~one (1) time per month~~ **quarterly or** at the call of the chairman.

(h) Eight (8) voting members of the commission constitute a quorum. The commission is not prohibited from conducting business as a result of a vacancy in the commission. In the case of a vacancy, a new appointee shall serve for the remainder of the unexpired term. A vacancy shall be filled from the same group that was represented by the outgoing member.

(i) All appointments of the commission's members are renewable.

(j) A member of the commission who is not a state employee is not entitled to a minimum salary per diem provided by IC 4-10-11-2.1(b). The member is, however, entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

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(k) A member of the commission who is a state employee is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

SECTION 7. IC 5-10.5-3-9 IS REPEALED [EFFECTIVE JANUARY 1, 2013]. ~~Sec. 9. (a) This section applies to any meeting of the board.~~

~~(b) A member of the board may participate in a meeting of the board using any means of communication that permits:~~

~~(1) all other board members participating in the meeting; and~~

~~(2) all members of the public physically present at the place where the meeting is conducted;~~

~~to simultaneously communicate with the member during the meeting.~~

~~(c) A member of the board who participates in a meeting under subsection (b) is considered to be present at the meeting.~~

~~(d) The memorandum of the meeting prepared under IC 5-14-1.5-4 must also state the name of each member who:~~

~~(1) was physically present at the place where the meeting was conducted;~~

~~(2) participated in the meeting using a means of communication described in subsection (b); or~~

~~(3) was absent.~~

SECTION 8. IC 5-13-12-2, AS AMENDED BY P.L.115-2010, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) The board for depositories consists of the governor, the treasurer of state, the auditor of state, the chairperson of the department of financial institutions, the chief examiner of the state board of accounts, and four (4) appointed members. For appointments after June 30, 2010, one (1) member shall be appointed by the speaker of the house of representatives, one (1) member shall be appointed by the president pro tempore of the senate, and two (2) members shall be appointed by the governor. All appointed members must be residents of Indiana. The speaker of the house of representatives shall make the appointment to fill the first vacancy on the board, and the president pro tempore of the senate shall make the appointment to fill the second vacancy on the board that occurs after June 30, 2010. In making the governor's two (2) appointments, the governor shall assure that no more than two (2) of the four (4) appointees identify with the same political party. For appointments after June 30, 2010, all four (4) appointed members must be a chief executive officer or a chief financial officer of a depository at the time of the appointment if the depository is

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domiciled in Indiana. If the depository is not domiciled in Indiana, the appointee must be the most senior corporate officer of the depository with management or operational responsibility, or both, or the person designated to manage public funds for the depository that is located in Indiana. In making the governor's appointments, the governor shall provide for geographic representation of all regions of Indiana, including both urban and rural communities. In addition, the appointees must, at the time of the appointment, be employed by the following depositories:

(1) One (1) member appointed by the governor who must be the chief executive officer or the chief financial officer of a depository that is a state chartered credit union.

(2) One (1) member appointed by the governor who must be employed by a depository that:

(A) is not a state chartered credit union; and

(B) has total deposits of less than two hundred fifty million dollars ($250,000,000).

(3) The member appointed by the president pro tempore of the senate must be employed by a depository that:

(A) is not a state chartered credit union; and

(B) has total deposits of at least two hundred fifty million dollars ($250,000,000) but less than one billion dollars ($1,000,000,000).

(4) The member appointed by the speaker of the house of representatives must be employed by a depository that:

(A) is not a state chartered credit union; and

(B) has total deposits of at least one billion dollars ($1,000,000,000).

Total deposits shall be determined using the depository's reported deposits based on the information contained in the most recent June 30th FDIC Summary of Deposits, Market Share Selection for Indiana. The term of an appointed member is four (4) years from the effective date of the member's appointment. Each appointed member holds office for the term of this appointment and serves after the expiration of that appointment until the member's successor is appointed and qualified. An appointed member may be reappointed if the individual satisfies the requirements of this subsection at the time of the reappointment. Any appointed member may be removed from office by, and at the pleasure of, the appointing authority.

(b) The officers of the board consist of a chairman, a secretary-investment manager, a vice chairman, and other officers the board determines to be necessary. The governor shall name a member

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of the board to serve as its chairman. The treasurer of state shall serve as the secretary-investment manager of the board. The board, by majority vote, shall elect the other officers. Officers, except the secretary-investment manager, shall be named or elected for one (1) year terms in January of each year. The members and officers of the board are not entitled to any compensation for their services but are entitled to reimbursement for actual and necessary expenses on the same basis as state employees.

(c) Five (5) members of the board constitute a quorum for the transaction of business, and all actions of the board must be approved by at least a simple majority of those members voting on each individual business issue. The board may adopt, amend, or repeal bylaws and rules for the conduct of its meetings and the number and times of its meetings. The board shall hold a regular meeting at least once ~~each calendar quarter~~ **semiannually** and may hold other regular and special meetings as prescribed in its rules. All meetings of the board are open to the public under IC 5-14-1.5. However, the board shall discuss the following in executive session:

(1) The financial strength of a particular financial institution.

(2) The collateral requirements of a particular financial institution.

(3) Any other matters concerning a particular financial institution.

All records of the board are subject to public inspection under IC 5-14-3. However, records regarding matters that are discussed in executive session are confidential.

(d) Two (2) days notice of the time and place of all meetings to determine and fix the assessment rate to be paid by depositories on account of insurance on public funds or the establishment or redetermination of the reserve for losses of the insurance fund shall be given by one (1) publication in a newspaper of general circulation printed and published in the city of Indianapolis. The time, place, notice, and waiver requirements for the members of the board for all meetings shall be determined by its rules. The secretary-investment manager of the board shall enter ~~its~~ **the board's** proceedings at length in a record provided for that purpose, and the records of the proceedings shall be approved and signed respectively by the chairman or vice chairman and attested by the secretary-investment manager.

SECTION 9. IC 5-13-12-2.5 IS REPEALED [EFFECTIVE JANUARY 1, 2013]. ~~Sec. 2.5. (a) This section applies to a meeting of the board for depositories at which at least five (5) members of the board are physically present at the place where the meeting is conducted.~~

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~~(b) A member of the board may participate in a meeting of the board by using a means of communication that permits:~~

~~(1) all other members participating in the meeting; and~~

~~(2) all members of the public physically present at the place where the meeting is conducted;~~

~~to simultaneously communicate with each other during the meeting.~~

~~(c) A member who participates in a meeting under subsection (b) is considered to be present at the meeting.~~

~~(d) A member who participates in a meeting under subsection (b) may act as a voting member on official action only if that official action is voted upon by at least five (5) members of the board physically present at the place where the meeting is conducted.~~

~~(e) The memoranda of the meeting prepared under IC 5-14-1.5-4 must also state the name of each member who:~~

~~(1) was physically present at the place where the meeting was conducted;~~

~~(2) participated in the meeting by using a means of communication described in subsection (b); and~~

~~(3) was absent.~~

~~(f) A member who participates in a meeting under subsection (b) may not cast the deciding vote on any official action.~~

SECTION 10. IC 5-14-1.5-3, AS AMENDED BY P.L.179-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 3. (a) Except as provided in section 6.1 of this chapter, all meetings of the governing bodies of public agencies must be open at all times for the purpose of permitting members of the public to observe and record them.

(b) A secret ballot vote may not be taken at a meeting.

(c) A meeting conducted in compliance with ~~IC 5-1.5-2-2.5~~ **section 3.5 or 3.6 of this chapter or any other statute that authorizes a governing body to conduct a meeting using an electronic means of communication** does not violate this section.

~~(d) A member of the governing body of a public agency who is not physically present at a meeting of the governing body but who communicates with members of the governing body during the meeting by telephone, computer, videoconferencing, or any other electronic means of communication:~~

~~(1) may not participate in final action taken at the meeting unless the member's participation is expressly authorized by statute; and~~

~~(2) may not be considered to be present at the meeting unless considering the member to be present at the meeting is expressly authorized by statute.~~

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~~(c) The memoranda of a meeting prepared under section 4 of this chapter that a member participates in by using a means of communication described in subsection (d) must state the name of:~~

~~(1) each member who was physically present at the place where the meeting was conducted;~~

~~(2) each member who participated in the meeting by using a means of communication described in this section; and~~

~~(3) each member who was absent.~~

SECTION 11. IC 5-14-1.5-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2013]: **Sec. 3.5. (a) This section applies only to a governing body of a public agency of a political subdivision.**

(b) A member of the governing body of a public agency who is not physically present at a meeting of the governing body but who communicates with members of the governing body during the meeting by telephone, computer, video conferencing, or any other electronic means of communication:

(1) may not participate in final action taken at the meeting unless the member's participation is expressly authorized by statute; and

(2) may not be considered to be present at the meeting unless considering the member to be present at the meeting is expressly authorized by statute.

(c) The memoranda prepared under section 4 of this chapter for a meeting in which a member participates by using a means of communication described in subsection (b) must state the name of:

(1) each member who was physically present at the place where the meeting was conducted;

(2) each member who participated in the meeting by using a means of communication described in subsection (b); and

(3) each member who was absent.

SECTION 12. IC 5-14-1.5-3.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2013]: **Sec. 3.6. (a) This section applies only to a governing body of a public agency of the state, including a body corporate and politic established as an instrumentality of the state.**

(b) A member of the governing body of a public agency who is not physically present at a meeting of the governing body may participate in a meeting of the governing body by electronic communication only if the member uses a means of communication

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that permits:

(1) the member;

(2) all other members participating in the meeting;

(3) all members of the public physically present at the place where the meeting is conducted; and

(4) if the meeting is conducted under a policy adopted under subsection (g)(7), all members of the public physically present at a public location at which a member participates by means of electronic communication;

to simultaneously communicate with each other during the meeting.

(c) The governing body must fulfill both of the following requirements for a member of the governing body to participate in a meeting by electronic communication:

(1) The minimum number of members who must be physically present at the place where the meeting is conducted must be the greater of:

(A) two (2) of the members; or

(B) one-third (1/3) of the members.

(2) All votes of the governing body during the electronic meeting must be taken by roll call vote.

Nothing in this section affects the public's right under this chapter to attend a meeting of the governing body at the place where the meeting is conducted and the minimum number of members is physically present as provided for in subdivision (1).

(d) Each member of the governing body is required to physically attend at least one (1) meeting of the governing body annually.

(e) Unless a policy adopted by a governing body under subsection (g) provides otherwise, a member who participates in a meeting by electronic communication:

(1) is considered to be present at the meeting;

(2) shall be counted for purposes of establishing a quorum; and

(3) may vote at the meeting.

(f) A governing body may not conduct meetings using a means of electronic communication until the governing body:

(1) meets all requirements of this chapter; and

(2) by a favorable vote of a majority of the members of the governing body, adopts a policy under subsection (g) governing participation in meetings of the governing body by electronic communication.

(g) A policy adopted by a governing body to govern

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participation in the governing body's meetings by electronic communication may do any of the following:

(1) Require a member to request authorization to participate in a meeting of the governing body by electronic communication within a certain number of days before the meeting to allow for arrangements to be made for the member's participation by electronic communication.

(2) Subject to subsection (e), limit the number of members who may participate in any one (1) meeting by electronic communication.

(3) Limit the total number of meetings that the governing body may conduct in a calendar year by electronic communication.

(4) Limit the number of meetings in a calendar year in which any one (1) member of the governing body may participate by electronic communication.

(5) Provide that a member who participates in a meeting by electronic communication may not cast the deciding vote on any official action.

(6) Require a member participating in a meeting by electronic communication to confirm in writing the votes cast by the member during the meeting within a certain number of days after the date of the meeting.

(7) Provide that in addition to the location where a meeting is conducted, the public may also attend some or all meetings of the governing body, excluding executive sessions, at a public place or public places at which a member is physically present and participates by electronic communication. If the governing body's policy includes this provision, a meeting notice must provide the following information:

(A) The identity of each member who will be physically present at a public place and participate in the meeting by electronic communication.

(B) The address and telephone number of each public place where a member will be physically present and participate by electronic communication.

(C) Unless the meeting is an executive session, a statement that a location described in clause (B) will be open and accessible to the public.

(8) Require at least a quorum of members to be physically present at the location where the meeting is conducted.

(9) Provide that a member participating by electronic

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communication may vote on official action only if, subject to subsection (e), a specified number of members:

(A) are physically present at the location where the meeting is conducted; and

(B) concur in the official action.

(10) Establish any other procedures, limitations, or conditions that govern participation in meetings of the governing body by electronic communication and are not in conflict with this chapter.

(g) The policy adopted by the governing body must be posted on the Internet web site of the governing body or the public agency.

(h) Nothing in this section affects a public agency's right to exclude the public from an executive session in which a member participates by electronic communication.

SECTION 13. IC 5-14-1.5-4, AS AMENDED BY P.L.2-2007, SECTION 99, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 4. (a) A governing body of a public agency utilizing an agenda shall post a copy of the agenda at the entrance to the location of the meeting prior to the meeting. A rule, regulation, ordinance, or other final action adopted by reference to agenda number or item alone is void.

(b) As the meeting progresses, the following memoranda shall be kept:

(1) The date, time, and place of the meeting.

(2) The members of the governing body recorded as either present or absent.

(3) The general substance of all matters proposed, discussed, or decided.

(4) A record of all votes taken by individual members if there is a roll call.

(5) Any additional information required under ~~IC 5-1.5-2-2.5.~~ **section 3.5 or 3.6 of this chapter or any other statute that authorizes a governing body to conduct a meeting using an electronic means of communication.**

(c) The memoranda are to be available within a reasonable period of time after the meeting for the purpose of informing the public of the governing body's proceedings. The minutes, if any, are to be open for public inspection and copying.

SECTION 14. IC 5-15-5.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. As used in this chapter:

"Commission" means the commission on public records created by

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this chapter.

"Record" means all documentation of the informational, communicative or decisionmaking processes of state government, its agencies and subdivisions made or received by any agency of state government or its employees in connection with the transaction of public business or government functions, which documentation is created, received, retained, maintained, or filed by that agency or its successors as evidence of its activities or because of the informational value of the data in the documentation, and which is:

(1) generated on:

~~(1)~~ **(A)** paper or paper substitutes;

~~(2)~~ **(B)** photographic or chemically based media;

~~(3)~~ **(C)** magnetic or machine readable media; or

~~(4)~~ **(D)** any other materials, regardless of form or characteristics; **or**

(2) electronically stored data.

"Nonrecord materials" means all identical copies of forms, records, reference books, and exhibit materials which are made, or acquired, and preserved solely for reference use, exhibition purposes, or publication and which are not included within the definition of record.

"Personal records" means:

(1) all documentary materials of a private or nonpublic character which do not relate to or have an effect upon the carrying out of the constitutional, statutory, or other official or ceremonial duties of a public official, including: diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal which are not prepared or utilized for, or circulated or communicated in the course of, transacting government business; or

(2) materials relating to private political associations, and having no relation to or effect upon the carrying out of constitutional, statutory, or other official or ceremonial duties of a public official and are not deemed public records.

"Form" means every piece of paper, transparent plate, or film containing information, printed, generated, or reproduced by whatever means, with blank spaces left for the entry of additional information to be used in any transaction involving the state.

"Agency" means any state office, department, division, board, bureau, commission, authority, or other separate unit of state government established by the constitution, law, or by executive or legislative order.

"Public official" means an individual holding a state office created

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by the Constitution of Indiana, by act or resolution of the general assembly, or by the governor; all officers of the executive and administrative branch of state government; and all other officers, heads, presidents, or chairmen of agencies of state government.

"Indiana state archives" means the program maintained by the commission for the preservation of those records and other government papers that have been determined by the commission to have sufficient permanent values to warrant their continued preservation by the state.

"Forms management" means the program maintained by the commission to provide continuity of forms design procedures from the form's origin up to its completion as a record by determining the form's size, style, and size of type; format; type of construction; number of plies; quality, weight, and type of paper and carbon; and by determining the use of the form for data entry as well as the distribution.

"Information management" means the program maintained by the commission for the application of management techniques to the purchase, creation, utilization, maintenance, retention, preservation, and disposal of forms and records undertaken to improve efficiency and reduce costs of recordkeeping; including management of filing and microfilming equipment and supplies, filing and information retrieval systems, files, correspondence, reports and forms management, historical documentation, micrographic retention programming, and critical records protection.

"Records center" means a program maintained by the commission primarily for the storage, processing, retrieving, servicing, and security of government records that must be retained for varying periods of time but should not be maintained in an agency's office equipment or space.

"Critical records" means records necessary to resume or continue governmental operations, the reestablishing of the legal and financial responsibilities of government in the state, or to protect and fulfill governmental obligations to the citizens of the state.

"Retention schedule" means a set of instructions prescribing how long, where, and in what form a record series shall be kept.

"Records series" means documents or records that are filed in a unified arrangement, and having similar physical characteristics or relating to a similar function or activity.

"Records coordinator" means a person designated by an agency to serve as an information liaison person between the agency and the commission.

SECTION 15. IC 21-9-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 5. (a) Five (5)

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members of the board are a quorum for:

(1) the transaction of business at a meeting of the board; or

(2) the exercise of a power or function of the authority.

~~(b) This subsection applies to a meeting of the board at which at least five (5) members of the board are physically present at the place where the meeting is conducted. A member of the board may participate in a meeting of the board by using a means of communication that permits:~~

~~(1) the member;~~

~~(2) all other members participating in the meeting; and~~

~~(3) all members of the public physically present at the place where the meeting is conducted;~~

~~to simultaneously communicate with each other during the meeting. A member who participates in a meeting described in this subsection is considered to be present at the meeting. If a meeting is held under this subsection, the memoranda of the meeting prepared under IC 5-14-1.5-4 must state the name of each member who was physically present at the place where the meeting was conducted, who participated in the meeting by using a means of communication described in this subsection, and who was absent from the meeting.~~

~~(c)~~ **(b)** The affirmative vote of a majority of all the members of the board who are present is necessary for the authority to take action. A vacancy in the membership of the board does not impair the right of a quorum to exercise all the rights and perform all the duties of the authority. An action taken by the board under this article may be authorized by:

(1) resolution at any regular or special meeting; or

(2) unanimous consent of all the members who have not abstained.

A resolution takes effect immediately upon adoption and need not be published or posted.

~~(d)~~ **(c)** The board shall meet at the call of the chairman and as provided in the bylaws of the authority.

~~(e)~~ **(d)** Meetings of the board may be held anywhere in Indiana.

SECTION 16. IC 21-22-3-5 IS REPEALED [EFFECTIVE JANUARY 1, 2013]. ~~Sec. 5. (a) This section applies to a meeting of the state board or a committee of the state board at which at least a quorum of the board or the committee is physically present at the place where the meeting is conducted.~~

~~(b) A member of the state board or a committee of the state board may participate in a meeting of the state board or a committee of the state board by using a means of communication that permits:~~

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~~(1) all other members participating in the meeting; and~~

~~(2) all members of the public physically present at the place where the meeting is conducted;~~

~~to simultaneously communicate with each other during the meeting.~~

~~(c) A member who participates in a meeting by using a means of communication described in subsection (b) is considered to be present at the meeting.~~

~~(d) The memoranda of the meeting prepared under IC 5-14-1.5-4 must state the name of:~~

~~(1) each member who was physically present at the place where the meeting was conducted;~~

~~(2) each member who participated in the meeting by using a means of communication described in subsection (b); and~~

~~(3) each member who was absent.~~

SECTION 17. IC 21-25-3-8 IS REPEALED [EFFECTIVE JANUARY 1, 2013]. ~~Sec. 8. (a) This section applies to a meeting of the board of trustees or a committee of the board of trustees at which at least a quorum of the board or the committee is physically present at the place where the meeting is conducted.~~

~~(b) A member of the board or a committee of the board may participate in a meeting of the board or the committee by using a means of communication that permits:~~

~~(1) all other members participating in the meeting; and~~

~~(2) all members of the public physically present at the place where the meeting is conducted;~~

~~to simultaneously communicate with each other during the meeting.~~

~~(c) A member who participates in a meeting by using a means of communication described in subsection (b) is considered to be present at the meeting.~~

~~(d) The memoranda of the meeting prepared under IC 5-14-1.5-4 must state the name of:~~

~~(1) each member who was physically present at the place where the meeting was conducted;~~

~~(2) each member who participated in the meeting by using a means of communication described in subsection (b); and~~

~~(3) each member who was absent.~~

SECTION 18. IC 21-27-2-2 IS REPEALED [EFFECTIVE JANUARY 1, 2013]. ~~Sec. 2. (a) This section applies to a meeting of:~~

~~(1) the board of trustees or a committee of the board of trustees of any state educational institution (as defined in IC 21-7-13-32); or~~

~~(2) the commission for higher education established under IC 21-18-2-1.~~

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~~(b) A member of the board of trustees or the commission for higher education may participate in a meeting of the board or commission:~~

~~(1) at which at least a quorum is physically present at the place where the meeting is conducted; and~~

~~(2) by using a means of communication that permits:~~

~~(A) all other members participating in the meeting; and~~

~~(B) all members of the public physically present at the place where the meeting is conducted;~~

~~to simultaneously communicate with each other during the meeting.~~

~~(c) A member of a committee of the board of trustees may participate in a committee meeting by using a means of communication that permits:~~

~~(1) all other members participating in the meeting; and~~

~~(2) all members of the public physically present at the place where the meeting is conducted;~~

~~to simultaneously communicate with each other during the meeting.~~

~~(d) A member who participates in a meeting under subsection (b) or (c) is considered to be present at the meeting.~~

~~(e) The memoranda of the meeting prepared under IC 5-14-1.5-4 must state the name of:~~

~~(1) each member who was physically present at the place where the meeting was conducted;~~

~~(2) each member who participated in the meeting by using a means of communication described in subsection (b) or (c); and~~

~~(3) each member who was absent.~~

SECTION 19. IC 22-4-18.1-6.5 IS REPEALED [EFFECTIVE JANUARY 1, 2013]. ~~Sec. 6.5. (a) This section applies to a meeting of the council at which at least half of the members appointed to the council are physically present at the place where the meeting is conducted.~~

~~(b) A member of the council may participate in a meeting of the council using a means of communication that permits:~~

~~(1) all other members of the council participating in the meeting; and~~

~~(2) all members of the public physically present at the place where the meeting is conducted;~~

~~to simultaneously communicate with each other during the meeting.~~

~~(c) A member who participates in a meeting under subsection (b) is considered to be present at the meeting and may vote on any matter properly presented during the meeting.~~

~~(d) A member who participates in a meeting under subsection (b)~~

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~~shall confirm in writing not more than five (5) days after the date of the meeting the votes cast by the member during the meeting. The member may send the confirmation by United States mail or facsimile.~~

~~(e) A member shall attend at least three (3) meetings of the council during a calendar year in person.~~

~~(f) The memorandum of the meeting prepared under IC 5-14-1.5-4 must also state the name of each member who:~~

~~(1) was physically present at the place where the meeting was conducted;~~

~~(2) participated in the meeting using a means of communication described in subsection (b); and~~

~~(3) was absent.~~

SECTION 20. IC 25-1-14 IS REPEALED [EFFECTIVE JANUARY 1, 2013]. (Meetings).

SECTION 21. IC 25-37.5-1-2, AS AMENDED BY P.L.158-2009, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) Except as provided in section 5 of this chapter, every valuable metal dealer in this state shall enter on forms provided **under section 6 of this chapter** by the state police department for each purchase of valuable metal the following information:

(1) The name and address of the dealer.

(2) The date and place of each purchase.

(3) The name, address, age, and driver's license number or Social Security number of the person or persons from whom the valuable metal was purchased.

(4) The valuable metal dealer shall verify the identity of the person from whom the valuable metal was purchased by use of a government issued photographic identification. The dealer shall enter on the form the type of government issued photographic identification used to verify the identity of the person from whom the valuable metal was purchased, together with the:

(A) name of the government agency that issued the photographic identification; and

(B) identification number present on the government issued photographic identification.

(5) The motor vehicle license number of the vehicle or conveyance on which the valuable metal was delivered to the dealer.

(6) The price paid for the metal.

(7) A description and weight of the valuable metal purchased.

(8) The source of the valuable metal.

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(9) The photograph described in subsection (b).

After entering the information required in this subsection, the valuable metal dealer shall require the person or persons from whom the valuable metal is purchased to sign the form and verify its accuracy.

(b) In addition to collecting the information described in subsection (a), a valuable metal dealer shall take a photograph of:

(1) the person from whom the valuable metal is being purchased; and

(2) the valuable metal.

(c) A valuable metal dealer shall make and retain a copy of the government issued photographic identification described under subsection (a)(4) used to verify the identity of the person from whom valuable metal was purchased and the photograph described in subsection (b). However, a valuable metal dealer is not required to make a copy of a government issued photographic identification used under subsection (a)(4) to verify the identity of the person from whom valuable metal is purchased if the valuable metal dealer has retained a copy of a person's government issued photographic identification from a prior purchase from the person by the valuable metal dealer.

(d) The completed form, the photograph described in subsection (b), and the copy of the government issued photographic identification described in subsection (c) shall be kept in a separate book or register by the dealer and shall be retained for a period of two (2) years. This book or register shall be made available for inspection by any law enforcement official at any time.

(e) A valuable metal dealer may not accept a damaged or an undamaged metal beer keg if either of the following applies:

(1) The keg is clearly marked as the property of a brewery manufacturer.

(2) The keg's identification markings have been made illegible.

SECTION 22. IC 25-37.5-1-3, AS AMENDED BY P.L.158-2009, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. The superintendent of the state police department may adopt rules under IC 4-22-2 as may be necessary to administer and enforce the provisions and intent of this chapter. ~~The superintendent shall also prepare and distribute a list to each valuable metal dealer describing valuable metal products that are particularly susceptible to theft.~~

SECTION 23. IC 25-37.5-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. The state police department shall ~~prepare the forms provided for in section 2 of this chapter, shall make a reasonable supply of the forms available at the~~

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~~office of the county sheriff of each county and shall provide the forms to any individual upon request.~~ **publish the following on the state police Internet web site:**

(1) The forms described in section 2(a) of this chapter to be used by valuable metal dealers when purchasing valuable metal.

(2) A list that describes valuable metal products that are particularly susceptible to theft.

(3) The:

(A) statutes; and

(B) rules adopted by the superintendent of the state police department under section 3 of this chapter;

concerning the regulation of valuable metal dealers.

SECTION 24. IC 28-11-1-9.1 IS REPEALED [EFFECTIVE JANUARY 1, 2013]. ~~Sec. 9.1. (a) This section applies to a meeting of the members at which at least four (4) members are physically present at the place where the meeting is conducted.~~

~~(b) A member may participate in a meeting of the members by using a means of communication that permits:~~

~~(1) all other members participating in the meeting; and~~

~~(2) all members of the public physically present at the place where the meeting is conducted;~~

~~to simultaneously communicate with each other during the meeting.~~

~~(c) A member who participates in a meeting under subsection (b) is considered to be present at the meeting.~~

~~(d) A member who participates in a meeting under subsection (b) may act as a voting member on official action only if that official action is voted upon by at least four (4) members of the board physically present at the place where the meeting is conducted.~~

~~(e) The memoranda of the meeting prepared under IC 5-14-1.5-4 must state the name of each member who:~~

~~(1) was physically present at the place where the meeting was conducted;~~

~~(2) participated in the meeting by using a means of communication described in subsection (b); and~~

~~(3) was absent.~~

~~(f) A member who participates in a meeting under subsection (b) may not cast the deciding vote on any official action.~~

SECTION 25. IC 31-26-6-13 IS REPEALED [EFFECTIVE JANUARY 1, 2013]. ~~Sec. 13. (a) This section applies to a meeting of a regional services council at which at least four (4) voting members of the council are physically present at the place where the meeting is~~

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~~conducted.~~

~~(b) A member of the regional services council may participate in a meeting of the council by using a means of communication that allows:~~

~~(1) all other members participating in the meeting; and~~

~~(2) all members of the public physically present at the place where the meeting is conducted;~~

~~to communicate simultaneously with each other during the meeting.~~

~~(c) A member who participates in a meeting under subsection (b) is considered to be present at the meeting.~~

~~(d) The memoranda of the meeting prepared under IC 5-14-1.5-4 must state the name of each member who:~~

~~(1) was physically present at the place where the meeting was conducted;~~

~~(2) participated in the meeting by using a means of communication described in subsection (b); or~~

~~(3) was absent.~~

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Select Committee on Government Reduction, to which was referred House Bill 1003, 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, delete lines 18 through 23.

Page 11, line 14, delete "any" and insert "**a public**".

Page 12, delete lines 21 through 32, begin a new line block indented and insert:

"**(7) Provide that in addition to the location where a meeting is conducted, the public may also attend some or all meetings of the governing body, excluding executive sessions, at a public place or public places at which a member is physically present and participates by electronic communication. If the governing body's policy includes this provision, a meeting notice must provide the following information:**

(A) The identity of each member who will be physically present at a public place and participate in the meeting by electronic communication.

(B) The address and telephone number of each public place where a member will be physically present and participate by electronic communication.

(C) Unless the meeting is an executive session, a statement that a location described in clause (B) will be open and accessible to the public.".

Page 13, between lines 2 and 3, begin a new paragraph and insert:

"**(g) The policy adopted by the governing body must be posted on the Internet web site of the governing body or the public agency.**

(h) Nothing in this section affects a public agency's right to exclude the public from an executive session in which a member participates by electronic communication.".

Page 15, delete lines 29 through 42.

Page 16, delete lines 1 through 14.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1003 as introduced.)

DOBIS, Chair

Committee Vote: yeas 11, nays 0.

C o p y

HOUSE MOTION

Mr. Speaker: I move that House Bill 1003 be amended to read as follows:

Page 11, line 7, delete "(f)(7)," and insert "**(g)(7),**".

Page 11, delete lines 15 through 17, begin a new line block indented and insert:

"**(1) The minimum number of members who must be physically present at the place where the meeting is conducted must be the greater of:**

(A) two (2) of the members; or

(B) one-third (1/3) of the members.".

Page 11, between lines 19 and 20, begin a new paragraph and insert:

"**(d) Each member of the governing body is required to physically attend at least one (1) meeting of the governing body annually.**".

Page 11, line 20, delete "(d)" and insert "**(e)**".

Page 11, line 21, delete "(f)" and insert "**(g)**".

Page 11, line 27, delete "(e)" and insert "**(f)**".

Page 11, delete lines 30 through 32, begin a new line block indented and insert:

"**(2) by a favorable vote of a majority of the members of the governing body, adopts a policy under subsection (g) governing participation in meetings of the governing body by electronic communication.**".

Page 11, line 33, delete "(f)" and insert "**(g)**".

Page 11, line 41, delete "(d)," and insert "**(e),**".

Page 12, line 35, delete "(d)," and insert "**(e),**".

(Reference is to HB 1003 as printed January 23, 2012.)

CROUCH

C o p y

HOUSE MOTION

Mr. Speaker: I move that House Bill 1003 be amended to read as follows:

Page 11, between lines 19 and 20, begin a new line blocked left and insert:

"**Nothing in this section affects the public's right under this chapter to attend a meeting of the governing body at the place where the meeting is conducted and the minimum number of members is physically present as provided for in subdivision (1).**".

(Reference is to HB 1003 as printed January 23, 2012.)

PIERCE

COMMITTEE REPORT

Madam President: The Senate Committee on Public Policy, to which was referred House Bill No. 1003, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to House Bill 1003 as printed January 27, 2012.)

ALTING, Chairperson

Committee Vote: Yeas 9, Nays 0.

C o p y