



Reprinted
February 21, 2012

ENGROSSED SENATE BILL No. 107

DIGEST OF SB 107 (Updated February 20, 2012 2:16 pm - DI 87)

Citations Affected: IC 36-2; IC 36-3; IC 36-4; IC 36-5; IC 36-6;
IC 36-8.

Synopsis: Deadline for adoption of salary ordinances. Requires a second or third class city to adopt a salary ordinance not later than November 1 (instead of September 30) for the ensuing budget year. Allows the fiscal body of a county, city, or town to vote to reduce the salaries of the body's members in a year in which there is not an election of members. Removes the requirement that the vote of a township legislative body be unanimous in order to reduce the salaries of the members of the township legislative body.

Effective: July 1, 2012.

**Zakas, Lawson C, Hume, Broden,
Randolph**
(HOUSE SPONSOR — NEESE)

January 4, 2012, read first time and referred to Committee on Local Government.
January 26, 2012, amended, reported favorably — Do Pass.
January 31, 2012, read second time, amended, ordered engrossed.
February 1, 2012, engrossed. Read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

February 9, 2012, read first time and referred to Committee on Local Government.
February 16, 2012, reported — Do Pass.
February 20, 2012, read second time, amended, ordered engrossed.

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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.

ENGROSSED SENATE BILL No. 107

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 36-2-3-11 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2012]: **Sec. 11. In a year in which there is not an election of**
4 **members to the county fiscal body, the county fiscal body may, by**
5 **vote, reduce the salaries of the members of the county fiscal body**
6 **by any amount.**

7 SECTION 2. IC 36-3-6-10 IS ADDED TO THE INDIANA CODE
8 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
9 1, 2012]: **Sec. 10. In a year in which there is not an election of**
10 **members to the city-county fiscal body, the city-county fiscal body**
11 **may, by vote, reduce the salaries of the members of the city-county**
12 **fiscal body by any amount.**

13 SECTION 3. IC 36-4-7-3, AS AMENDED BY P.L.169-2006,
14 SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2012]: **Sec. 3. (a)** This section does not apply to compensation
16 paid by a city to members of its police and fire departments.

17 (b) Subject to the approval of the city legislative body, the city

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1 executive shall fix the compensation of each appointive officer, deputy,
 2 and other employee of the city. The legislative body may reduce but
 3 may not increase any compensation fixed by the executive.
 4 Compensation must be fixed under this section not later than
 5 ~~September 30~~ **November 1** of each year for the ensuing budget year.

6 (c) Compensation fixed under this section may be increased or
 7 decreased by the executive during the budget year for which it is fixed.

8 (d) Notwithstanding subsection (b), the city clerk may, with the
 9 approval of the legislative body, fix the salaries of deputies and
 10 employees appointed under IC 36-4-11-4.

11 SECTION 4. IC 36-4-7-12 IS ADDED TO THE INDIANA CODE
 12 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 13 1, 2012]: **Sec. 12. In a year in which there is not an election of**
 14 **members to the city fiscal body, the city fiscal body may, by vote,**
 15 **reduce the salaries of the members of the city fiscal body by any**
 16 **amount.**

17 SECTION 5. IC 36-5-3-7 IS ADDED TO THE INDIANA CODE
 18 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 19 1, 2012]: **Sec. 7. In a year in which there is not an election of**
 20 **members to the town fiscal body, the town fiscal body may, by vote,**
 21 **reduce the salaries of the members of the town fiscal body by any**
 22 **amount.**

23 SECTION 6. IC 36-6-6-10, AS AMENDED BY P.L.146-2008,
 24 SECTION 713, IS AMENDED TO READ AS FOLLOWS
 25 [EFFECTIVE JULY 1, 2012]: Sec. 10. (a) This section does not apply
 26 to the appropriation of money to pay a deputy or an employee of a
 27 township assessor with assessment duties or to an elected township
 28 assessor.

29 (b) The township legislative body shall fix the:

- 30 (1) salaries;
- 31 (2) wages;
- 32 (3) rates of hourly pay; and
- 33 (4) remuneration other than statutory allowances;

34 of all officers and employees of the township.

35 (c) Subject to subsection (d), the township legislative body may
 36 reduce the salary of an elected or appointed official. However, except
 37 as provided in subsection (h), the official is entitled to a salary that is
 38 not less than the salary fixed for the first year of the term of office that
 39 immediately preceded the current term of office.

40 (d) Except as provided in subsection (h), the township legislative
 41 body may not alter the salaries of elected or appointed officers during
 42 the fiscal year for which they are fixed, but it may add or eliminate any



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1 other position and change the salary of any other employee, if the
2 necessary funds and appropriations are available.

3 (e) If a change in the mileage allowance paid to state officers and
4 employees is established by July 1 of any year, that change shall be
5 included in the compensation fixed for the township executive and
6 assessor under this section, to take effect January 1 of the next year.
7 However, the township legislative body may by ordinance provide for
8 the change in the sum per mile to take effect before January 1 of the
9 next year.

10 (f) The township legislative body may not reduce the salary of the
11 township executive without the consent of the township executive
12 during the term of office of the township executive as set forth in
13 IC 36-6-4-2.

14 (g) This subsection applies when a township executive dies or
15 resigns from office. The person filling the vacancy of the township
16 executive shall receive at least the same salary the previous township
17 executive received for the remainder of the unexpired term of office of
18 the township executive (as set forth in IC 36-6-4-2), unless the person
19 consents to a reduction in salary.

20 (h) In a year in which there is not an election of members to the
21 township legislative body, the township legislative body may by
22 ~~unanimous~~ vote reduce the salaries of the members of the township
23 legislative body by any amount.

24 SECTION 7. IC 36-8-3-3, AS AMENDED BY P.L.33-2010,
25 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2012]: Sec. 3. (a) A majority of the members of the safety
27 board constitutes a quorum. The board shall adopt rules concerning the
28 time of holding regular and special meetings and of giving notice of
29 them. The board shall elect one (1) of its members chairman, who
30 holds the position as long as prescribed by the rules of the board. The
31 board shall record all of its proceedings.

32 (b) The members of the safety board may act only as a board. No
33 member may bind the board or the city except by resolution entered in
34 the records of the board authorizing the member to act in its behalf as
35 its authorized agent.

- 36 (c) The safety board shall appoint:
- 37 (1) the members and other employees of the police department
 - 38 other than those in an upper level policymaking position;
 - 39 (2) the members and other employees of the fire department other
 - 40 than those in an upper level policymaking position;
 - 41 (3) a market master; and
 - 42 (4) other officials that are necessary for public safety purposes.

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1 (d) The annual compensation of all members of the police and fire
2 departments and other appointees shall be fixed by ordinance of the
3 legislative body not later than ~~September 30~~ **November 1** of each year
4 for the ensuing budget year. The ordinance may grade the members of
5 the departments and regulate their pay by rank as well as by length of
6 service. If the legislative body fails to adopt an ordinance fixing the
7 compensation of members of the police or fire department, the safety
8 board may fix their compensation, subject to change by ordinance.

9 (e) The safety board, subject to ordinance, may also fix the number
10 of members of the police and fire departments and the number of
11 appointees for other purposes and may, subject to law, adopt rules for
12 the appointment of members of the departments and for their
13 government.

14 (f) The safety board shall divide the city into police precincts and
15 fire districts.

16 (g) The police chief has exclusive control of the police department,
17 and the fire chief has exclusive control of the fire department, subject
18 to the rules and orders of the safety board. In time of emergency, the
19 police chief and the fire chief are, for the time being, subordinate to the
20 city executive and shall obey the city executive's orders and directions,
21 notwithstanding any law or rule to the contrary.

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COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred Senate Bill No. 107, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 36-3-6-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 10. (a) As used in this section, "compensation" means the total of all money paid to a member of the city fiscal body for performing duties as a member of the city fiscal body, regardless of the source of funds from which the money is paid. The term includes all employee benefits paid to a member, including life insurance, health insurance, disability insurance, retirement benefits, and pension benefits.**

(b) A member of the city fiscal body may waive the officer's compensation for any year by filing a notice that satisfies the following:

- (1) The notice is in writing.**
- (2) The notice states in substance all of the following:**
 - (A) That the individual is a member of the city fiscal body.**
 - (B) The calendar year covered by the notice.**
 - (C) That the member waives compensation under this section.**
 - (D) That the member understands that the notice is irrevocable beginning January 1 of the year covered by the notice.**
- (3) The notice is signed by the member of the city fiscal body who wants to waive compensation.**

(c) A member of the city fiscal body who wants to waive compensation under this section must file the notice with the city fiscal officer before January 1 of the year covered by the notice.

(d) A notice filed under this section is irrevocable beginning January 1 of the year covered by the notice.

(e) A member of the city fiscal body who files a notice under this section:

- (1) is not entitled to compensation for duties performed in the year covered by the notice; and**
- (2) may not be paid compensation for duties performed in the year covered by the notice."**

Page 1, between lines 15 and 16, begin a new paragraph and insert:

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"SECTION 3. IC 36-4-7-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 12. (a) As used in this section, "compensation" means the total of all money paid to a member of the city fiscal body for performing duties as a member of the city fiscal body, regardless of the source of funds from which the money is paid. The term includes all employee benefits paid to a member, including life insurance, health insurance, disability insurance, retirement benefits, and pension benefits.**

(b) A member of the city fiscal body may waive the officer's compensation for any year by filing a notice that satisfies the following:

- (1) The notice is in writing.**
- (2) The notice states in substance all of the following:**
 - (A) That the individual is a member of the city fiscal body.**
 - (B) The calendar year covered by the notice.**
 - (C) That the member waives compensation under this section.**
 - (D) That the member understands that the notice is irrevocable beginning January 1 of the year covered by the notice.**
- (3) The notice is signed by the member of the city fiscal body who wants to waive compensation.**

(c) A member of the city fiscal body who wants to waive compensation under this section must file the notice with the city fiscal officer before January 1 of the year covered by the notice.

(d) A notice filed under this section is irrevocable beginning January 1 of the year covered by the notice.

(e) A member of the city fiscal body who files a notice under this section:

- (1) is not entitled to compensation for duties performed in the year covered by the notice; and**
- (2) may not be paid compensation for duties performed in the year covered by the notice."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 107 as introduced.)

LAWSON C, Chairperson

Committee Vote: Yeas 8, Nays 0.

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SENATE MOTION

Madam President: I move that Senate Bill 107 be amended to read as follows:

- Page 1, delete lines 1 through 17.
- Page 2, delete lines 1 through 17.
- Page 2, delete lines 33 through 42.
- Page 3, delete lines 1 through 24.
- Renumber all SECTIONS consecutively.

(Reference is to SB 107 as printed January 27, 2012.)

LAWSON C

 COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred Senate Bill 107, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

NEESE, Chair

Committee Vote: yeas 8, nays 0.

 HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 107 be amended to read as follows:

Page 1, between lines 15 and 16, begin a new paragraph and insert:
 "SECTION 2. IC 36-6-6-10, AS AMENDED BY P.L.146-2008, SECTION 713, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 10. (a) This section does not apply to the appropriation of money to pay a deputy or an employee of a township assessor with assessment duties or to an elected township assessor.

(b) The township legislative body shall fix the:

- (1) salaries;
- (2) wages;
- (3) rates of hourly pay; and
- (4) remuneration other than statutory allowances;

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of all officers and employees of the township.

(c) Subject to subsection (d), the township legislative body may reduce the salary of an elected or appointed official. However, except as provided in subsection (h), the official is entitled to a salary that is not less than the salary fixed for the first year of the term of office that immediately preceded the current term of office.

(d) Except as provided in subsection (h), the township legislative body may not alter the salaries of elected or appointed officers during the fiscal year for which they are fixed, but it may add or eliminate any other position and change the salary of any other employee, if the necessary funds and appropriations are available.

(e) If a change in the mileage allowance paid to state officers and employees is established by July 1 of any year, that change shall be included in the compensation fixed for the township executive and assessor under this section, to take effect January 1 of the next year. However, the township legislative body may by ordinance provide for the change in the sum per mile to take effect before January 1 of the next year.

(f) The township legislative body may not reduce the salary of the township executive without the consent of the township executive during the term of office of the township executive as set forth in IC 36-6-4-2.

(g) This subsection applies when a township executive dies or resigns from office. The person filling the vacancy of the township executive shall receive at least the same salary the previous township executive received for the remainder of the unexpired term of office of the township executive (as set forth in IC 36-6-4-2), unless the person consents to a reduction in salary.

(h) In a year in which there is not an election of members to the township legislative body, the township legislative body may by unanimous vote reduce the salaries of the members of the township legislative body by any amount."

Renumber all SECTIONS consecutively.

(Reference is to ESB 107 as printed February 17, 2012.)

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 107 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 36-2-3-11 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2012]: **Sec. 11. In a year in which there is not an election of members to the county fiscal body, the county fiscal body may, by vote, reduce the salaries of the members of the county fiscal body by any amount.**

SECTION 2. IC 36-3-6-10 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2012]: **Sec. 10. In a year in which there is not an election of members to the city-county fiscal body, the city-county fiscal body may, by vote, reduce the salaries of the members of the city-county fiscal body by any amount."**

Page 1, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 4. IC 36-4-7-12 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2012]: **Sec. 12. In a year in which there is not an election of members to the city fiscal body, the city fiscal body may, by vote, reduce the salaries of the members of the city fiscal body by any amount.**

SECTION 5. IC 36-5-3-7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2012]: **Sec. 7. In a year in which there is not an election of members to the town fiscal body, the town fiscal body may, by vote, reduce the salaries of the members of the town fiscal body by any amount."**

Renumber all SECTIONS consecutively.

(Reference is to ESB 107 as printed February 17, 2012.)

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