
SENATE BILL No. 170

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-5-9; IC 5-11-13-1; IC 25-1; IC 33-42-2-7; IC 36-1; IC 36-4-4-2; IC 36-8.

Synopsis: Nepotism; conflict of interest. Specifies that the following are not lucrative offices: (1) Notary public. (2) Membership on a board administered by the professional licensing agency. Provides that an employee of a county, city, town, or township (unit) is considered to have resigned from employment with the unit if the employee assumes the elected executive office of the unit or becomes an elected member of the unit's legislative or fiscal body. Provides that an individual who is serving as a volunteer firefighter may not: (1) assume the office of executive of the unit; or (2) become a member of the executive, legislative, or fiscal body of the unit; that oversees the budget and operations of the fire department in which the volunteer firefighter serves. Specifies that an elected officer may also be appointed to and serve on a board, commission, or committee of the unit. Provides that the restriction does not prohibit an employee or volunteer firefighter from holding an elected office of another unit. Allows an employee or a volunteer firefighter who assumes or holds an elected office on January 1, 2013, to continue to hold the office and be employed by the unit or serve as a volunteer firefighter until the expiration of the term of office. Provides that relatives may not be employed by a unit in positions that result in one relative being in the direct line of supervision of the other relative. Provides that an individual who is employed by a unit on July 1, 2012, is not subject to the provisions regarding nepotism unless the individual has a break in employment with the unit. Provides that for purposes of the nepotism law, the performance of the duties of a precinct election officer or a volunteer firefighter is not considered employment by a unit. Provides that an
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Effective: July 1, 2012.

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January 4, 2012, read first time and referred to Committee on Local Government.



individual who is employed by a unit on the date the individual's relative begins serving a term of an elected office of the unit: (1) may remain employed by the unit and maintain the individual's position or rank even if the individual would be in the direct line of supervision of the individual's relative; and (2) may not be promoted to a position or, in the case of an individual who is a member of a merit police department or merit fire department, promoted to a position that is not within the merit ranks, if the new position would place the individual in the direct line of supervision of the individual's relative. Makes the following additional exceptions: (1) Allows a township trustee whose office is located in the trustee's personal residence to employ only one relative to work in the township trustee's office and be in the trustee's line of supervision. (2) Allows a coroner who is ineligible for another term of office due to term limits to be hired by the coroner's successor, even though the successor is a relative and will result in the coroner working in the successor's direct line of supervision. (3) Allows a sheriff to hire the sheriff's spouse as prison matron for the county and work in the sheriff's direct line of supervision. Limits the total compensation of the township trustee's employed relative to \$5,000 per year. Provides that provisions concerning nepotism apply to a person who is a party to an employment contract with a unit. Requires a unit to implement a policy that complies with the nepotism law and contracting law. Requires each elected official of the unit to annually certify in writing, subject to the penalties for perjury, that the official is in compliance with the nepotism and contracting law and to submit the certification to the executive of the local unit. Requires the executive of the local unit to file with the annual personnel report filed with the state board of accounts a statement regarding whether the unit has implemented a policy that complies with the nepotism law and contracting law. Provides that a unit can enter into or renew: (1) a contract for the procurement of goods and services; or (2) a contract for public works; with a relative of an elected official or a business entity in which a relative has an ownership interest if the elected official does not violate the criminal conflict of interest statute and the elected official makes full, written disclosure and satisfies any other requirements of the public purchasing law or the public works law.

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Introduced

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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SENATE BILL No. 170



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

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

- 1 SECTION 1. IC 3-5-9 IS ADDED TO THE INDIANA CODE AS
- 2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2012]:
- 4 **Chapter 9. Government Employees and Volunteer Firefighters**
- 5 **Holding Office**
- 6 **Sec. 1. As used in this chapter, "elected office" refers only to the**
- 7 **following:**
- 8 **(1) The executive of a unit.**
- 9 **(2) A member of the legislative body or fiscal body of a unit.**
- 10 **Sec. 2. As used in this chapter, "government employee" refers**
- 11 **to an employee of a unit. The term does not include an individual**
- 12 **who holds only an elected office.**
- 13 **Sec. 3. As used in this chapter, "unit" means a county, city,**
- 14 **town, or township.**
- 15 **Sec. 4. An individual who is serving as a volunteer firefighter**



1 may not assume an elected office of the unit that oversees the
2 budget and operations of the fire department in which the
3 volunteer firefighter serves.

4 **Sec. 5. Except as provided in section 7 of this chapter, an**
5 **individual is considered to have resigned as a government**
6 **employee when the individual assumes an elected office of the unit**
7 **that employs the individual.**

8 **Sec. 6. This chapter does not prohibit:**

9 (1) a government employee from holding an elected office of
10 a unit other than the unit that employs the government
11 employee;

12 (2) a volunteer firefighter from assuming an elected office of
13 a unit other than the unit that oversees the budget and
14 operations of the fire department in which the volunteer
15 firefighter serves; or

16 (3) an individual who holds an elected office from also being
17 appointed to and serving on a board, commission, or
18 committee of the unit.

19 **Sec. 7. Notwithstanding sections 4 and 5 of this chapter, a**
20 **government employee or volunteer firefighter who assumes or**
21 **holds an elected office on January 1, 2013, may continue to hold**
22 **the office and be employed as a government employee or serve as**
23 **a volunteer firefighter until the term of office that the employee or**
24 **firefighter is serving on January 1, 2013, expires. After the**
25 **expiration of the term of office, the employee or firefighter may not**
26 **hold an elected office and be employed by the unit or serve as a**
27 **firefighter as set forth in sections 4 and 5 of this chapter.**

28 SECTION 2. IC 5-11-13-1, AS AMENDED BY P.L.172-2011,
29 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JULY 1, 2012]: Sec. 1. (a) Every state, county, city, town, township, or
31 school official, elective or appointive, who is the head of or in charge
32 of any office, department, board, or commission of the state or of any
33 county, city, town, or township, and every state, county, city, town, or
34 township employee or agent who is the head of, or in charge of, or the
35 executive officer of any department, bureau, board, or commission of
36 the state, county, city, town, or township, and every executive officer
37 by whatever title designated, who is in charge of any state educational
38 institution or of any other state, county, or city institution, shall during
39 the month of January of each year prepare, make, and sign a written or
40 printed certified report, correctly and completely showing the names
41 and business addresses of each and all officers, employees, and agents
42 in their respective offices, departments, boards, commissions, and

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1 institutions, and the respective duties and compensation of each, and
 2 shall forthwith file said report in the office of the state examiner of the
 3 state board of accounts. However, no more than one (1) report covering
 4 the same officers, employees, and agents need be made from the state
 5 or any county, city, town, township, or school unit in any one (1) year.

6 (b) The department of local government finance may not approve
 7 the budget of a county, city, town, or township or a supplemental
 8 appropriation for a county, city, town, or township until the county,
 9 city, town, or township files an annual report under subsection (a) for
 10 the preceding calendar year.

11 (c) **This subsection applies to a unit (as defined in IC 36-1-2-23).
 12 A report under subsection (a) that is submitted after December 31,
 13 2012, must include a statement by the executive (as defined in
 14 IC 36-1-2-5) of the unit regarding whether the unit has
 15 implemented a policy that complies with IC 36-1-20.2 and
 16 IC 36-1-21. If a unit does not implement a policy that complies with
 17 IC 36-1-20.2 and IC 36-1-21, the department of local government
 18 finance may not approve the unit's budget or any additional
 19 appropriations for the unit for the ensuing calendar year.**

20 SECTION 3. IC 25-1-5-3.5 IS ADDED TO THE INDIANA CODE
 21 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 22 1, 2012]: **Sec. 3.5. For purposes of Article 2, Section 9 of the
 23 Constitution of the State of Indiana, membership on a board is not
 24 a lucrative office.**

25 SECTION 4. IC 25-1-6-3.5 IS ADDED TO THE INDIANA CODE
 26 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 27 1, 2012]: **Sec. 3.5. For purposes of Article 2, Section 9 of the
 28 Constitution of the State of Indiana, membership on a board is not
 29 a lucrative office.**

30 SECTION 5. IC 33-42-2-7 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 7. (a) A person who
 32 holds any lucrative office or appointment under the United States or
 33 under this state, and prohibited by the Constitution of the State of
 34 Indiana from holding more than one (1) lucrative office, may not serve
 35 as a notary public. If a person accepts a lucrative office or appointment,
 36 the person shall vacate the person's appointment as a notary. For
 37 purposes of Article 2, Section 9 of the Constitution of the State of
 38 Indiana, notary public is not a lucrative office.**

39 (b) Subsection (a) does not apply to a person who holds a lucrative
 40 office or appointment under any civil or school city or town of Indiana.
 41 A person who is a public official, or a deputy or appointee acting for or
 42 serving under a public official, may not make any charge for services

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1 as a notary public in connection with any official business of that
 2 office, or of any other office in the governmental unit in which the
 3 person serves unless the charges are specifically authorized by a statute
 4 other than the statute that establishes generally the fees and charges of
 5 notaries public.

6 SECTION 6. IC 36-1-8-10.5, AS AMENDED BY P.L.1-2005,
 7 SECTION 231, IS AMENDED TO READ AS FOLLOWS
 8 [EFFECTIVE JULY 1, 2012]: Sec. 10.5. (a) This section does not
 9 apply to the following:

10 (1) An elected or appointed officer.

11 (2) An individual described in IC 20-26-4-11.

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

13 (1) be a candidate for any elected office and serve in that office if
 14 elected; or

15 (2) be appointed to any office and serve in that office if appointed;
 16 without having to resign as an employee of the political subdivision.

17 SECTION 7. IC 36-1-20.2 IS ADDED TO THE INDIANA CODE
 18 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2012]:

20 **Chapter 20.2. Nepotism**

21 **Sec. 1. This chapter applies to all units.**

22 **Sec. 2. An individual who is employed by a unit on July 1, 2012,**
 23 **is not subject to this chapter unless the individual has a break in**
 24 **employment with the unit. The following are not considered a**
 25 **break in employment with the unit:**

26 (1) **The individual is absent from the workplace while on paid**
 27 **or unpaid leave, including vacation, sick, or family medical**
 28 **leave, or worker's compensation.**

29 (2) **The individual's employment with the unit is terminated**
 30 **followed by immediate reemployment by the unit, without loss**
 31 **of payroll time.**

32 **Sec. 3. For purposes of this chapter, the performance of the**
 33 **duties of:**

34 (1) **a precinct election officer (as defined in IC 3-5-2-40.1) that**
 35 **are imposed by IC 3; or**

36 (2) **a volunteer firefighter;**

37 **is not considered employment by a unit.**

38 **Sec. 4. As used in this chapter, "direct line of supervision"**
 39 **means an elected officer or employee who is in a position to affect**
 40 **the terms and conditions of another individual's employment,**
 41 **including making decisions about work assignments, compensation,**
 42 **grievances, advancement, or performance evaluation.**

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1 **Sec. 5.** As used in this chapter, "employed" means an individual
 2 who is employed by a unit on a full-time, part-time, temporary,
 3 intermittent, or hourly basis. The term does not include an
 4 individual who holds only an elected office. The term includes an
 5 individual who is a party to an employment contract with the unit.

6 **Sec. 6.** As used in this chapter, "member of the fire department"
 7 means the fire chief or a firefighter appointed to the department.

8 **Sec. 7.** As used in this chapter, "member of the police
 9 department" means the police chief or a police officer appointed to
 10 the department.

11 **Sec. 8. (a)** As used in this chapter, "relative" means any of the
 12 following:

- 13 (1) A spouse.
- 14 (2) A parent or stepparent.
- 15 (3) A child or stepchild.
- 16 (4) A brother, sister, stepbrother, or stepsister.
- 17 (5) A niece or nephew.
- 18 (6) An aunt or uncle.
- 19 (7) A daughter-in-law or son-in-law.

20 **(b)** For purposes of this section, an adopted child of an
 21 individual is treated as a natural child of the individual.

22 **(c)** For purposes of this section, the terms "brother" and
 23 "sister" include a brother or sister by the half blood.

24 **Sec. 9.** Except as otherwise provided in this chapter, individuals
 25 who are relatives may not be employed by a unit in a position that
 26 results in one (1) relative being in the direct line of supervision of
 27 the other relative.

28 **Sec. 10.** This subsection applies to an individual who:

- 29 (1) is employed by a unit on the date the individual's relative
 30 begins serving a term of an elected office of the unit; and
- 31 (2) is not exempt from the application of this chapter under
 32 section 2 of this chapter.

33 An individual may remain employed by the unit and maintain the
 34 individual's position or rank even if the individual's employment
 35 would violate section 9 of this chapter. However, an individual may
 36 not be promoted to a position or, in the case of an individual who
 37 is a member of a merit police department or merit fire department,
 38 promoted to a position that is not within the merit ranks, if the new
 39 position would violate section 9 of this chapter.

40 **Sec. 11.** This chapter does not abrogate or affect an employment
 41 contract with a unit that:

- 42 (1) an individual is a party to; and

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1 (2) is in effect on the date the individual's relative begins
2 serving a term of an elected office of the unit.

3 Sec. 12. A sheriff's spouse may be employed as prison matron
4 for the county under IC 36-8-10-5 and the spouse may be in the
5 sheriff's direct line of supervision.

6 Sec. 13. An individual:
7 (1) who served as coroner;
8 (2) who is currently ineligible to serve as coroner under
9 Article 6, Section 2(b) of the Constitution of the State of
10 Indiana;
11 (3) who, as coroner, received certification under
12 IC 36-2-14-22.3; and
13 (4) whose successor in the office of coroner is a relative of the
14 individual;

15 may be hired in the position of deputy coroner and be in the
16 coroner's direct line of supervision.

17 Sec. 14. If the township trustee's office is located in the township
18 trustee's personal residence, the township trustee may hire only
19 one (1) employee who is a relative. The employee:

20 (1) may be hired to work only in the township trustee's office;
21 (2) may be in the township trustee's direct line of supervision;
22 and
23 (3) may not receive total salary, benefits, and compensation
24 that exceed five thousand dollars (\$5,000) per year.

25 Sec. 15. (a) Each elected officer of the unit shall annually certify
26 in writing, subject to the penalties for perjury, that the officer has
27 not violated this chapter. An officer shall submit the certification
28 to the executive of the unit not later than December 31 of each
29 year.

30 (b) The unit must implement a policy that complies with this
31 chapter. The annual report filed by a unit with the state board of
32 accounts under IC 5-11-13-1 must include a statement by the
33 executive of the unit stating whether the unit has implemented a
34 policy that complies with this chapter.

35 Sec. 16. If the state board of accounts finds that a unit has not
36 implemented a policy that complies with this chapter, the state
37 board of accounts shall forward the information to the department
38 of local government finance.

39 Sec. 17. If a unit has not implemented a policy that complies
40 with this chapter, the department of local government finance may
41 not approve:

42 (1) the unit's budget; or

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

5 SECTION 8. IC 36-1-21 IS ADDED TO THE INDIANA CODE AS
 6 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 7 1, 2012]:

8 **Chapter 21. Contracting With a Unit**

9 **Sec. 1. This chapter applies only to a unit.**

10 **Sec. 2. As used in this chapter, "elected official" means:**

- 11 (1) the executive or a member of the executive body of the
 12 unit;
 13 (2) a member of the legislative body of the unit; or
 14 (3) a member of the fiscal body of the unit.

15 **Sec. 3. (a) As used in this chapter, "relative" means any of the
 16 following:**

- 17 (1) A spouse.
 18 (2) A parent or stepparent.
 19 (3) A child or stepchild.
 20 (4) A brother, sister, stepbrother, or stepsister.
 21 (5) A niece or nephew.
 22 (6) An aunt or uncle.
 23 (7) A daughter-in-law or son-in-law.

24 **(b) For purposes of this section, an adopted child of an
 25 individual is treated as a natural child of the individual.**

26 **(c) For purposes of this section, the terms "brother" and
 27 "sister" include a brother or sister by the half blood.**

28 **Sec. 4. (a) A unit may enter into a contract or renew a contract
 29 for the procurement of goods and services or a contract for public
 30 works with:**

- 31 (1) an individual who is a relative of an elected official; or
 32 (2) a business entity that is wholly or partially owned by a
 33 relative of an elected official;

34 **only if the requirements of this section are satisfied and the elected
 35 official does not violate IC 35-44-1-3.**

36 **(b) A unit may enter into a contract or renew a contract with an
 37 individual or business entity described in subsection (a) if:**

- 38 (1) the elected official files with the unit a full disclosure,
 39 which must:
 40 (A) be in writing;
 41 (B) describe the contract or purchase to be made by the
 42 unit;

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- 1 (C) describe the relationship that the elected official has to
- 2 the individual or business entity that contracts or
- 3 purchases;
- 4 (D) be affirmed under penalty of perjury;
- 5 (E) be submitted to the legislative body of the unit and be
- 6 accepted by the legislative body in a public meeting of the
- 7 unit prior to final action on the contract or purchase; and
- 8 (F) be filed, not later than fifteen (15) days after final
- 9 action on the contract or purchase, with:
 - 10 (i) the state board of accounts; and
 - 11 (ii) the clerk of the circuit court in the county where the
 - 12 unit takes final action on the contract or purchase;
- 13 (2) the appropriate agency of the unit:
 - 14 (A) makes a certified statement that the contract amount
 - 15 or purchase price was the lowest amount or price bid or
 - 16 offered; or
 - 17 (B) makes a certified statement of the reasons why the
 - 18 vendor or contractor was selected; and
 - 19 (3) the unit satisfies any other requirements under IC 5-22 or
 - 20 IC 36-1-12.
- 21 (c) An elected official shall also comply with the disclosure
- 22 provisions of IC 35-44-1-3, if applicable.
- 23 (d) This section does not affect the initial term of a contract in
- 24 existence at the time the term of office of the elected official of the
- 25 unit begins.
- 26 Sec. 5. (a) Each elected officer of the unit shall annually certify
- 27 in writing, subject to the penalties for perjury, that the officer is in
- 28 compliance with this chapter. An officer shall submit the
- 29 certification to the executive of the unit not later than December 31
- 30 of each year.
- 31 (b) The unit must implement a policy that complies with this
- 32 chapter. The annual report filed by a unit with the state board of
- 33 accounts under IC 5-11-13-1 must include a statement by the
- 34 executive of the unit stating whether the unit has implemented a
- 35 policy that complies with this chapter.
- 36 Sec. 6. If the state board of accounts finds that a unit has not
- 37 implemented a policy that complies with this chapter, the state
- 38 board of accounts shall forward the information to the department
- 39 of local government finance.
- 40 Sec. 7. If a unit has not implemented a policy that complies with
- 41 this chapter, the department of local government finance may not
- 42 approve:

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

6 SECTION 9. IC 36-4-4-2 IS AMENDED TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) The powers of a city are
 8 divided between the executive and legislative branches of its
 9 government. A power belonging to one (1) branch of a city's
 10 government may not be exercised by the other branch.

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

13 (1) be a candidate for any elective office and serve in that office
 14 if elected; or

15 (2) be appointed to any office and serve in that office if appointed;
 16 without having to resign as a city employee.

17 SECTION 10. IC 36-8-3-12 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 12. **Subject to**
 19 **IC 3-5-9**, members of the safety board and members of any township,
 20 town, or city (including a consolidated city) police department, fire
 21 department, or volunteer fire department (as defined by IC 36-8-12-2)
 22 may:

23 (1) be candidates for elective office and serve in that office if
 24 elected;

25 (2) be appointed to any office and serve in that office if appointed;
 26 and

27 (3) as long as they are not in uniform and not on duty, solicit votes
 28 and campaign funds and challenge voters for the office for which
 29 they are candidates.

30 SECTION 11. IC 36-8-5-2, AS AMENDED BY P.L.130-2008,
 31 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2012]: Sec. 2. (a) The police chief or fire chief may be granted
 33 a leave of absence by the authority who appointed the police chief or
 34 fire chief. This appointing authority may also grant a leave of absence
 35 to any other full-time, fully paid police officer or firefighter.

36 (b) A leave of absence under subsection (a) shall be granted for
 37 service in the Indiana general assembly. A leave of absence under
 38 subsection (a) may also be granted for service in any other elected
 39 office or for one (1) of the following reasons:

- 40 (1) Sickness.
- 41 (2) Disability.
- 42 (3) Sabbatical purposes.

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1 However, a leave of absence because of disability may not be granted
2 to a member of the 1977 fund under this subsection unless a leave
3 granted under subsection (g) has expired without disability benefits
4 having been paid from the 1977 fund. In the case of such an expiration,
5 a leave for purposes of disability may be granted under this subsection
6 but only until the member's eligibility for disability benefits is finally
7 determined.

8 (c) Before a leave of absence may be granted for sabbatical
9 purposes, the member must submit a written request explaining and
10 justifying the leave to the appointing authority. Sabbatical purposes
11 must be related to the improvement of the member's professional
12 performance and skills, such as education, special training, work
13 related experience, and exchange programs.

14 (d) This subsection applies to leaves of absence granted under
15 subsection (b)(1), (b)(2), or (b)(3). A leave of absence may extend for
16 a period of not more than one (1) year, determined by the appointing
17 authority, and may be renewed upon written request of the member.

18 (e) This subsection applies to leaves of absence granted for service
19 in an elected office. A police officer or firefighter who serves in the
20 general assembly shall be granted a leave for the time spent in this
21 service, including the time spent for committee or legislative council
22 meetings. **Except as provided in IC 3-5-9**, a police officer or
23 firefighter who serves in any other elected office may be granted a
24 leave for the time spent in this service. Leave for service in an elected
25 office does not diminish a police officer's or firefighter's rights under
26 the police officer's or firefighter's retirement or pension fund, except as
27 provided in section 10 of this chapter, or advancement on the police
28 officer's or firefighter's department salary schedule. For these purposes,
29 the police officer or firefighter is, despite the leave, considered to be a
30 member of the department during that time.

31 (f) This subsection applies to leaves of absence granted under
32 subsection (b)(1), (b)(2), or (b)(3). A member on leave may receive
33 compensation in an amount determined by the appointing authority, up
34 to a maximum amount that equals the member's salary before the leave
35 began.

36 (g) This subsection applies only to members of the 1977 fund. The
37 local board may grant a leave of absence for purposes of disability to
38 full-time, fully paid police officers or firefighters (including the police
39 chief or fire chief). The leave is subject to the following conditions:

- 40 (1) The police chief or fire chief must make a written
41 determination that there is no suitable and available work on the
42 appropriate department for which the fund member is or may be

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- 1 capable of becoming qualified.
- 2 (2) The leave must be approved by the local board after a hearing
- 3 conducted under IC 36-8-8-12.7.
- 4 (3) The leave may not begin until the police officer or firefighter
- 5 has exhausted all paid leave for sickness.
- 6 (4) The leave shall continue until disability benefits are paid from
- 7 the 1977 fund. However, the leave may not continue for more
- 8 than six (6) months.
- 9 (5) During the leave, the police officer or firefighter is entitled to
- 10 receive compensation in an amount equal to fifty percent (50%)
- 11 of the salary of a first class patrolman or first class firefighter on
- 12 the date the leave begins.

13 Payments of compensation under this subsection may not be made from
 14 the 1925 fund, the 1937 fund, the 1953 fund, or the 1977 fund.

15 (h) Determinations under subsection (g) are not reviewable by the
 16 board of trustees of the public employees' retirement fund.

17 (i) This subsection applies to leaves of absence granted under
 18 subsection (a) or (b). An appointing authority shall establish a policy
 19 in writing that specifies whether a police officer or firefighter is
 20 entitled, during a leave of absence, to participate in any promotional
 21 process or earn seniority. A policy established under this subsection is
 22 subject to a department's existing disciplinary procedures. An
 23 appointing authority shall reinstate a police officer or firefighter
 24 returning from a leave at the merit or permanent rank determined under
 25 the policy established under this subsection. However, except as
 26 otherwise provided by federal law, an appointing authority is not
 27 required to reinstate a police officer or firefighter in the job that the
 28 police officer or firefighter held at the time the police officer's or
 29 firefighter's leave began.

30 SECTION 12. IC 36-8-10-11 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 11. (a) The sheriff may
 32 dismiss, demote, or temporarily suspend a county police officer for
 33 cause after preferring charges in writing and after a fair public hearing
 34 before the board, which is reviewable in the circuit court. Written
 35 notice of the charges and hearing must be delivered by certified mail
 36 to the officer to be disciplined at least fourteen (14) days before the
 37 date set for the hearing. The officer may be represented by counsel. The
 38 board shall make specific findings of fact in writing to support its
 39 decision.

40 (b) The sheriff may temporarily suspend an officer with or without
 41 pay for a period not exceeding fifteen (15) days, without a hearing
 42 before the board, after preferring charges of misconduct in writing

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1 delivered to the officer.

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

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

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

8 (2) be appointed to an office and serve in that office if appointed;
9 and

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

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

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

28 (f) All appeals shall be tried by the court. The appeal shall be heard
29 de novo only upon any new issues related to the charges upon which
30 the decision of the board was made. Within ten (10) days after the
31 service of summons, the board shall file in court a complete written
32 transcript of all papers, entries, and other parts of the record relating to
33 the particular case. Inspection of these documents by the person
34 affected, or by the person's agent, must be permitted by the board
35 before the appeal is filed, if requested. The court shall review the
36 record and decision of the board on appeal.

37 (g) The court shall make specific findings and state the conclusions
38 of law upon which its decision is made. If the court finds that the
39 decision of the board appealed from should in all things be affirmed,
40 its judgment should so state. If the court finds that the decision of the
41 board appealed from should not be affirmed in all things, then the court
42 shall make a general finding, setting out sufficient facts to show the

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1 nature of the proceeding and the court's decision on it. The court shall
2 either:
3 (1) reverse the decision of the board; or
4 (2) order the decision of the board to be modified.
5 (h) The final judgment of the court may be appealed by either party.
6 Upon the final disposition of the appeal by the courts, the clerk shall
7 certify and file a copy of the final judgment of the court to the board,
8 which shall conform its decisions and records to the order and
9 judgment of the court. If the decision is reversed or modified, then the
10 board shall pay to the party entitled to it any salary or wages withheld
11 from the party pending the appeal and to which the party is entitled
12 under the judgment of the court.
13 (i) Either party shall be allowed a change of venue from the court or
14 a change of judge in the same manner as such changes are allowed in
15 civil cases. The rules of trial procedure govern in all matters of
16 procedure upon the appeal that are not otherwise provided for by this
17 section.
18 (j) An appeal takes precedence over other pending litigation and
19 shall be tried and determined by the court as soon as practical.

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