CONFERENCE COMMITTEE REPORT
DIGEST FOR EHB 1003

Citations Affected: IC 4-2-6-4.3; IC 4-12-1-10; IC 4-13.6-5-8; IC 4-15-1.5-5; IC 5-1.5-2-2.5; IC 5-2-6-16; IC 5-10.5-3-9; IC 5-13-12; IC 5-14; IC 5-15-5.1-1; IC 21-9-4-5; IC 21-22-3-5; IC 21-25-3-8; IC 21-27-2-2; IC 22-4-18.1-6.5; IC 25-1-14; IC 25-37.5-1; IC 28-11-1-9.1; IC 31-26-6-13; 35IC 34-30-2.

Synopsis: Public access issues. Conference committee report for EHB 1003. 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. 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. Adds electronic media to the definition of "record" for purposes of the public records law. 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. Requires a public agency to: (1) allow inspection or copying; or (2) make copies; of a public record within a reasonable time after the request is received by the agency. Provides that a court may impose a civil penalty against: (1) an officer of a public agency or an individual employed in a management level position with a public agency; or (2) the public agency; for violating the open door law with specific intent to violate the law if the plaintiff obtained an advisory opinion from the public access counselor before filing an action. Provides that a court may impose a civil penalty against an officer, management level employee, or the public agency for violating the public records law if the officer, management level employee, or agency: (1) continues to deny a request for a public record after the public access counselor has issued an advisory opinion that instructs the agency to allow access to the public record; and (2) denies the request with the specific intent to unlawfully withhold a public record that is subject to disclosure. Provides that an individual or agency could be subject to a civil penalty if the individual intentionally charges a copying fee that the individual knows exceeds the amount set by statute, fee schedule, ordinance, or court order. Provides that a court may not impose a civil penalty unless the public access counselor has issued an advisory opinion that instructs the public agency to allow access to the public record before the lawsuit is filed. Provides that it is a defense to the imposition of a civil penalty under this section for a violation of the open door law or public records law if the individual acted in reliance on an opinion of the public agency's legal counsel or an opinion of the attorney general. Provides that a court may impose a civil penalty of: (1) not more than $100 for the first violation; and (2) not more than $500 for any additional violations. Provides that a court may: (1) impose only one civil penalty against an individual in an action even if the court finds that the individual committed multiple violations; and (2) impose another civil penalty against the individual in a separate action. Provides that if an officer of a state or local government agency orders a management level employee to: (1) not give proper notice of a public meeting or executive session; or (2) deny or interfere with a person's request to inspect or copy a public document; the employee is not subject to a civil penalty for violating the statute. Provides that the civil penalty provisions imposed for violation of the public records law does not apply to any matter regarding the work product of legislative services agency or the individual members and partisan staffs of the general assembly. Provides that if the governing body of a local government agency adopts a policy, the agency shall provide notice to anyone (other than news media) that makes an annual request for notice by: (1) transmitting the notice by electronic mail; or (2) posting the notice on the agency's Internet web site (if the agency has an Internet web site). Provides that a court may not declare a governmental action void for failure to give notice by electronic mail or posting on the local government agency's web site if the agency made a good faith effort to comply with the statute. Provides that a public agency may withhold personal information from public disclosure regarding an individual less than 18 years of age who participates in an activity conducted or supervised by a state educational institution, including personal information regarding the individual's parent or guardian. Requires (rather than allows) a court to review public records in camera to determine whether redaction of the records violates the public records act. Creates an education fund for a program administered by the public access counselor to train public officials and educate the public on the rights of the public and the responsibilities of public agencies under the public access laws. Provides that a public agency has discretion as to whether to disclose a public record requested by an offender containing personal information relating to a judge, law enforcement officer, or family member of a judge or law enforcement officer. **(This conference committee report resolves a conflict with HEA 1239-2012 and SEA 26-2012. This conference committee report: (1) provides**

that a governing body of a local government agency is not required to provide notice electronically unless the governing body adopts a policy; and (2) provides that the provisions imposing civil penalties for failing to comply with the open records act does not apply to matters regarding the work product of legislative services agency or the general assembly.This conference committee report inserts the contents of HB 1093 which does the following: (1) Establishes civil penalties and defenses for officers and management level employees of public agencies who fail to comply with public access provisions. (2) Allows a local government agency to send meeting notices by electronic mail. (3) Allows a public agency to withhold personal information regarding an individual less than 18 years of age who participates in an activity conducted or supervised by a state educational institution. (4) Requires a court to review redacted public records in camera. (5) Creates a fund for an education program administered by the public access counselor. (6) Allows a public agency to withhold a public personal information relating to a judge, law enforcement officer, or family member of a judge or law enforcement officer.)

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

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1003 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause, begin a new paragraph and insert the following:

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 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.

(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) 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.

(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 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 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.~~

~~(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.~~

~~(e) 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 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) This subdivision does not apply to committees appointed by a board of trustees of a state educational institution. 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 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 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.

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

(i) 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 5-14-1.5-5, AS AMENDED BY P.L.177-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. (a) Public notice of the date, time, and place of any meetings, executive sessions, or of any rescheduled or reconvened meeting, shall be given at least forty-eight (48) hours (excluding Saturdays, Sundays, and legal holidays) before the meeting. This requirement does not apply to reconvened meetings (not including

executive sessions) where announcement of the date, time, and place of the reconvened meeting is made at the original meeting and recorded in the memoranda and minutes thereof, and there is no change in the agenda.

(b) Public notice shall be given by the governing body of a public agency ~~by:~~ **as follows:**

(1) **The governing body of a public agency shall give public notice by** posting a copy of the notice at the principal office of the public agency holding the meeting or, if no such office exists, at the building where the meeting is to be held. ~~and~~

(2) **The governing body of a public agency shall give public notice by** delivering notice to all news media which deliver ~~by January 1~~ an annual written request for ~~such~~ **the** notices **not later than December 31** for the next succeeding calendar year to the governing body of the public agency. The governing body shall give notice by one (1) of the following methods, **which shall be determined by the governing body:**

(A) Depositing the notice in the United States mail with postage prepaid.

(B) Transmitting the notice by electronic mail, **if the public agency has the capacity to transmit electronic mail.**

(C) Transmitting the notice by facsimile (fax).

(3) This subdivision applies only to the governing body of a public agency of a political subdivision described in section 2(a)(2), 2(a)(4), or 2(a)(5) of this chapter that adopts a policy to provide notice under this subdivision. Notice under this subsection is in addition to providing notice under subdivisions (1) and (2). If the governing body adopts a policy under this subdivision, the governing body of a public agency shall give public notice by delivering notice to any person (other than news media) who delivers to the governing body of the public agency an annual written request for the notices not later than December 31 for the next succeeding calendar year. The governing body shall give notice by one (1) of the following methods, which shall be determined by the governing body:

(A) Transmitting the notice by electronic mail, if the public agency has the capacity to send electronic mail.

(B) Publishing the notice on the public agency's Internet web site at least forty-eight (48) hours in advance of the meeting, if the public agency has an Internet web site.

A court may not declare void any policy, decision, or final action under section 7 of this chapter based on a failure to give a person notice under subdivision (3) if the public agency made a good faith effort to comply with subdivision (3). If a governing body comes into existence after ~~January 1,~~ **December 31,** it shall comply with this ~~subdivision~~ **subsection** upon receipt of a written request for notice. In addition, a state agency (as defined in IC 4-13-1-1) shall provide electronic access to the notice through the computer gateway administered by the office of technology established by IC 4-13.1-2-1.

(c) Notice of regular meetings need be given only once each year,

except that an additional notice shall be given where the date, time, or place of a regular meeting or meetings is changed. This subsection does not apply to executive sessions.

(d) If a meeting is called to deal with an emergency involving actual or threatened injury to person or property, or actual or threatened disruption of the governmental activity under the jurisdiction of the public agency by any event, then the time requirements of notice under this section shall not apply, but:

(1) news media which have requested notice of meetings **under subsection (b)(2)** must be given the same notice as is given to the members of the governing body; and

(2) the public must be notified by posting a copy of the notice according to ~~this section.~~ **subsection (b)(1).**

(e) This section shall not apply where notice by publication is required by statute, ordinance, rule, or regulation.

(f) This section shall not apply to:

(1) the department of local government finance, the Indiana board of tax review, or any other governing body which meets in continuous session, except that this section applies to meetings of these governing bodies which are required by or held pursuant to statute, ordinance, rule, or regulation; or

(2) the executive of a county or the legislative body of a town if the meetings are held solely to receive information or recommendations in order to carry out administrative functions, to carry out administrative functions, or confer with staff members on matters relating to the internal management of the unit. "Administrative functions" do not include the awarding of contracts, the entering into contracts, or any other action creating an obligation or otherwise binding a county or town.

(g) This section does not apply to the general assembly.

(h) Notice has not been given in accordance with this section if a governing body of a public agency convenes a meeting at a time so unreasonably departing from the time stated in its public notice that the public is misled or substantially deprived of the opportunity to attend, observe, and record the meeting.

SECTION 15. IC 5-14-1.5-7, AS AMENDED BY P.L.179-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. (a) An action may be filed by any person in any court of competent jurisdiction to:

(1) obtain a declaratory judgment;

(2) enjoin continuing, threatened, or future violations of this chapter; or

(3) declare void any policy, decision, or final action:

(A) taken at an executive session in violation of section 3(a) of this chapter;

(B) taken at any meeting of which notice is not given in accordance with section 5 of this chapter;

(C) that is based in whole or in part upon official action taken at any:

(i) executive session in violation of section 3(a) of this

chapter;
(ii) meeting of which notice is not given in accordance with section 5 of this chapter; or
(iii) series of gatherings in violation of section 3.1 of this chapter; or
(D) taken at a meeting held in a location in violation of section 8 of this chapter.

The plaintiff need not allege or prove special damage different from that suffered by the public at large.

(b) Regardless of whether a formal complaint or an informal inquiry is pending before the public access counselor, any action to declare any policy, decision, or final action of a governing body void, or to enter an injunction which would invalidate any policy, decision, or final action of a governing body, based on violation of this chapter occurring before the action is commenced, shall be commenced:

(1) prior to the delivery of any warrants, notes, bonds, or obligations if the relief sought would have the effect, if granted, of invalidating the notes, bonds, or obligations; or

(2) with respect to any other subject matter, within thirty (30) days of either:

(A) the date of the act or failure to act complained of; or

(B) the date that the plaintiff knew or should have known that the act or failure to act complained of had occurred;

whichever is later. If the challenged policy, decision, or final action is recorded in the memoranda or minutes of a governing body, a plaintiff is considered to have known that the act or failure to act complained of had occurred not later than the date that the memoranda or minutes are first available for public inspection.

(c) If a court finds that a governing body of a public agency has violated this chapter, it may not find that the violation was cured by the governing body by only having taken final action at a meeting that complies with this chapter.

(d) In determining whether to declare any policy, decision, or final action void, a court shall consider the following factors among other relevant factors:

(1) The extent to which the violation:

(A) affected the substance of the policy, decision, or final action;

(B) denied or impaired access to any meetings that the public had a right to observe and record; and

(C) prevented or impaired public knowledge or understanding of the public's business.

(2) Whether voiding of the policy, decision, or final action is a necessary prerequisite to a substantial reconsideration of the subject matter.

(3) Whether the public interest will be served by voiding the policy, decision, or final action by determining which of the following factors outweighs the other:

(A) The remedial benefits gained by effectuating the public policy of the state declared in section 1 of this chapter.

(B) The prejudice likely to accrue to the public if the policy, decision, or final action is voided, including the extent to which persons have relied upon the validity of the challenged action and the effect declaring the challenged action void would have on them.

(4) Whether the defendant acted in compliance with an informal inquiry response or advisory opinion issued by the public access counselor concerning the violation.

(e) If a court declares a policy, decision, or final action of a governing body of a public agency void, the court may enjoin the governing body from subsequently acting upon the subject matter of the voided act until it has been given substantial reconsideration at a meeting or meetings that comply with this chapter.

(f) In any action filed under this section, a court shall award reasonable attorney's fees, court costs, and other reasonable expenses of litigation to the prevailing party if:

(1) the plaintiff prevails; or

(2) the defendant prevails and the court finds that the action is frivolous and vexatious.

The plaintiff is not eligible for the awarding of attorney's fees, court costs, and other reasonable expenses if the plaintiff filed the action without first seeking and receiving an informal inquiry response or advisory opinion from the public access counselor, unless the plaintiff can show the filing of the action was necessary to prevent a violation of this chapter.

(g) A court may assess a civil penalty under section 7.5 of this chapter only if the plaintiff obtained an advisory opinion from the public access counselor before filing an action under this section as set forth in section 7.5 of this chapter.

~~(g)~~ **(h)** A court shall expedite the hearing of an action filed under this section.

SECTION 16. IC 5-14-1.5-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 7.5. (a) This section applies only to an individual who is:**

(1) an officer of a public agency; or

(2) employed in a management level position with a public agency.

(b) If an individual with the specific intent to violate the law fails to perform a duty imposed on the individual under this chapter by:

(1) failing to give proper notice of a regular meeting, special meeting, or executive session;

(2) taking final action outside a regular meeting or special meeting;

(3) participating in a secret ballot during a meeting;

(4) discussing in an executive session subjects not eligible for discussion in an executive session;

(5) failing to prepare a memorandum of a meeting as required by section 4 of this chapter; or

(6) participating in at least one (1) gathering of a series of gatherings under section 3.1 of this chapter;

the individual and the public agency are subject to a civil penalty under subsection (f).

(c) A civil penalty may only be imposed as part of an action filed under section 7 of this chapter. A court may not impose a civil penalty under this section unless the public access counselor has issued an advisory opinion:

(1) to the complainant and the public agency;

(2) that finds that the individual or public agency violated this chapter; and

(3) before the action under section 7 of this chapter is filed.

Nothing in this section prevents both the complainant and the public agency from requesting an advisory opinion from the public access counselor.

(d) It is a defense to the imposition of a civil penalty under this section that the individual failed to perform a duty under subsection (b) in reliance on either of the following:

(1) An opinion of the public agency's legal counsel.

(2) An opinion of the attorney general.

(e) Except as provided in subsection (i), in an action filed under section 7 of this chapter, a court may impose a civil penalty against one (1) or more of the following:

(1) The individual named as a defendant in the action.

(2) The public agency named as a defendant in the action.

(f) The court may impose against each defendant listed in subsection (c) the following civil penalties:

(1) Not more than one hundred dollars ($100) for the first violation.

(2) Not more than five hundred dollars ($500) for each additional violation.

A civil penalty imposed under this section is in addition to any other civil or criminal penalty imposed. However, in any one (1) action brought under section 7 of this chapter, a court may impose only one (1) civil penalty against an individual, even if the court finds that the individual committed multiple violations. This subsection does not preclude a court from imposing another civil penalty against an individual in a separate action, but an individual may not be assessed more than one (1) civil penalty in any one (1) action brought under this section.

(g) A court shall distribute monthly to the auditor of state any penalties collected under this section for deposit in the education fund established by IC 5-14-4-14.

(h) An individual is personally liable for a civil penalty imposed on the individual under this section. A civil penalty imposed against a public agency under this section shall be paid from the public agency's budget.

(i) If an officer of a public agency directs an individual who is employed in a management level position to fail to give proper notice as described in subsection (b)(1), the management level employee is not subject to civil penalties under subsection (f).

SECTION 17. IC 5-14-3-3, AS AMENDED BY P.L.2-2007, SECTION 100, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2012]: Sec. 3. (a) Any person may inspect and copy the public records of any public agency during the regular business hours of the agency, except as provided in section 4 of this chapter. A request for inspection or copying must:

(1) identify with reasonable particularity the record being requested; and

(2) be, at the discretion of the agency, in writing on or in a form provided by the agency.

No request may be denied because the person making the request refuses to state the purpose of the request, unless such condition is required by other applicable statute.

(b) A public agency may not deny or interfere with the exercise of the right stated in subsection (a). **Within a reasonable time after the request is received by the agency,** the public agency shall either:

(1) provide the requested copies to the person making the request; or

(2) allow the person to make copies:

(A) on the agency's equipment; or

(B) on the person's own equipment.

(c) Notwithstanding subsections (a) and (b), a public agency may or may not do the following:

(1) In accordance with a contract described in section 3.5 of this chapter, permit a person to inspect and copy through the use of enhanced access public records containing information owned by or entrusted to the public agency.

(2) Permit a governmental entity to use an electronic device to inspect and copy public records containing information owned by or entrusted to the public agency.

(d) Except as provided in subsection (e), a public agency that maintains or contracts for the maintenance of public records in an electronic data storage system shall make reasonable efforts to provide to a person making a request a copy of all disclosable data contained in the records on paper, disk, tape, drum, or any other method of electronic retrieval if the medium requested is compatible with the agency's data storage system. This subsection does not apply to an electronic map.

(e) A state agency may adopt a rule under IC 4-22-2, and a political subdivision may enact an ordinance, prescribing the conditions under which a person who receives information on disk or tape under subsection (d) may or may not use the information for commercial purposes, including to sell, advertise, or solicit the purchase of merchandise, goods, or services, or sell, loan, give away, or otherwise deliver the information obtained by the request to any other person for these purposes. Use of information received under subsection (d) in connection with the preparation or publication of news, for nonprofit activities, or for academic research is not prohibited. A person who uses information in a manner contrary to a rule or ordinance adopted under this subsection may be prohibited by the state agency or political subdivision from obtaining a copy or any further data under subsection (d).

(f) Notwithstanding the other provisions of this section, a public agency is not required to create or provide copies of lists of names and addresses (including electronic mail account addresses) unless the public agency is required to publish such lists and disseminate them to the public under a statute. However, if a public agency has created a list of names and addresses (excluding electronic mail account addresses) it must permit a person to inspect and make memoranda abstracts from the list unless access to the list is prohibited by law. The lists of names and addresses (including electronic mail account addresses) described in subdivisions (1) through (3) may not be disclosed by public agencies to any individual or entity for political purposes and may not be used by any individual or entity for political purposes. In addition, the lists of names and addresses (including electronic mail account addresses) described in subdivisions (1) through (3) may not be disclosed by public agencies to commercial entities for commercial purposes and may not be used by commercial entities for commercial purposes. The prohibition in this subsection against the disclosure of lists for political or commercial purposes applies to the following lists of names and addresses (including electronic mail account addresses):

(1) A list of employees of a public agency.

(2) A list of persons attending conferences or meetings at a state educational institution or of persons involved in programs or activities conducted or supervised by the state educational institution.

(3) A list of students who are enrolled in a public school corporation if the governing body of the public school corporation adopts a policy:

(A) with respect to disclosure related to a commercial purpose, prohibiting the disclosure of the list to commercial entities for commercial purposes;

(B) with respect to disclosure related to a commercial purpose, specifying the classes or categories of commercial entities to which the list may not be disclosed or by which the list may not be used for commercial purposes; or

(C) with respect to disclosure related to a political purpose, prohibiting the disclosure of the list to individuals and entities for political purposes.

A policy adopted under subdivision (3)(A) or (3)(B) must be uniform and may not discriminate among similarly situated commercial entities. For purposes of this subsection, "political purposes" means influencing the election of a candidate for federal, state, legislative, local, or school board office or the outcome of a public question or attempting to solicit a contribution to influence the election of a candidate for federal, state, legislative, local, or school board office or the outcome of a public question.

(g) A public agency may not enter into or renew a contract or an obligation:

(1) for the storage or copying of public records; or

(2) that requires the public to obtain a license or pay copyright

royalties for obtaining the right to inspect and copy the records unless otherwise provided by applicable statute;

if the contract, obligation, license, or copyright unreasonably impairs the right of the public to inspect and copy the agency's public records.

(h) If this section conflicts with IC 3-7, the provisions of IC 3-7 apply.

SECTION 18. IC 5-14-3-4, AS AMENDED BY P.L.170-2011, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

(1) Those declared confidential by state statute.

(2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.

(3) Those required to be kept confidential by federal law.

(4) Records containing trade secrets.

(5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.

(6) Information concerning research, including actual research documents, conducted under the auspices of a state educational institution, including information:

(A) concerning any negotiations made with respect to the research; and

(B) received from another party involved in the research.

(7) Grade transcripts and license examination scores obtained as part of a licensure process.

(8) Those declared confidential by or under rules adopted by the supreme court of Indiana.

(9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39 or as provided under IC 16-41-8.

(10) Application information declared confidential by the board of the Indiana economic development corporation under IC 5-28-16.

(11) A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.

(12) A Social Security number contained in the records of a public agency.

(13) The following information that is part of a foreclosure action subject to IC 32-30-10.5:

(A) Contact information for a debtor, as described in IC 32-30-10.5-8(d)(2)(B).

(B) Any document submitted to the court as part of the debtor's loss mitigation package under IC 32-30-10.5-10(a)(3).

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(1) Investigatory records of law enforcement agencies. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.

(2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:

(A) a public agency;

(B) the state; or

(C) an individual.

(3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not consented to the release of the person's scores.

(5) The following:

(A) Records relating to negotiations between the Indiana economic development corporation, the ports of Indiana, the Indiana state department of agriculture, the Indiana finance authority, an economic development commission, a local economic development organization (as defined in IC 5-28-11-2(3)), or a governing body of a political subdivision with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the Indiana economic development corporation, the ports of Indiana, the Indiana finance authority, an economic development commission, or a governing body of a political subdivision to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the Indiana economic development corporation shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges

against the employee; and

(C) the factual basis for a disciplinary action in which final action has been taken and that resulted in the employee being suspended, demoted, or discharged.

However, all personnel file information shall be made available to the affected employee or the employee's representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a record keeping or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

(13) The work product of the legislative services agency under personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:

(A) the donor requires nondisclosure of the donor's identity as a condition of making the gift; or

(B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(16) Library or archival records:

(A) which can be used to identify any library patron; or

(B) deposited with or acquired by a library upon a condition that the records be disclosed only:

(i) to qualified researchers;

(ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or

(iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

(17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing medical advisory board regarding the ability of a driver to operate a motor vehicle safely. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and

evaluations.

(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

(19) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. A record described under this subdivision includes:

(A) a record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2;

(B) vulnerability assessments;

(C) risk planning documents;

(D) needs assessments;

(E) threat assessments;

(F) intelligence assessments;

(G) domestic preparedness strategies;

(H) the location of community drinking water wells and surface water intakes;

(I) the emergency contact information of emergency responders and volunteers;

(J) infrastructure records that disclose the configuration of critical systems such as communication, electrical, ventilation, water, and wastewater systems; and

(K) detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located on an airport (as defined in IC 8-21-1-1) that is owned, occupied, leased, or maintained by a public agency. A record described in this clause may not be released for public inspection by any public agency without the prior approval of the public agency that owns, occupies, leases, or maintains the airport. The public agency that owns, occupies, leases, or maintains the airport:

(i) is responsible for determining whether the public disclosure of a record or a part of a record has a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack; and

(ii) must identify a record described under item (i) and clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(b)(19)(J) without approval of (insert name of submitting public agency)".

This subdivision does not apply to a record or portion of a record pertaining to a location or structure owned or protected by a public agency in the event that an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2 has occurred at that location or structure, unless release of the record or portion of the record would have a reasonable likelihood of threatening public safety by exposing a vulnerability of other locations or structures to terrorist attack.

(20) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):

(A) Telephone number.

(B) Address.

(C) Social Security number.

(21) The following personal information about a complainant contained in records of a law enforcement agency:

(A) Telephone number.

(B) The complainant's address. However, if the complainant's address is the location of the suspected crime, infraction, accident, or complaint reported, the address shall be made available for public inspection and copying.

(22) Notwithstanding subdivision (8)(A), the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first employment of a law enforcement officer who is operating in an undercover capacity.

(23) Records requested by an offender that:

(A) contain personal information relating to:

(i) a correctional officer (as defined in IC 5-10-10-1.5);

(ii) a law enforcement officer (as defined in IC 35-31.5-2-185);

(iii) a judge (as defined in IC 33-38-12-3);

~~(ii)~~ **(iv)** the victim of a crime; or

~~(iii)~~ **(v)** a family member of a correctional officer, **law enforcement officer (as defined in IC 35-31.5-2-185), judge (as defined in IC 33-38-12-3),** or ~~the~~ victim of a crime; or

(B) concern or could affect the security of a jail or correctional facility.

(24) Information concerning an individual less than eighteen (18) years of age who participates in a conference, meeting, program, or activity conducted or supervised by a state educational institution, including the following information regarding the individual or the individual's parent or guardian:

(A) Name.

(B) Address.

(C) Telephone number.

(D) Electronic mail account address.

(c) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(d) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption or patient medical records, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(e) Only the content of a public record may form the basis for the adoption by any public agency of a rule or procedure creating an exception from disclosure under this section.

(f) Except as provided by law, a public agency may not adopt a rule

or procedure that creates an exception from disclosure under this section based upon whether a public record is stored or accessed using paper, electronic media, magnetic media, optical media, or other information storage technology.

(g) Except as provided by law, a public agency may not adopt a rule or procedure nor impose any costs or liabilities that impede or restrict the reproduction or dissemination of any public record.

(h) Notwithstanding subsection (d) and section 7 of this chapter:

(1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or

(2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

SECTION 19. IC 5-14-3-9, AS AMENDED BY P.L.22-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 9. (a) A denial of disclosure by a public agency occurs when the person making the request is physically present in the office of the agency, makes the request by telephone, or requests enhanced access to a document and:

(1) the person designated by the public agency as being responsible for public records release decisions refuses to permit inspection and copying of a public record when a request has been made; or

(2) twenty-four (24) hours elapse after any employee of the public agency refuses to permit inspection and copying of a public record when a request has been made;

whichever occurs first.

(b) If a person requests by mail or by facsimile a copy or copies of a public record, a denial of disclosure does not occur until seven (7) days have elapsed from the date the public agency receives the request.

(c) If a request is made orally, either in person or by telephone, a public agency may deny the request orally. However, if a request initially is made in writing, by facsimile, or through enhanced access, or if an oral request that has been denied is renewed in writing or by facsimile, a public agency may deny the request if:

(1) the denial is in writing or by facsimile; and

(2) the denial includes:

(A) a statement of the specific exemption or exemptions authorizing the withholding of all or part of the public record; and

(B) the name and the title or position of the person responsible for the denial.

(d) This subsection applies to a board, a commission, a department, a division, a bureau, a committee, an agency, an office, an instrumentality, or an authority, by whatever name designated, exercising any part of the executive, administrative, judicial, or legislative power of the state. If an agency receives a request to inspect or copy a record that the agency considers to be excepted from disclosure under section 4(b)(19) of this chapter, the agency may consult with the counterterrorism and security council established by IC 10-19-8-1. If an agency denies the disclosure of a record or a part of

a record under section 4(b)(19) of this chapter, the agency or the counterterrorism and security council shall provide a general description of the record being withheld and of how disclosure of the record would have a reasonable likelihood of threatening the public safety.

(e) A person who has been denied the right to inspect or copy a public record by a public agency may file an action in the circuit or superior court of the county in which the denial occurred to compel the public agency to permit the person to inspect and copy the public record. Whenever an action is filed under this subsection, the public agency must notify each person who supplied any part of the public record at issue:

(1) that a request for release of the public record has been denied; and

(2) whether the denial was in compliance with an informal inquiry response or advisory opinion of the public access counselor.

Such persons are entitled to intervene in any litigation that results from the denial. The person who has been denied the right to inspect or copy need not allege or prove any special damage different from that suffered by the public at large.

(f) The court shall determine the matter de novo, with the burden of proof on the public agency to sustain its denial. If the issue in de novo review under this section is whether a public agency properly denied access to a public record because the record is exempted under section 4(a) of this chapter, the public agency meets its burden of proof under this subsection by establishing the content of the record with adequate specificity and not by relying on a conclusory statement or affidavit.

(g) If the issue in a de novo review under this section is whether a public agency properly denied access to a public record because the record is exempted under section 4(b) of this chapter:

(1) the public agency meets its burden of proof under this subsection by:

(A) proving that the record falls within any one (1) of the categories of exempted records under section 4(b) of this chapter; and

(B) establishing the content of the record with adequate specificity and not by relying on a conclusory statement or affidavit; and

(2) a person requesting access to a public record meets the person's burden of proof under this subsection by proving that the denial of access is arbitrary or capricious.

(h) The court may review the public record in camera to determine whether any part of it may be withheld under this chapter. **However, if the complaint alleges that a public agency denied disclosure of a public record by redacting information in the public record, the court shall conduct an in camera inspection of the public record with the redacted information included.**

(i) In any action filed under this section, a court shall award reasonable attorney's fees, court costs, and other reasonable expenses of litigation to the prevailing party if:

(1) the plaintiff substantially prevails; or

(2) the defendant substantially prevails and the court finds the action was frivolous or vexatious.

The plaintiff is not eligible for the awarding of attorney's fees, court costs, and other reasonable expenses if the plaintiff filed the action without first seeking and receiving an informal inquiry response or advisory opinion from the public access counselor, unless the plaintiff can show the filing of the action was necessary because the denial of access to a public record under this chapter would prevent the plaintiff from presenting that public record to a public agency preparing to act on a matter of relevance to the public record whose disclosure was denied.

(j) A court may assess a civil penalty under section 9.5 of this chapter only if the plaintiff obtained an advisory opinion from the public access counselor before filing an action under this section as set forth in section 9.5 of this chapter.

~~(j)~~ **(k)** A court shall expedite the hearing of an action filed under this section.

SECTION 20. IC 5-14-3-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 9.5. (a) This section does not apply to any matter regarding:**

(1) the work product of the legislative services agency under personnel rules approved by the legislative council; or

(2) the work product of individual members and the partisan staffs of the general assembly.

(b) As used in subsections (c) through (k), "individual" means:

(1) an officer of a public agency; or

(2) an individual employed in a management level position with a public agency.

(c) If an individual:

(1) continues to deny a request that complies with section 3(b) of this chapter for inspection or copying of a public record after the public access counselor has issued an advisory opinion:

(A) regarding the request for inspection or copying of the public record; and

(B) that instructs the public agency to allow access to the public record; and

(2) denies the request with the specific intent to unlawfully withhold a public record that is subject to disclosure under this chapter;

the individual and the public agency employing the individual are subject to a civil penalty under subsection (h).

(d) If an individual intentionally charges a copying fee that the individual knows exceeds the amount set by statute, fee schedule, ordinance, or court order, the individual is subject to a civil penalty under subsection (h).

(e) A civil penalty may only be imposed as part of an action filed under section 9 of this chapter. A court may not impose a civil penalty under this section unless the public access counselor has issued an advisory opinion:

(1) to the complainant and the public agency;

(2) that instructs the public agency to allow access to the public record; and

(3) before the action under section 9 of this chapter is filed.

Nothing in this section prevents both the person requesting the public record and the public agency from requesting an advisory opinion from the public access counselor.

(f) It is a defense to the imposition of a civil penalty under this section that the individual denied access to a public record in reliance on either of the following:

(1) An opinion of the public agency's legal counsel.

(2) An opinion of the attorney general.

(g) A court may impose a civil penalty for a violation under subsection (c) against one (1) or more of the following:

(1) The individual named as a defendant in the action.

(2) The public agency named as a defendant in the action.

(h) In an action under this section, a court may impose the following civil penalties:

(1) Not more than one hundred dollars ($100) for the first violation.

(2) Not more than five hundred dollars ($500) for each additional violation.

A civil penalty imposed under this section is in addition to any other civil or criminal penalty imposed. However, in any one (1) action brought under this section, a court may impose only one (1) civil penalty against an individual, even if the court finds that the individual committed multiple violations. This subsection does not preclude a court from imposing another civil penalty against an individual in a separate action, but an individual may not be assessed more than one (1) civil penalty in any one (1) action brought under this section.

(i) A court shall distribute monthly to the auditor of state any penalties collected under this section for deposit in the education fund established by IC 5-14-4-14.

(j) An individual is personally liable for a civil penalty imposed on the individual under this section. A civil penalty imposed against a public agency under this section shall be paid from the public agency's budget.

(k) If an officer of a public agency directs an individual who is employed in a management level position to deny a request as described in subsection (c)(1), the management level employee is not subject to civil penalties under subsection (h).

SECTION 21. IC 5-14-4-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 14. (a) An education fund is established to provide funds for the program established under section 10(1) of this chapter.**

(b) The fund consists of the following:

(1) Civil penalties collected under IC 5-14-1.5-7.5 and IC 5-14-3-9.5.

(2) Money appropriated by the general assembly.

(3) Grants, gifts, contributions, and money received from any other source.

(c) The treasurer of state shall administer the fund. The following may be paid from money in the fund:

(1) Expenses of administering the fund.

(2) Nonrecurring administrative expenses incurred to carry out the purposes of this section.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

SECTION 22. IC 5-15-5.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. ~~As used in~~ **The following definitions apply throughout** this chapter:

"Commission" means the commission on public records created by this chapter.

"Record" means all documentation of the informational, communicative, or ~~decisionmaking~~ **decision making** 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 generated on:

(1) paper or paper substitutes;

(2) photographic or chemically based media;

(3) magnetic, **electronic,** or machine readable media; or

(4) any other materials, regardless of form or characteristics.

"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:

(1) an individual holding a state office created by the Constitution of Indiana, by act or resolution of the general assembly, or by the governor;

(2) all officers of the executive and administrative branch of state government; and

(3) 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:

(1) form's size, style, and size of type;

(2) format;

(3) type of construction;

(4) number of plies;

(5) quality, weight and type of paper and carbon; and ~~by determining the~~

(6) 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:

(1) resume or continue governmental operations;

(2) the reestablishing of the legal and financial responsibilities of government in the state; or ~~to~~

(3) 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 23. IC 21-9-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 5. (a) Five (5) 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 24. 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:~~

~~(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 25. 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 26. 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.~~

~~(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 27. 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) 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 28. IC 25-1-14 IS REPEALED [EFFECTIVE JANUARY 1, 2013]. (Meetings).

SECTION 29. 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.

(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 30. 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 31. 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 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 32. IC 28-11-1-9.1, AS AMENDED BY HEA 1239-2012 SECTION 107, IS REPEALED [EFFECTIVE JANUARY 1, 2013]: ~~Sec. 9.1. (a) Subject to the policies adopted by the members governing the conduct of meetings, this section applies to all meetings of the members.~~

~~(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 for all purposes, including establishing a quorum and voting on all matters to come before the members.~~

~~(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); and~~

~~(3) was absent.~~

SECTION 33. 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 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.~~

SECTION 34. IC 34-30-2-14.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 14.1. IC 5-14-1.5-7.5 (Concerning a public employee who, acting on the orders of a superior or on the advice of the agency attorney or the attorney general, fails to provide proper notice of a public meeting or executive session).**

SECTION 35. IC 34-30-2-14.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 14.2. IC 5-14-3-9.5 (Concerning a public employee who, acting on the orders of a superior or on the advice of the agency attorney or the attorney general, denies or interferes with a person's request for inspection or copying of a public record)**.

(Reference is to EHB 1003 as reprinted February 17, 2012.)

Conference Committee Report
on
Engrossed House Bill 1003

Signed by:

Representative Crouch Chairperson	Senator Holdman
Representative Dobis	Senator Arnold
House Conferees	**Senate Conferees**