HOUSE BILL No. 1055

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-22-2-37.1; IC 4-30-3-9; IC 4-31-3-9; IC 5-28-5-8; IC 6-1.1-22.5-20; IC 8-15-2; IC 8-15.5-7-8; IC 9-20-1-3; IC 9-21-4-7; IC 12-8-1.5-9; IC 13-14-8-1; IC 13-15-4; IC 14-22-6-13; IC 16-19-3-5; IC 24-4.5; IC 28-15-11-17; IC 34-55-10-2.5.

Synopsis: Emergency rulemaking statute. Removes from the statute providing the procedure by which Indiana administrative agencies may adopt emergency rules (emergency rules statute) a list enumerating the statutes that convey emergency rulemaking authority, and codifies in substantive administrative law emergency rulemaking authority that is currently codified only in this list. Relocates exceptions and conditions applicable only to certain emergency rules from the emergency rules statute to the statute establishing the authority for adoption of the emergency rule to which the exception or condition applies. Provides that the publisher of the Indiana administrative code shall annually publish a list of agencies authorized to adopt rules under the emergency rules statute. Makes other technical corrections. (The introduced version of this bill was prepared by the code revision commission.)

Effective: Upon passage.

McMillin, Bartlett, Kersey

January 7, 2013, read first time and referred to Committee on Government and Regulatory Reform.

C o p y

Introduced

First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

C o p y

HOUSE BILL No. 1055

A BILL FOR AN ACT to amend the Indiana Code concerning general provisions.

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

SECTION 1. IC 4-22-2-37.1, AS AMENDED BY P.L.25-2012, SECTION 1, P.L.48-2012, SECTION 2, P.L.78-2012, SECTION 1, P.L.160-2012, SECTION 6, P.L.77-2012, SECTION 1, AND P.L.133-2012, SECTION 9, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37.1. ~~(a) This section applies to a rulemaking action resulting in any of the following rules:~~

~~(1) An order adopted by the commissioner of the Indiana department of transportation under IC 9-20-1-3(d) or IC 9-21-4-7(a) and designated by the commissioner as an emergency rule.~~

~~(2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.~~

~~(3) An emergency temporary standard adopted by the occupational safety standards commission under IC 22-8-1.1-16.1.~~

~~(4) An emergency rule adopted by the *solid waste management*~~

~~*environmental rules* board under IC 13-22-2-3 and classifying a waste as hazardous.~~

~~(5) A rule, other than a rule described in subdivision (6), adopted by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.~~

~~(6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.~~

~~(7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.~~

~~(8) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.~~

~~(9) A rule adopted under IC 16-19-3-5 or IC 16-41-2-1 that the executive board of the state department of health declares is necessary to meet an emergency.~~

~~(10) An emergency rule adopted by the Indiana finance authority under IC 8-21-12.~~

~~(11) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7 or IC 27-1-12.1.~~

~~(12) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.~~

~~(13) An emergency rule adopted by the *air pollution control board, the solid waste management board, or the water pollution control environmental rules* board under IC 13-15-4-10(4) or to comply with a deadline required by or other date provided by federal law, provided:~~

~~(A) the variance procedures are included in the rules; and~~

~~(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.~~

~~(14) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.~~

~~(15) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.~~

~~(16) An emergency rule adopted by the Indiana gaming commission under IC 4-32.2-3-3(b), IC 4-33-4-2, IC 4-33-4-3, IC 4-33-4-14, IC 4-33-22-12, or IC 4-35-4-2.~~

~~(17) An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.~~

~~(18) An emergency rule adopted by the department of financial institutions under IC 28-15-11.~~

C o p y

~~(19) An emergency rule adopted by the office of the secretary of family and social services under *IC 12-8-1-12. IC 12-8-1.5-11.*~~
~~(20) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.~~
~~(21) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.~~
~~(22) An emergency rule adopted by the Indiana state board of animal health under IC 15-17-10-9.~~
~~(23) An emergency rule adopted by the board of directors of the Indiana education savings authority under IC 21-9-4-7.~~
~~(24) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34 (repealed).~~
~~(25) An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33 (repealed).~~
~~(26) An emergency rule adopted by the boiler and pressure vessel rules board under IC 22-13-2-8(c).~~
~~(27) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-37(l) (repealed) or an emergency rule adopted by the department of local government finance under IC 6-1.1-4-36(j) (repealed) or IC 6-1.1-22.5-20.~~
~~(28) An emergency rule adopted by the board of the Indiana economic development corporation under IC 5-28-5-8.~~
~~(29) A rule adopted by the department of financial institutions under IC 34-55-10-2.5.~~
~~(30) A rule adopted by the Indiana finance authority:~~
~~(A) under IC 8-15.5-7 approving user fees (as defined in IC 8-15.5-2-10) provided for in a public-private agreement under IC 8-15.5;~~
~~(B) under IC 8-15-2-17.2(a)(10):~~
~~(i) establishing enforcement procedures; and~~
~~(ii) making assessments for failure to pay required tolls;~~
~~(C) under IC 8-15-2-14(a)(3) authorizing the use of and establishing procedures for the implementation of the collection of user fees by electronic or other nonmanual means; or~~
~~(D) to make other changes to existing rules related to a toll road project to accommodate the provisions of a public-private agreement under IC 8-15.5.~~
~~*(31) An emergency rule adopted by the board of the Indiana health informatics corporation under IC 5-31-5-8.*~~
~~*(32)* *(31)* An emergency rule adopted by the department of child services under IC 31-25-2-21, IC 31-27-2-4, IC 31-27-4-2, or~~

C o p y

~~*IC 31-27-4-3. IC 31-28-5.8.*~~

~~*(33) (32)* An emergency rule adopted by the Indiana real estate commission under IC 25-34.1-2-5(15).~~

~~*(34) (33)* A rule adopted by the department of financial institutions under IC 24-4.4-1-101 and determined necessary to meet an emergency.~~

~~*(35) (34)* An emergency rule adopted by the state board of pharmacy regarding returning unused medication under IC 25-26-23.~~

~~*(36) (35)* An emergency rule adopted by the department of local government finance under IC 6-1.1-12.6 or IC 6-1.1-12.8.~~

~~*(37) (38)* An emergency rule adopted by the office of the secretary of family and social services or the office of Medicaid policy and planning concerning the following:~~

~~(A) Federal Medicaid waiver program provisions.~~

~~(B) Federal programs administered by the office of the secretary.~~

~~*The authority of the office of the secretary of family and social services and the office of Medicaid policy and planning to adopt a rule described in this subdivision expires December 31, 2012.*~~

~~*(38) An emergency rule adopted by the Indiana board of accountancy or the executive director of the Indiana professional licensing agency under IC 25-2.1-2-16.*~~

~~*(38) An emergency rule adopted by the Indiana board of pharmacy declaring a substance to be a synthetic drug under IC 25-26-13-4.1.*~~

~~*(38) An emergency rule adopted by the Indiana emergency medical services commission under IC 16-31-3-24.*~~

~~(b)~~ **(a)** The following do not apply to ~~rules described in subsection (a):~~ **a rule adopted under this section:**

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(b) A rule may be adopted under this section if the statute delegating authority to the agency to adopt the rule authorizes adoption of the rule:

(1) under this section; or

(2) in the manner provided by this section.

(c) After ~~a rule described in subsection (a) has been adopted by the agency,~~ **an agency adopts a rule under this section,** the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by

C o p y

section 21 of this chapter. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the publisher for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the publisher shall:

(1) accept the rule for filing; and

(2) electronically record the date and time that the rule is accepted.

(f) A rule ~~described in subsection (a)~~ **adopted by an agency under this section** takes effect on the latest of the following dates:

(1) The effective date of the statute delegating authority to the agency to adopt the rule.

(2) The date and time that the rule is accepted for filing under subsection (e).

(3) The effective date stated by the adopting agency in the rule.

(4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(5) The statutory effective date for an emergency rule set forth in the statute authorizing the agency to adopt emergency rules.

(g) ~~Subject to subsection (h), *(n),* IC 14-10-2-5, IC 14-22-2-6, IC 22-8-1.1-16.1, *and IC 22-13-2-8(c), IC 22-13-2-8(d), and IC 25-2.1-2-16(c) (as added by SEA 330-2012),* and except as provided in subsections (j), (k), *and* (l), *and (n),*~~ **Unless otherwise provided by the statute authorizing adoption of the rule:**

(1) a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e); ~~Except for a rule adopted under subsection (a)(13), (a)(24), (a)(25), or (a)(27), the~~

(2) a rule **adopted under this section** may be extended by adopting another rule under this section, but only for one (1) extension period; ~~The extension period for a rule adopted under subsection (a)(28) may not exceed the period for which the original rule was in effect. A rule adopted under subsection (a)(13) may be extended for two (2) extension periods. Subject to subsection (j), a rule adopted under subsection (a)(24), (a)(25), or (a)(27) may be extended for an unlimited number of extension periods. Except for a rule adopted under subsection (a)(13),~~ **and**

(3) for a rule adopted under this section to be effective after one

C o p y

(1) extension period, the rule must be adopted under:

~~(1)~~ **(A)** sections 24 through 36 of this chapter; or

~~(2)~~ **(B)** IC 13-14-9;

as applicable.

~~(h) A rule described in subsection (a)(8), (a)(12), *(a)(19), (a)(20), (a)(21),* (a)(29), *or (a)(37), or (a)(38) (a)(36)* expires on the earlier of the following dates:~~

~~(1) The expiration date stated by the adopting agency in the rule.~~

~~(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.~~

~~(i)~~ **(h)** This section may not be used to readopt a rule under IC 4-22-2.5.

~~(j) A rule described in subsection (a)(24) or (a)(25) expires not later than January 1, 2006.~~

~~(k) A rule described in subsection (a)(28) expires on the expiration date stated by the board of the Indiana economic development corporation in the rule.~~

~~(l) A rule described in subsection (a)(30) expires on the expiration date stated by the Indiana finance authority in the rule.~~

~~(m) A rule described in subsection (a)(5) or (a)(6) expires on the date the department is next required to issue a rule under the statute authorizing or requiring the rule.~~

~~*(n) A rule described in subsection (a)(38) expires on June 30 of the year following the year in which it is filed with the publisher under this section.*~~

~~*(n) This subsection applies to a rule described in subsection (a)(37). A rule adopted before January 1, 2013, expires on the earliest of the following:*~~

~~*(1) The expiration date stated by the adopting agency in the rule.*~~

~~*(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.*~~

~~*(3) June 30, 2013, at 11:59 p.m.*~~

(i) The publisher of the Indiana administrative code shall annually publish a list of agencies authorized to adopt rules under this section.

SECTION 2. IC 4-30-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. **(a)** The commission may adopt emergency rules under IC 4-22-2-37.1.

(b) An emergency rule adopted by the commission under this section expires on the earlier of the following dates:

C o p y

(1) The expiration date stated in the emergency rule.

(2) The date the emergency rule is amended or repealed by a later rule adopted under IC 4-22-2-24 through IC 4-22-2-36 or under IC 4-22-2-37.1.

SECTION 3. IC 4-31-3-9, AS AMENDED BY P.L.6-2012, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. **(a)** Subject to section 14 of this chapter, the commission may:

(1) adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to implement this article, including rules that prescribe:

(A) the forms of wagering that are permitted;

(B) the number of races;

(C) the procedures for wagering;

(D) the wagering information to be provided to the public;

(E) fees for the issuance and renewal of:

(i) permits under IC 4-31-5;

(ii) satellite facility licenses under IC 4-31-5.5; and

(iii) licenses for racetrack personnel and racing participants under IC 4-31-6;

(F) investigative fees;

(G) fines and penalties; and

(H) any other regulation that the commission determines is in the public interest in the conduct of recognized meetings and wagering on horse racing in Indiana;

(2) appoint employees and fix their compensation, subject to the approval of the budget agency under IC 4-12-1-13;

(3) enter into contracts necessary to implement this article; and

(4) receive and consider recommendations from ~~an advisory~~ **a** development **advisory** committee established under IC 4-31-11.

(b) An emergency rule adopted by the commission under subsection (a) expires on the earlier of the following dates:

(1) The expiration date stated in the emergency rule.

(2) The date the emergency rule is amended or repealed by a later rule adopted under IC 4-22-2-24 through IC 4-22-2-36 or under IC 4-22-2-37.1.

SECTION 4. IC 5-28-5-8, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. **(a)** The corporation shall adopt rules under IC 4-22-2 to carry out its duties under this article. The board may also adopt emergency rules under IC 4-22-2-37.1 to carry out its duties under this article.

C o p y

(b) An emergency rule adopted under subsection (a) expires on the expiration date stated in the rule.

(c) An emergency rule adopted under subsection (a) may be extended as provided in IC 4-22-2-37.1(g), but the extension period may not exceed the period for which the original rule was in effect.

SECTION 5. IC 6-1.1-22.5-20, AS AMENDED BY P.L.112-2012, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. For purposes of a provisional statement under section 6 of this chapter, the department of local government finance may adopt emergency rules under IC 4-22-2-37.1 to do any of the following:

(1) Provide a methodology for a county treasurer to issue provisional statements with respect to real property, taking into account new construction of improvements placed on the real property, damage, and other losses related to the real property:

(A) after March 1 of the year preceding the assessment date to which the provisional statement applies; and

(B) before the assessment date to which the provisional statement applies.

(2) Carry out IC 6-1.1-22.6.

The department of local government finance may extend an emergency rule adopted under this section for an unlimited number of extension periods by adopting another emergency rule under IC 4-22-2-37.1.

SECTION 6. IC 8-15-2-5, AS AMENDED BY P.L.133-2007, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. The authority may do the following:

(1) Construct, maintain, repair, police, and operate toll road projects (as defined in this chapter), public improvements, and arterial streets and roads under section 1 of this chapter and establish rules for the use of any such toll road project, public improvement, or arterial street or road.

(2) Issue toll road revenue bonds of the state, payable solely from an allocation of money from the rural transportation road fund under IC 8-9.5-8-16 or from revenues or from the proceeds of bonds issued under this chapter and earnings thereon, or from all three (3), for the purpose of paying all or any part of the cost of any one (1) or more toll road projects or for the purpose of refunding any other toll road revenue bonds.

(3) Establish reserves from the proceeds of the sale of bonds or from other funds, or both, to secure the payment of the bonds.

(4) Fix and revise from time to time and charge and collect tolls

C o p y

for transit over each toll road project constructed by it.

(5) Acquire in the name of the state by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, or by the exercise of the right of condemnation in the manner as provided by this chapter, such public or private lands, including public parks, playgrounds or reservations, or parts thereof or rights therein, rights-of-way, property, rights, easements, and interests, as it may deem necessary for carrying out the provisions of this chapter. The authority may also:

(A) sell, transfer, and convey any such land or any interest therein so acquired, or any portion thereof, whether by purchase, condemnation, or otherwise, and whether such land or interest therein had been public or private, when the same shall no longer be needed for such purposes; and

(B) transfer and convey any such lands or interest therein as may be necessary or convenient for the construction and operation of any toll road project, or as otherwise required under the provisions of this chapter to a state agency or political subdivision.

(6) Designate the locations and establish, limit, and control such points of ingress to and egress from each toll road project as may be necessary or desirable in the judgment of the authority to ensure the proper operation and maintenance of such projects, and to prohibit entrance to such project from any point not so designated. The authority shall not grant, for the operation of transient lodging facilities, either ingress to or egress from any project, including the service areas thereof on which are located service stations and restaurants, and including toll plazas and paved portions of the right-of-way. The authority shall cause to be erected, at its cost, at all points of ingress and egress, large and suitable signs facing traffic from each direction on the toll road. Such signs shall designate the number and other designations, if any, of all United States or state highways of ingress or egress, the names of all Indiana municipalities with a population of five thousand (5,000) or more within a distance of seventy-five (75) miles on such roads of ingress or egress, and the distance in miles to such designated municipalities.

(7) Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, IC 8-9.5-8, or IC 8-15.5. When the cost under any such contract or agreement, other than:

(A) a contract for compensation for personal services;

C o p y

(B) a contract with the department under IC 8-9.5-8-7;
(C) a lease with the department under IC 8-9.5-8-8; or
(D) a contract, a lease, or another agreement under IC 8-15.5;
involves an expenditure of more than ten thousand dollars ($10,000), the authority shall make a written contract with the lowest and best bidder after advertisement for not less than two (2) consecutive weeks in a newspaper of general circulation in Marion County, Indiana, and in such other publications as the authority shall determine. Such notice shall state the general character of the work and the general character of the materials to be furnished, the place where plans and specifications therefor may be examined, and the time and place of receiving bids. Each bid shall contain the full name of every person or company interested in it and shall be accompanied by a sufficient bond or certified check on a solvent bank that if the bid is accepted a contract will be entered into and the performance of its proposal secured. The authority may reject any and all bids. A bond with good and sufficient surety shall be required by the authority of all contractors in an amount equal to at least fifty percent (50%) of the contract price, conditioned upon the faithful performance of the contract. The authority shall require a bid, performance, and payment bond from a contractor for a project if the estimated cost of the project is more than two hundred thousand dollars ($200,000). The authority may require a bid, performance, or payment bond from a contractor for a project if the estimated cost of the project is not more than two hundred thousand dollars ($200,000).

(8) Employ consulting engineers, superintendents, managers, and such other engineers, construction and accounting experts, bond counsel, other attorneys with the approval of the attorney general, and other employees and agents as may be necessary in its judgment to carry out the provisions of this chapter, and to fix their compensation. However, all such expenses shall be payable solely from the proceeds of toll road revenue bonds issued under the provisions of this chapter or from revenues.

(9) Receive and accept from any federal agency, subject to IC 8-23-3, grants for or in aid of the construction of any toll road project, and receive and accept aid or contributions from any source of either money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made, and repay any grant to the authority or to the department from a federal agency if such

C o p y

repayment is necessary to free the authority from restrictions which the authority determines to be in the public interest to remove.

(10) Establish fees, charges, terms, or conditions for any expenditures, loans, or other form of financial participation in projects authorized as public improvements on arterial streets and roads under section 1 of this chapter.

(11) Accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source and agree to and comply with conditions attached to the aid.

(12) Accept transfer of a state highway to the authority under IC 8-23-7-23 and pay the cost of conversion of the state highway to a toll road project.

(13) Enter into contracts or leases with the department under IC 8-9.5-8-7 or IC 8-9.5-8-8 and in connection with the contracts or leases agree with the department for coordination of the operation and the repair and maintenance of toll road projects and tollways which are contiguous parts of the same public road, including joint toll collection facilities and equitable division of tolls.

(14) Enter into public-private agreements under IC 8-15.5 and do all acts and things necessary or proper to carry out the purposes set forth in IC 8-15.5.

(15) Adopt rules under IC 4-22-2-37.1 to make changes to rules related to a toll road project to accommodate the provisions of a public-private agreement under IC 8-15.5. A rule adopted under this subdivision expires on the expiration date stated in the rule.

~~(15)~~ **(16)** Do all acts and things necessary or proper to carry out this chapter.

SECTION 7. IC 8-15-2-14, AS AMENDED BY P.L.47-2006, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) The authority may **do the following:**

(1) Fix, revise, charge, and collect tolls for the use of each toll road project by any person, partnership, association, limited liability company, or corporation desiring the use of any part thereof, including the right-of-way adjoining the paved portion and for placing thereon telephone, telegraph, electric light, or power lines.

(2) Fix the terms, conditions, and rates of charge for such use, including assessments for the failure to pay required tolls, subject,

C o p y

however, to the state's police power. ~~and~~

(3) Collect tolls, user fees, or other charges through manual or nonmanual methods, including, but not limited to, automatic vehicle identification systems, electronic toll collection systems, and, to the extent permitted by law, including rules adopted by the authority under IC 8-15-2-17.2(a)(10), global positioning systems and photo or video based toll collection or toll collection enforcement systems.

(4) Adopt rules under IC 4-22-2-37.1 authorizing the use of and establishing procedures for the implementation of the collection of user fees by electronic or other nonmanual means under subdivision (3). A rule adopted under this subdivision expires on the expiration date stated by the authority in the rule.

(b) Notwithstanding subsection (a), no toll or charge shall be made by the authority under this section or under a public-private agreement entered into under IC 8-15.5 for:

(1) the operation of temporary lodging facilities located upon or adjacent to any project, nor may the authority itself operate or gratuitously permit the operation of such temporary lodging facilities by other persons without any toll or charge; or

(2) placing in, on, along, over, or under such project, such telephone, telegraph, electric light or power lines, equipment, or facilities as may be necessary to serve establishments located on the project or as may be necessary to interconnect any public utility facilities on one (1) side of the toll road project with those on the other side.

(c) All contracts executed by the authority shall be preserved in the principal office of the authority.

(d) In the case of a toll road project that is not leased to the department under IC 8-9.5-8-7, the tolls shall be fixed and adjusted for each toll road project so that the aggregate of the tolls from the project, together with other revenues that are available to the authority without prior restriction or encumbrance, will at least be adequate to pay:

(1) the cost of operating, maintaining, and repairing the toll road project, including major repairs, replacements, and improvements;

(2) the principal of and the interest on bonds issued in connection with the toll road project, as the principal and interest becomes due and payable, including any reserve or sinking fund required for the project; and

(3) the payment of principal of and interest on toll road bonds

C o p y

issued by the authority in connection with any other toll road project, including any reserve or sinking fund required for the project, but only to the extent that the authority provides by resolution and subject to the provisions of any trust agreement relating to the project.

(e) Not less than one (1) year before the date that final payment of all such bonds, interest, and reimbursement is expected by the chairman of the authority to be completed, the chairman shall notify the state budget committee in writing of the expected date of final payment.

(f) Such tolls shall not be subject to supervision or regulation by any other commission, board, bureau, or agency of the state.

(g) The tolls, rents, and all other revenues derived by the authority from the toll road project, except those received in accordance with a public-private agreement under IC 8-15.5, shall be used as follows:

(1) To pay the cost of operating, maintaining, and repairing the toll road project, including major repairs, replacements, and improvements, to the extent that those costs are not paid out of other funds.

(2) To the extent provided for in the resolution authorizing the issuance of bonds under this chapter or in the trust agreement securing the bonds, to pay:

(A) the principal of and interest on any bonds as the principal and interest become due; or

(B) the redemption price or purchase price of the bonds retired by call or purchase.

(3) Except as prohibited by the resolution authorizing the issuance of bonds under this chapter or the trust agreement securing them, for any purpose relating to any toll road project, including the subject toll road project, as the authority provides by resolution.

(h) Neither the resolution nor any trust agreement by which a pledge is created needs to be filed or recorded except in the records of the authority.

(i) The use and disposition of moneys to the credit of any sinking fund shall be subject to the provisions of any resolution or resolutions authorizing the issuance of any bonds or of any trust agreement. Except as may otherwise be provided in this chapter or in any resolution or any trust agreement, any sinking fund shall be a fund for all bonds without distinction or priority of one over another, subject, however, to such priorities as may arise from prior pledges.

(j) In the case of a toll road project that is leased to the department under IC 8-9.5-8-8, the lease must require that the department fix tolls

C o p y

for the toll road project that comply with IC 8-9.5-8-8(c)(6).

(k) User fees (as defined in IC 8-15.5-2-10) for a toll road project that is subject to a public-private agreement under IC 8-15.5 shall be set in accordance with IC 8-15.5-7.

SECTION 8. IC 8-15-2-17.2, AS AMENDED BY P.L.47-2006, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17.2. (a) Notwithstanding IC 9, the authority may adopt rules:

(1) Establishing weight and size limitations for vehicles using a toll road project, subject to the following:

(A) The operator of any vehicle exceeding any of the maximum allowable dimensions or weights as set out by the authority in rules and regulations shall apply to the authority in writing, for an application for a special hauling permit, which application must be in compliance with all the terms thereof, and which application must be received at least seven (7) days prior to the time of permitted entry should such permit be granted. Such permit, if granted, will be returned to the applicant in duplicate, properly completed and numbered, and the driver of the vehicle shall have a copy to present to the toll attendant on duty at the point of entry.

(B) The authority shall assess a fee for issuing a special hauling permit. In assessing the fee, the authority shall take into consideration the following factors:

(i) The administrative cost of issuing the permit.

(ii) The potential damage the vehicle represents to the project.

(iii) The potential safety hazard the vehicle represents.

(2) Establishing the minimum speed that a motor vehicle may be driven on the interstate defense network of dual highways.

(3) Designating one-way traffic lanes on a toll road project.

(4) Determining the manner of operation of motor vehicles entering and leaving traffic lanes on a toll road project.

(5) Determining the regulation of U-turns, of crossing or entering medians, of stopping, parking, or standing, and of passing motor vehicles on a toll road project.

(6) Determining the establishment and enforcement of traffic control signs and signals for motor vehicles in traffic lanes, acceleration and deceleration lanes, toll plazas, and interchanges on a toll road project.

(7) Determining the limitation of entry to and exit from a toll road project to designated entrances and exits.

C o p y

(8) Determining the limitation on use of a toll road project by pedestrians and aircraft and by vehicles of a type specified in such rules and regulations.

(9) Regulating commercial activity on a toll road project, including but not limited to:

(A) the offering or display of goods or services for sale;

(B) the posting, distributing, or displaying of signs, advertisements, or other printed or written material; and

(C) the operation of a mobile or stationary public address system.

(10) Establishing enforcement procedures and making assessments for the failure to pay required tolls. **The authority may adopt rules under this subdivision under IC 4-22-2-37.1. A rule under this subdivision adopted under IC 4-22-2-37.1 expires on the expiration date stated in the rule.**

(b) A person who violates a rule adopted under this section commits a Class C infraction. However, a violation of a weight limitation established by the authority under this section is:

(1) a Class B infraction if the total of all excesses of weight under those limitations is more than five thousand (5,000) pounds but not more than ten thousand (10,000) pounds; and

(2) a Class A infraction if the total of all excesses of weight under those limitations is more than ten thousand (10,000) pounds.

(c) It is a defense to the charge of violating a weight limitation established by the authority under this section that the total of all excesses of weight under those limitations is less than one thousand (1,000) pounds.

(d) The court may suspend the registration of a vehicle that violated:

(1) a size or weight limitation established by the authority under this section; or

(2) a rule adopted under subsection (a)(10);

for a period of not more than ninety (90) days.

(e) Upon the conviction of a person for a violation of a weight or size limitation established by the authority under this section, the court may recommend suspension of the person's current chauffeur's license only if the violation was committed knowingly.

SECTION 9. IC 8-15.5-7-8, AS ADDED BY P.L.47-2006, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. **(a) The authority may fix user fees under this chapter by rule under IC 4-22-2-37.1. A rule adopted under this subsection expires on the expiration date stated in the rule.**

(b) Any action to contest the validity of user fees fixed under this

C o p y

chapter may not be brought after the fifteenth day following the effective date of a rule fixing the user fees adopted under ~~IC 4-22-2-37.1(a)(30).~~ **subsection (a).**

SECTION 10. IC 9-20-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) This subsection does not apply to any highway or street in the state highway system. Except as provided in subsection (e), local authorities, with respect to highways under their jurisdiction, may by ordinance:

(1) prohibit the operation of vehicles upon any highway; or

(2) impose restrictions as to the weight of vehicles to be operated upon any highway;

for a total period not to exceed ninety (90) days in any one (1) year, whenever any highway by reason of deterioration, rain, snow, or other climatic conditions will be seriously damaged or destroyed without the regulation of vehicles.

(b) A local authority adopting an ordinance under subsection (a) shall erect or cause to be erected and maintained signs specifying the terms of the ordinance at each end of that part of any highway affected by the ordinance and at intersecting highways. The ordinance may not be enforced until the signs are erected and maintained.

(c) Except as provided in subsection (e), local authorities with respect to highways under their jurisdiction, except highways in the state highway system and state maintained routes through cities and towns, may by ordinance do the following:

(1) Prohibit the operation of trucks or other commercial vehicles.

(2) Impose limitations as to the weight, size, or use of those vehicles on designated highways.

The prohibitions and limitations must be designated by appropriate signs placed on the highways.

(d) The Indiana department of transportation has the same authority granted to local authorities in subsections (a) and (c) to determine by executive order and to impose restrictions as to weight, size, and use of vehicles operated upon a highway in the state highway system, including state maintained routes through cities and towns. These restrictions may not be enforced until signs giving notice of the restrictions are erected upon the highway or part of the highway affected by the order.

(e) The commissioner of the Indiana department of transportation may designate an order adopted under subsection (d) as an emergency rule and adopt the order in the same manner as emergency rules are adopted under IC 4-22-2-37.1.

~~(e)~~ **(f)** A local authority may not, in an ordinance passed under

C o p y

subsection (a) or (c), prohibit the operation of buses that are not more than forty-five (45) feet in length on any segment of the primary system (as defined in IC 8-23-1-33) that was in existence on June 1, 1991.

SECTION 11. IC 9-21-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Whenever, under this article, the Indiana department of transportation designates or determines the location of, necessity for, and extent of:

(1) traffic control devices;
(2) state speed limits, other than maximum limits;
(3) speed limits on elevated structures;
(4) no passing zones;
(5) one-way roadways;
(6) certain lanes for slow moving traffic;
(7) course of turning movements at intersections;
(8) dangerous railroad crossings requiring stops;
(9) through highways and stop intersections;
(10) angle parking; or
(11) restrictions on the use of highways for certain periods or for certain vehicles, including low speed vehicles;

the designation or determination shall be by order of the commissioner of the Indiana department of transportation and shall, except for subdivision (1), be evidenced by official signs or markings under this article. **The commissioner of the Indiana department of transportation may designate an order adopted under this subsection as an emergency rule and adopt the order in the same manner as emergency rules are adopted under IC 4-22-2-37.1.**

(b) At a trial of a person charged with a violation of the restrictions imposed by subsection (a) and in all civil actions, oral evidence of the location and content of the signs or markings is prima facie evidence of the adoption and application of the restriction by the Indiana department of transportation and the validity of the adoption and application of the restriction. The Indiana department of transportation shall, upon request by a party in an action at law, furnish, under the seal of the Indiana department of transportation, a certification of the order establishing the restriction in question. A certification under this subsection shall be accepted by any court as conclusive proof of the designation or determination by the commissioner of the Indiana department of transportation. Certified copies shall be furnished without cost to the parties to a court action involving the restriction upon request.

(c) Whenever, under this article, a permit or permission of the Indiana department of transportation is required, the permit must be in

C o p y

writing and under the seal of the Indiana department of transportation.

SECTION 12. IC 12-8-1.5-9, AS ADDED BY P.L.160-2012, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) Consistent with the powers and duties of the secretary under this article, the secretary may adopt rules under IC 4-22-2 relating to the exercise of those powers and duties.

(b) The secretary may adopt emergency rules under ~~IC 4-22-2-37.1(a)(37)~~ **IC 4-22-2-37.1** for the following:

(1) Federal Medicaid waiver program provisions.

(2) Federal programs administered by the office of the secretary.

This subsection expires December 31, 2012.

(c) A rule adopted under subsection (b), before the expiration of subsection (b) on December 31, 2012, expires on the earliest of the following:

(1) The expiration date stated in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under IC 4-22-2-24 through IC 4-22-2-36 or under IC 4-22-2-37.1.

(3) June 30, 2013, at 11:59 p.m.

This subsection expires July 1, 2013.

SECTION 13. IC 13-14-8-1, AS AMENDED BY P.L.133-2012, SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. **(a)** The board may:

(1) adopt;

(2) repeal;

(3) rescind; or

(4) amend;

rules and standards by proceeding in the manner prescribed in IC 4-22-2 and IC 13-14-9.

(b) The board may adopt an emergency rule under IC 4-22-2-37.1 to comply with a deadline required by or other date provided by federal law if:

(1) the variance procedures are included in the rule; and

(2) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.

An emergency rule adopted under this subsection may be extended for two (2) extension periods by adopting another rule under IC 4-22-2-37.1. IC 4-22-2-37.1(g)(3) does not apply to an emergency rule adopted under this subsection.

SECTION 14. IC 13-15-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A board may

C o p y

adopt a rule under IC 4-22-2 that changes a period described under section 1 of this chapter within which the commissioner must approve or deny an application:

(1) if:

(A) the general assembly enacts a statute;

(B) a board adopts a rule; or

(C) the federal government enacts a statute or adopts a regulation;

that imposes a new requirement concerning a class of applications that makes it infeasible for the commissioner to approve or deny the application within the period;

(2) if:

(A) the general assembly enacts a statute;

(B) a board adopts a rule; or

(C) the federal government enacts a statute or adopts a regulation;

that establishes a new permit program for which a period is not described under section 1 of this chapter; or

(3) if some other significant factor concerning a class of applications makes it infeasible for the commissioner to approve or deny the application within the period.

(b) **A board may adopt a rule described in subsection (a) as an emergency rule under IC 4-22-2-37.1, if:**

(1) the variance procedures are included in the rule; and

(2) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.

If a board adopts an emergency rule under this ~~section,~~ **subsection,** the period described in section 1 of this chapter is suspended during the emergency rulemaking process. **An emergency rule adopted under this subsection may be extended for two (2) extension periods by adopting another emergency rule under IC 4-22-2-37.1. IC 4-22-2-37.1(g)(3) does not apply to an emergency rule adopted under this subsection.**

SECTION 15. IC 13-15-4-10, AS AMENDED BY P.L.235-2005, SECTION 130, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. The commissioner may suspend the processing of an application, and the period described under sections 1 through 6 of this chapter is suspended, if one (1) of the following occurs:

(1) The department determines that the application is incomplete and has mailed a notice of deficiency to the applicant that

C o p y

specifies the parts of the application that:

(A) do not contain adequate information for the department to process the application; or

(B) are not consistent with applicable law.

The period described under sections 1 through 6 of this chapter shall be suspended during the first two (2) notices of deficiency sent to an applicant under this subdivision. If more than two (2) notices of deficiency are issued on an application, the period may not be suspended unless the applicant agrees in writing to defer processing of the application pending the applicant's response to the notice of deficiency. A notice of deficiency may include a request for the applicant to conduct tests or sampling to provide information necessary for the department to process the application. If an applicant's response does not contain complete information to satisfy all deficiencies described in a notice of deficiency, the department shall notify the applicant not later than thirty (30) working days after receiving the response. The commissioner shall resume processing the application, and the period described under sections 1 through 6 of this chapter resumes on the earlier of the date the department receives and stamps as received the applicant's complete information or the date marked by the department on a certified mail return receipt accompanying the applicant's complete information.

(2) The commissioner receives a written request from an applicant to:

(A) withdraw; or

(B) defer processing of;

the application for the purposes of resolving an issue related to a permit or to provide additional information concerning the application.

(3) The department is required by federal law or by an agreement with the United States Environmental Protection Agency for a federal permit program to transmit a copy of the proposed permit to the administrator of the United States Environmental Protection Agency for review and possible objections before the permit may be issued. The period described under sections 1 through 6 of this chapter shall be suspended from the time the department submits the proposed permit to the administrator for review until:

(A) the department receives the administrator's concurrence or objection to the issuance of the proposed permit; or

(B) the period established in federal law by which the administrator is required to make objections expires without

C o p y

the administrator having filed an objection.

(4) A board initiates emergency rulemaking under ~~IC 4-22-2-37.1(a)(13)~~ **section 3(b) of this chapter** to revise the period described under sections 1 through 6 of this chapter.

SECTION 16. IC 14-22-6-13, AS AMENDED BY P.L.18-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) If the director:

(1) determines that a species of wild animal present within a state park poses an unusual hazard to the health or safety of one (1) or more individuals;

(2) determines, based upon the opinion of a professional biologist, that it is likely that:

(A) a species of wild animal present within a state park will cause obvious and measurable damage to the ecological balance within the state park; and

(B) the ecological balance within the state park will not be maintained unless action is taken to control the population of the species within the state park; or

(3) is required under a condition of a lease from the federal government to manage a particular wild animal species;

the director shall establish a controlled hunt for the species within the state park.

(b) An order issued by the director under this section must set forth the conditions of the hunt.

(c) The director may issue an order under this section under IC 4-21.5-4.

SECTION 17. IC 16-19-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. **(a)** The executive board may adopt rules on behalf of the state department for the efficient enforcement of this title, except as otherwise provided. However, fees for inspections relating to weight and measures may not be established by the rules.

(b) The executive board may declare that a rule described in subsection (a) is necessary to meet an emergency and adopt the rule under IC 4-22-2-37.1.

SECTION 18. IC 24-4.5-1-106 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 106. (1) The dollar amounts in this article designated as subject to change shall change, as provided in this section, according to the Consumer Price Index for Urban Wage Earners and Clerical Workers: U.S. City Average, All Items, 1957-59 equals 100, compiled by Bureau of Labor Statistics, United States Department of Labor, and referred to in this section as

C o p y

the Index. The Index for October, 1971, is the Reference Base Index.

(2) The dollar amounts shall change on July 1 of each even-numbered year if the percentage of change, calculated to the nearest whole percentage point, between the Index at the end of the preceding year and the Reference Base Index is ten percent (10%) or more, except that:

(a) the portion of the percentage change in the Index in excess of a multiple of ten percent (10%) shall be disregarded and the dollar amounts shall change only in multiples of ten percent (10%) of the amounts on March 5, 1971;

(b) the dollar amounts shall not change if the amounts required by this section are those currently in effect pursuant to this article as a result of earlier application of the section; and

(c) in no event shall the dollar amounts be reduced below the amounts appearing in this article on March 5, 1971.

(3) If the Index is revised after December 1967, the percentage of change shall be calculated on the basis of the revised Index. If the revision of the Index changes the Reference Base Index, a revised Reference Base Index shall be determined by multiplying the Reference Base Index by the ratio of the revised Index to the current Index, as each was for the first month in which the revised Index is available. If the Index is superseded, the Index is the one represented by the Bureau of Labor Statistics as reflecting most accurately changes in the purchasing power of the dollar for consumers.

(4) The department shall issue an emergency rule **under IC 4-22-2-37.1** announcing:

(a) on or before April 30 of each year in which dollar amounts are to change, the changes in dollar amounts required by subsection (2); and

(b) promptly after the changes occur, changes in the Index required by subsection (3), including, when applicable, the numerical equivalent of the Reference Base Index under a revised Reference Base Index and the designation or title of any index superseding the Index.

An emergency rule adopted under this subsection expires on the date the department is next required to issue a rule under this subsection.

(5) A person does not violate this article through a transaction otherwise complying with this article if the person relies on dollar amounts either determined according to subsection (2) or appearing in the last rule of the department announcing the then current dollar amounts.

C o p y

SECTION 19. IC 24-4.5-6-107, AS AMENDED BY P.L.35-2010, SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 107. **(1)** Except as otherwise provided, IC 4-21.5-3 governs all agency action taken by the department under this chapter or IC 24-4.5-3-501 through IC 24-4.5-3-513. All proceedings for administrative review under IC 4-21.5-3 or judicial review under IC 4-21.5-5 shall be held in Marion County. The provisions of IC 4-22-2 prescribing procedures for the adoption of rules by agencies shall apply to the adoption of rules by the department of financial institutions under this article. However, if the department declares an emergency in the document containing the rule, it may adopt rules permitted by this chapter under IC 4-22-2-37.1.

(2) A rule under subsection (1) adopted under IC 4-22-2-37.1 expires on the date the department is next required to issue a rule under the statute authorizing or requiring the rule.

SECTION 20. IC 28-15-11-17, AS AMENDED BY P.L.27-2012, SECTION 115, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) Any statement, disclosure, or notification required by this chapter with respect to an alternative mortgage loan may be made in the form prescribed by the primary federal regulator or its successor for a similar alternative mortgage loan made by a federal savings association.

(b) In addition to the disclosures required by this chapter, the department may adopt rules under IC 4-22-2, **including emergency rules under IC 4-22-2-37.1,** or policies that require additional disclosures for alternative mortgage loans.

SECTION 21. IC 34-55-10-2.5, AS ADDED BY P.L.179-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) The department of financial institutions shall adopt a rule under IC 4-22-2 establishing the amount for each exemption under section 2(c)(1) through 2(c)(3) of this chapter to take effect not earlier than January 1, 2010, and not later than March 1, 2010.

(b) The department of financial institutions shall adopt a rule under IC 4-22-2 establishing new amounts for each exemption under section 2(c)(1) through 2(c)(3) of this chapter every six (6) years after exemption amounts are established under subsection (a). The rule establishing new exemption amounts under this subsection must take effect not earlier than January 1 and not later than March 1 of the sixth calendar year immediately following the most recent adjustments to the exemption amounts.

(c) The department of financial institutions shall determine the

C o p y

amount of each exemption under subsections (a) and (b) based on changes in the Consumer Price Index for All Urban Consumers, published by the United States Department of Labor, for the most recent six (6) year period.

(d) The department of financial institutions shall round the amount of an exemption determined under subsections (a) and (b) to the nearest fifty dollars ($50).

(e) A rule establishing amounts for exemptions under this section may not reduce an exemption amount below the exemption amount on July 1, 2005.

(f) The department of financial institutions may adopt a rule under subsection (a) or subsection (b) as an emergency rule under IC 4-22-2-37.1.

(g) An emergency rule adopted by the department of financial institutions under this section expires on the earlier of the following dates:

(1) The expiration date stated in the emergency rule.

(2) The date the emergency rule is amended or repealed by a later rule adopted under IC 4-22-2-24 through IC 4-22-2-36 or under IC 4-22-2-37.1.

SECTION 22. **An emergency is declared for this act.**

C o p y