

HOUSE BILL No. 1248

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-14-1.5.

Synopsis: County commissioners' meetings. Provides that a gathering of the members of the county executive body is not a meeting for purposes of the open door law, if the county executive body performs only routine administrative functions involving the everyday internal management of the county.

Effective: July 1, 2017.

Karickhoff

January 10, 2017, read first time and referred to Committee on Government and Regulatory Reform.



First Regular Session of the 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

HOUSE BILL No. 1248

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

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

1 SECTION 1. IC 5-14-1.5-2, AS AMENDED BY P.L.103-2013,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2017]: Sec. 2. For the purposes of this chapter:
4 (a) "Public agency", except as provided in section 2.1 of this
5 chapter, means the following:
6 (1) Any board, commission, department, agency, authority, or
7 other entity, by whatever name designated, exercising a portion of
8 the executive, administrative, or legislative power of the state.
9 (2) Any county, township, school corporation, city, town, political
10 subdivision, or other entity, by whatever name designated,
11 exercising in a limited geographical area the executive,
12 administrative, or legislative power of the state or a delegated
13 local governmental power.
14 (3) Any entity which is subject to either:
15 (A) budget review by either the department of local
16 government finance or the governing body of a county, city,
17 town, township, or school corporation; or



- 1 (B) audit by the state board of accounts that is required by
 2 statute, rule, or regulation.
- 3 (4) Any building corporation of a political subdivision of the state
 4 of Indiana that issues bonds for the purpose of constructing public
 5 facilities.
- 6 (5) Any advisory commission, committee, or body created by
 7 statute, ordinance, or executive order to advise the governing
 8 body of a public agency, except medical staffs or the committees
 9 of any such staff.
- 10 (6) The Indiana gaming commission established by IC 4-33,
 11 including any department, division, or office of the commission.
- 12 (7) The Indiana horse racing commission established by IC 4-31,
 13 including any department, division, or office of the commission.
- 14 (b) "Governing body" means two (2) or more individuals who are
 15 **any of the following:**
- 16 (1) A public agency that:
- 17 (A) is a board, a commission, an authority, a council, a
 18 committee, a body, or other entity; and
- 19 (B) takes official action on public business.
- 20 (2) The board, commission, council, or other body of a public
 21 agency which takes official action upon public business.
- 22 (3) Any committee appointed directly by the governing body or
 23 its presiding officer to which authority to take official action upon
 24 public business has been delegated. An agent or agents appointed
 25 by the governing body to conduct collective bargaining on behalf
 26 of the governing body does not constitute a governing body for
 27 purposes of this chapter.
- 28 (c) "Meeting" means a gathering of a majority of the governing body
 29 of a public agency for the purpose of taking official action upon public
 30 business. It does not include any of the following:
- 31 (1) Any social or chance gathering not intended to avoid this
 32 chapter.
- 33 (2) Any on-site inspection of any:
- 34 (A) project;
- 35 (B) program; or
- 36 (C) facilities of applicants for incentives or assistance from the
 37 governing body.
- 38 (3) Traveling to and attending meetings of organizations devoted
 39 to betterment of government.
- 40 (4) A caucus.
- 41 (5) A gathering to discuss an industrial or a commercial prospect
 42 that does not include a conclusion as to recommendations, policy,



- 1 decisions, or final action on the terms of a request or an offer of
 2 public financial resources.
- 3 (6) An orientation of members of the governing body on their role
 4 and responsibilities as public officials, but not for any other
 5 official action.
- 6 (7) A gathering for the sole purpose of administering an oath of
 7 office to an individual.
- 8 (8) Collective bargaining discussions that the governing body of
 9 a school corporation engages in directly with bargaining
 10 adversaries. This subdivision ~~only~~ applies **only** to a governing
 11 body that has not appointed an agent or agents to conduct
 12 collective bargaining on behalf of the governing body as
 13 described in subsection (b)(3).
- 14 **(9) This subdivision applies only to a county not having a**
 15 **consolidated city. A gathering of at least a majority of a board**
 16 **of county commissioners, solely to carry out the**
 17 **administrative functions related to the board's executive**
 18 **powers. "Administrative functions" means only the routine**
 19 **activities that are reasonably related to the board's everyday**
 20 **internal management of the county, including conferring with,**
 21 **receiving information from, and making recommendations to**
 22 **staff members and other county officials or employees.**
 23 **"Administrative functions" does not include:**
- 24 **(A) the taking of final action on public business;**
 25 **(B) the exercise of the board's legislative powers; or**
 26 **(C) the awarding of or entering into contracts, or any other**
 27 **action creating an obligation or otherwise binding the**
 28 **county.**
- 29 (d) "Official action" means to:
 30 (1) receive information;
 31 (2) deliberate;
 32 (3) make recommendations;
 33 (4) establish policy;
 34 (5) make decisions; or
 35 (6) take final action.
- 36 (e) "Public business" means any function upon which the public
 37 agency is empowered or authorized to take official action.
- 38 (f) "Executive session" means a meeting from which the public is
 39 excluded, except the governing body may admit those persons
 40 necessary to carry out its purpose.
- 41 (g) "Final action" means a vote by the governing body on any
 42 motion, proposal, resolution, rule, regulation, ordinance, or order.



1 (h) "Caucus" means a gathering of members of a political party or
 2 coalition which is held for purposes of planning political strategy and
 3 holding discussions designed to prepare the members for taking official
 4 action.

5 (i) "Deliberate" means a discussion which may reasonably be
 6 expected to result in official action (defined under subsection (d)(3),
 7 (d)(4), (d)(5), or (d)(6)).

8 (j) "News media" means all newspapers qualified to receive legal
 9 advertisements under IC 5-3-1, all news services (as defined in
 10 IC 34-6-2-87), and all licensed commercial or public radio or television
 11 stations.

12 (k) "Person" means an individual, a corporation, a limited liability
 13 company, a partnership, an unincorporated association, or a
 14 governmental entity.

15 SECTION 2. IC 5-14-1.5-5, AS AMENDED BY P.L.134-2012,
 16 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2017]: Sec. 5. (a) Public notice of the date, time, and place of
 18 any meetings, executive sessions, or of any rescheduled or reconvened
 19 meeting, shall be given at least forty-eight (48) hours (excluding
 20 Saturdays, Sundays, and legal holidays) before the meeting. This
 21 requirement does not apply to reconvened meetings (not including
 22 executive sessions) where announcement of the date, time, and place
 23 of the reconvened meeting is made at the original meeting and recorded
 24 in the memoranda and minutes thereof, and there is no change in the
 25 agenda.

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

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

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

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

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



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

2 (3) This subdivision applies only to the governing body of a
3 public agency of a political subdivision described in section
4 2(a)(2), 2(a)(4), or 2(a)(5) of this chapter that adopts a policy to
5 provide notice under this subdivision. Notice under this
6 subsection is in addition to providing notice under subdivisions
7 (1) and (2). If the governing body adopts a policy under this
8 subdivision, the governing body of a public agency shall give
9 public notice by delivering notice to any person (other than news
10 media) who delivers to the governing body of the public agency
11 an annual written request for the notices not later than December
12 31 for the next succeeding calendar year. The governing body
13 shall give notice by one (1) of the following methods, which shall
14 be determined by the governing body:

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

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

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

29 (c) Notice of regular meetings need be given only once each year,
30 except that an additional notice shall be given where the date, time, or
31 place of a regular meeting or meetings is changed. This subsection does
32 not apply to executive sessions.

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

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

41 (2) the public must be notified by posting a copy of the notice
42 according to subsection (b)(1).



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

3 (f) This section shall not apply to:

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

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

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

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

