

HOUSE BILL No. 1321

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-1-3-8.

Synopsis: Oil and natural gas regulation. Amends the statute concerning home rule for units of local government to specify that such units do not have the power to regulate or prohibit oil and gas exploration, development, or production activities, including activities involving horizontal drilling or hydraulic fracturing.

Effective: July 1, 2015.

Koch

January 13, 2015, read first time and referred to Committee on Natural Resources.



First Regular Session of the 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1321

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

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

- 1 SECTION 1. IC 36-1-3-8, AS AMENDED BY P.L.13-2013,
2 SECTION 148, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2015]: Sec. 8. (a) Subject to subsection (b), a
4 unit does not have the following:
5 (1) The power to condition or limit its civil liability, except as
6 expressly granted by statute.
7 (2) The power to prescribe the law governing civil actions
8 between private persons.
9 (3) The power to impose duties on another political subdivision,
10 except as expressly granted by statute.
11 (4) The power to impose a tax, except as expressly granted by
12 statute.
13 (5) The power to impose a license fee greater than that reasonably
14 related to the administrative cost of exercising a regulatory power.
15 (6) The power to impose a service charge or user fee greater than



- 1 that reasonably related to reasonable and just rates and charges
 2 for services.
- 3 (7) The power to regulate conduct that is regulated by a state
 4 agency, except as expressly granted by statute.
- 5 (8) The power to prescribe a penalty for conduct constituting a
 6 crime or infraction under statute.
- 7 (9) The power to prescribe a penalty of imprisonment for an
 8 ordinance violation.
- 9 (10) The power to prescribe a penalty of a fine as follows:
 10 (A) More than ten thousand dollars (\$10,000) for the violation
 11 of an ordinance or a regulation concerning air emissions
 12 adopted by a county that has received approval to establish an
 13 air permit program under IC 13-17-12-6.
 14 (B) For a violation of any other ordinance:
 15 (i) more than two thousand five hundred dollars (\$2,500) for
 16 a first violation of the ordinance; and
 17 (ii) except as provided in subsection (c), more than seven
 18 thousand five hundred dollars (\$7,500) for a second or
 19 subsequent violation of the ordinance.
- 20 (11) The power to invest money, except as expressly granted by
 21 statute.
- 22 (12) The power to order or conduct an election, except as
 23 expressly granted by statute.
- 24 **(13) The power to regulate or prohibit oil and gas exploration,
 25 development, or production activities, including activities
 26 involving the use of horizontal drilling or hydraulic fracturing
 27 (as defined in IC 14-8-2-128.4), through the adoption of any
 28 ordinance, resolution, property restriction, zoning regulation,
 29 or other regulation, or through the taking of any other action,
 30 that does either of the following:**
 31 **(A) Directly regulates or prohibits any of the activities
 32 described in this subdivision, including any ordinance,
 33 resolution, property restriction, zoning regulation, or other
 34 regulation, or any other action, that does any of the
 35 following:**
 36 **(i) Prohibits the siting of any well for oil and gas
 37 purposes (as defined in IC 14-8-2-317) within the
 38 boundaries or jurisdiction of the unit.**
 39 **(ii) Prohibits the use of horizontal drilling or hydraulic
 40 fracturing (as defined in IC 14-8-2-128.4) within the
 41 boundaries or jurisdiction of the unit.**
 42 **(iii) Places any restriction, limitation, or condition on any**



1 of the activities described in this subdivision if the
 2 condition or restriction is not placed upon the activities
 3 by the natural resources commission, the department of
 4 natural resources, or the division of oil and gas under
 5 IC 14-37 (or through any rule or order adopted or issued
 6 by the natural resources commission, the department of
 7 natural resources, or the division of oil and gas), or by
 8 any other state agency having jurisdiction over any of
 9 the activities described in this subdivision.

10 (iv) Imposes any restriction, limitation, or condition on
 11 any of the activities described in this subdivision if the
 12 restriction, limitation, or condition is inconsistent or
 13 conflicts with any state statute or with any rule or order
 14 adopted or issued by the natural resources commission,
 15 the department of natural resources, the division of oil
 16 and gas, or by any other state agency having jurisdiction
 17 over any of the activities described in this subdivision.

18 (B) Indirectly regulates, limits, or prohibits any of the
 19 activities described in this subdivision, or has the effect of
 20 regulating, limiting, or prohibiting any of these activities,
 21 by imposing fees or charges or by regulating health, the
 22 environment, or land use.

23 Any ordinance, resolution, property restriction, zoning
 24 regulation, or other regulation, or any other action described
 25 in this subdivision is void and invalid and may not be
 26 enforced, to the extent that it directly or indirectly regulates,
 27 limits, or prohibits any of the activities described in this
 28 subdivision, or has the effect of regulating, limiting, or
 29 prohibiting any of these activities.

30 (b) A township does not have the following, except as expressly
 31 granted by statute:

- 32 (1) The power to require a license or impose a license fee.
- 33 (2) The power to impose a service charge or user fee.
- 34 (3) The power to prescribe a penalty.

35 (c) Subsection (a)(10)(B)(ii) does not apply to the violation of an
 36 ordinance that regulates traffic or parking.

