



March 29, 2017

ENGROSSED HOUSE BILL No. 1395

DIGEST OF HB 1395 (Updated March 27, 2017 12:21 pm - DI 102)

Citations Affected: IC 6-9; IC 33-33; IC 36-1; IC 36-7.

Synopsis: Appointments to local boards. Amends the Lake County innkeeper's tax statute concerning the removal of a member of the Lake County convention and visitor bureau. Requires, in determining the political affiliation of an appointee to a board of a political subdivision, that the primary election in which the appointee voted is a primary election in Indiana. Provides that the determination of the political affiliation of a potential appointee to a local board who has never voted in a primary election in Indiana is made by the certification of the
(Continued next page)

Effective: Upon passage; July 1, 2017.

Ellington, Austin, Zent

(SENATE SPONSOR — LEISING)

January 17, 2017, read first time and referred to Committee on Local Government.
February 9, 2017, amended, reported — Do Pass.
February 13, 2017, read second time, ordered engrossed. Engrossed.
February 16, 2017, read third time, passed. Yeas 65, nays 24.

SENATE ACTION

February 23, 2017, read first time and referred to Committee on Elections.
March 28, 2017, amended, reported favorably — Do Pass.

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Digest Continued

county chairman of the political party with which the potential appointee is affiliated. Requires that the county chairman's certification of an appointee's political affiliation be filed with the office of the circuit court clerk (clerk) not later than the time the oath of office of the appointee is filed with the clerk or the appointment is void. Provides that if, after the expiration of the term of an appointed member of a local board, the vacancy is not filled by the appointing authority within 90 days after the expiration of the term, the county chairman of the political party of the member whose term has expired shall make the appointment. Requires a person to be appointed for the remaining unexpired term of a vacating plan commission member not later than 90 days after the vacancy occurs. In a city having a park board and a city civil engineer, removes the requirement that the park board's appointee to the city plan commission be a member of the park board. Makes conforming changes.

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March 29, 2017

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.

ENGROSSED HOUSE BILL No. 1395

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 6-9-2-3, AS AMENDED BY P.L.172-2011,
2 SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 3. (a) For purposes of this section, the size of
4 a political subdivision is based on the population determined in the last
5 federal decennial census.
6 (b) A convention and visitor bureau having nineteen (19) members
7 is created to promote the development and growth of the convention,
8 tourism, and visitor industry in the county.
9 (c) The executives (as defined by IC 36-1-2-5) of the five (5) largest
10 cities and the seven (7) largest towns in the county shall each appoint
11 one (1) member to the bureau. The legislative body (as defined in
12 IC 36-1-2-9) of the two (2) largest municipalities in the county shall
13 each appoint one (1) member to the bureau.
14 (d) The county council shall appoint two (2) members to the bureau.
15 One (1) of the appointees must be a resident of the fifth largest city in
16 the county, and one (1) of the appointees must be a resident of the
17 eighth largest town in the county. The appointees may not be of the

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1 same political party.

2 (e) The county commissioners shall appoint two (2) members to the
3 bureau. One (1) of the appointees must be a resident of the sixth largest
4 town in the county. One (1) of the appointees must be a resident of the
5 seventh largest town in the county. The appointees may not be of the
6 same political party.

7 (f) The lieutenant governor shall appoint one (1) member to the
8 bureau.

9 (g) No appointee under this section may hold an elected or
10 appointed political office while serving on the bureau.

11 (h) In making appointments under this section, the appointing
12 authority shall give sole consideration to individuals who are
13 knowledgeable about or employed as executives or managers in at least
14 one (1) of the following businesses in the county:

- 15 (1) Hotel.
- 16 (2) Motel.
- 17 (3) Restaurant.
- 18 (4) Travel.
- 19 (5) Transportation.
- 20 (6) Convention.
- 21 (7) Trade show.
- 22 (8) A riverboat licensed under IC 4-33.
- 23 (9) Banking.
- 24 (10) Real estate.
- 25 (11) Construction.

26 However, an individual employed by a riverboat may not be appointed
27 under this section unless the individual holds a Level 1 occupational
28 license issued under IC 4-33-8. This subsection does not apply to board
29 members appointed before July 1, 2007, who are eligible for
30 reappointment after June 30, 2007.

31 (i) All terms of office of bureau members begin on July 1. Members
32 of the bureau serve terms of three (3) years. A member whose term
33 expires may be reappointed to serve another term. If a vacancy occurs,
34 the appointing authority shall appoint a qualified person to serve for the
35 remainder of the term. If an appointment is not made before July 16 or
36 a vacancy is not filled within thirty (30) days, the member appointed by
37 the lieutenant governor under subsection (f) shall appoint a qualified
38 person.

39 (j) A member of the bureau may be removed for cause:

- 40 (1) by the member's appointing authority; **or**
- 41 (2) **by vote of the bureau's board if it is determined that a**
42 **member does not meet the qualifications under subsection (h).**



1 **If a member is removed under this subsection, the appointing**
 2 **authority may, not more than thirty (30) days after the member is**
 3 **removed, appoint a replacement member to fill the remainder of**
 4 **the removed member's term.**

5 (k) Members of the bureau may not receive a salary. However,
 6 bureau members are entitled to reimbursement for necessary expenses
 7 incurred in the performance of their respective duties.

8 (l) Each bureau member, before entering the member's duties, shall
 9 take an oath of office in the usual form, to be endorsed upon the
 10 member's certificate of appointment and promptly filed with the clerk
 11 of the circuit court of the county.

12 (m) The bureau shall meet after July 1 each year for the purpose of
 13 organization. The bureau shall elect a chairman from its members. The
 14 bureau shall also elect from its members a vice chairman, a secretary,
 15 and a treasurer. The members serving in those offices shall perform the
 16 duties pertaining to the offices. The first officers chosen shall serve
 17 until their successors are elected and qualified. A majority of the
 18 bureau constitutes a quorum, and the concurrence of a majority of those
 19 present is necessary to authorize any action.

20 (n) If the county and one (1) or more adjoining counties desire to
 21 establish a joint bureau, the counties shall enter into an agreement
 22 under IC 36-1-7.

23 (o) Notwithstanding any other law, any bureau member appointed
 24 as of January 1, 2007, is eligible for reappointment.

25 SECTION 2. IC 33-33-71-69, AS AMENDED BY P.L.173-2015,
 26 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2017]: Sec. 69. (a) The superior court may jointly appoint four
 28 (4) full-time magistrates under IC 33-23-5 to serve the court using the
 29 selection method provided by IC 36-1-8-10(b)(1) or
 30 ~~IC 36-1-8-10(b)(3)~~; **IC 36-1-8-10(b)(2)**. Not more than two (2) of the
 31 magistrates appointed under this section may be members of the same
 32 political party.

33 (b) A magistrate continues in office until jointly removed by the
 34 judges of the court.

35 SECTION 3. IC 36-1-8-10 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 10. (a) As used in this
 37 section, "board" means an administration, an agency, an authority, a
 38 board, a bureau, a commission, a committee, a council, a department,
 39 a division, an institution, an office, a service, or another similarly
 40 designated body of a political subdivision.

41 (b) Whenever a law or political subdivision's resolution requires that
 42 an appointment to a board be conditioned upon the political affiliation



1 of the appointee, or that the membership of a board not exceed a stated
 2 number of members from the same political party, at the time of an
 3 appointment, one (1) of the following must apply to the appointee:

4 (1) The most recent primary election **in Indiana** in which the
 5 appointee voted was a primary election held by the party with
 6 which the appointee claims affiliation.

7 (2) If the appointee has never voted in a primary election **in**
 8 **Indiana**, the appointee ~~claims a party affiliation~~.

9 ~~(3) The appointee~~ is certified as a member of that party by the
 10 party's county chairman for the county in which the appointee
 11 resides.

12 **(c) If a certification by a county chairman of a political party is**
 13 **required under subsection (b), the certification must be filed with**
 14 **the office of the circuit court clerk not later than the time the**
 15 **appointee's oath of office is filed with the clerk under IC 5-4-1. If**
 16 **the county chairman's certification is not filed with the circuit**
 17 **court clerk's office as required by this subsection, the appointment**
 18 **is void.**

19 ~~(c)~~ **(d)** Notwithstanding any other law, if the term of an appointed
 20 member of a board expires and the appointing authority does not make
 21 an appointment to fill the vacancy, **both of the following apply:**

22 **(1)** The member may continue to serve on the board for only ~~sixty~~
 23 ~~(60)~~ **ninety (90)** days after the expiration date of the member's
 24 term.

25 **(2) The county chairman of the political party of the member**
 26 **whose term has expired shall make the appointment.**

27 SECTION 4. IC 36-7-4-207, AS AMENDED BY P.L.266-2013,
 28 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2017]: Sec. 207. (a) ADVISORY. In a city having a park
 30 board and a city civil engineer, the city plan commission consists of
 31 nine (9) members, as follows:

32 (1) One (1) member appointed by the city legislative body from
 33 its membership.

34 (2) One (1) member appointed by the park board. ~~from its~~
 35 ~~membership~~.

36 (3) One (1) member or designated representative appointed by the
 37 city works board.

38 (4) The city civil engineer or a qualified assistant appointed by the
 39 city civil engineer.

40 (5) Five (5) citizen members, of whom no more than three (3)
 41 may be of the same political party, appointed by the city
 42 executive.



1 (b) ADVISORY. If a city lacks either a park board or a city civil
2 engineer, or both, subsection (a) does not apply. In such a city or in any
3 town, the municipal plan commission consists of seven (7) members,
4 as follows:

5 (1) The municipal legislative body shall appoint three (3) persons,
6 who must be elected or appointed municipal officials or
7 employees in the municipal government, as members.

8 (2) The municipal executive shall appoint four (4) citizen
9 members, of whom no more than two (2) may be of the same
10 political party.

11 (c) AREA. To provide equitable representation of rural and urban
12 populations, representation on the area plan commission is determined
13 as follows:

14 (1) Seven (7) representatives from each city having a population
15 of more than one hundred five thousand (105,000).

16 (2) Six (6) representatives from each city having a population of
17 not less than seventy thousand (70,000) nor more than one
18 hundred five thousand (105,000).

19 (3) Five (5) representatives from each city having a population of
20 not less than thirty-five thousand (35,000) but less than seventy
21 thousand (70,000).

22 (4) Four (4) representatives from each city having a population of
23 not less than twenty thousand (20,000) but less than thirty-five
24 thousand (35,000).

25 (5) Three (3) representatives from each city having a population
26 of not less than ten thousand (10,000) but less than twenty
27 thousand (20,000).

28 (6) Two (2) representatives from each city having a population of
29 less than ten thousand (10,000).

30 (7) One (1) representative from each town having a population of
31 more than two thousand one hundred (2,100), and one (1)
32 representative from each town having a population of two
33 thousand one hundred (2,100) or less that had a representative
34 before January 1, 1979.

35 (8) Such representatives from towns having a population of not
36 more than two thousand one hundred (2,100) as are provided for
37 in section 210 of this chapter.

38 (9) Six (6) county representatives if the total number of municipal
39 representatives in the county is an odd number, or five (5) county
40 representatives if the total number of municipal representatives is
41 an even number.

42 (d) METRO. The metropolitan development commission consists



1 of nine (9) citizen members, as follows:

2 (1) Five (5) members, of whom no more than three (3) may be of
3 the same political party, appointed by the executive of the
4 consolidated city.

5 (2) Four (4) members, of whom no more than two (2) may be of
6 the same political party, appointed by the legislative body of the
7 consolidated city.

8 (e) METRO. The legislative body of the consolidated city shall
9 appoint an individual to serve as a nonvoting adviser to the
10 metropolitan development commission when the commission is acting
11 as the redevelopment commission of the consolidated city under
12 IC 36-7-15.1. If the duties of the metropolitan development
13 commission under IC 36-7-15.1 are transferred to another entity under
14 IC 36-3-4-23, the individual appointed under this subsection shall serve
15 as a nonvoting adviser to that entity. A nonvoting adviser appointed
16 under this subsection:

17 (1) must also be a member of the school board of a school
18 corporation that includes all or part of the territory of the
19 consolidated city;

20 (2) is not considered a member of the metropolitan development
21 commission for purposes of IC 36-7-15.1 but is entitled to attend
22 and participate in the proceedings of all meetings of the
23 metropolitan development commission (or any successor entity
24 designated under IC 36-3-4-23) when it is acting as a
25 redevelopment commission under IC 36-7-15.1;

26 (3) is not entitled to a salary, per diem, or reimbursement of
27 expenses;

28 (4) serves for a term of two (2) years and until a successor is
29 appointed; and

30 (5) serves at the pleasure of the legislative body of the
31 consolidated city.

32 SECTION 5. IC 36-7-4-220, AS AMENDED BY P.L.126-2011,
33 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2017]: Sec. 220. (a) If a vacancy occurs among the plan
35 commission members who are appointed, then the appointing authority
36 shall appoint a member for the unexpired term of the vacating member
37 **not later than ninety (90) days after the vacancy occurs.** The
38 appointing authority may also appoint an alternate member to
39 participate with the commission in a hearing or decision if the regular
40 member appointed by the appointing authority has a disqualification
41 under section 223(c) of this chapter. An alternate member has all the
42 powers and duties of a regular member while participating in the



- 1 hearing or decision.
- 2 (b) If a vacancy occurs in the office of the county surveyor while the
- 3 county surveyor is serving on the plan commission, then the county
- 4 engineer shall participate with the plan commission during the time the
- 5 office of the county surveyor is vacant. The county engineer has all the
- 6 powers and duties of a regular member while participating under this
- 7 subsection.
- 8 (c) An appointed member who misses three (3) consecutive regular
- 9 meetings of the plan commission may be treated as if the member had
- 10 resigned, at the discretion of the appointing authority.
- 11 **SECTION 6. An emergency is declared for this act.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1395, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 6, strike "sixty".

Page 2, line 7, strike "(60)" and insert "**ninety (90)**".

Page 2, line 15, delete "sixty (60)" and insert "**ninety (90)**".

and when so amended that said bill do pass.

(Reference is to HB 1395 as introduced.)

ZENT

Committee Vote: yeas 8, nays 1.

COMMITTEE REPORT

Madam President: The Senate Committee on Elections, to which was referred House Bill No. 1395, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-9-2-3, AS AMENDED BY P.L.172-2011, SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) For purposes of this section, the size of a political subdivision is based on the population determined in the last federal decennial census.

(b) A convention and visitor bureau having nineteen (19) members is created to promote the development and growth of the convention, tourism, and visitor industry in the county.

(c) The executives (as defined by IC 36-1-2-5) of the five (5) largest cities and the seven (7) largest towns in the county shall each appoint one (1) member to the bureau. The legislative body (as defined in IC 36-1-2-9) of the two (2) largest municipalities in the county shall each appoint one (1) member to the bureau.

(d) The county council shall appoint two (2) members to the bureau. One (1) of the appointees must be a resident of the fifth largest city in the county, and one (1) of the appointees must be a resident of the eighth largest town in the county. The appointees may not be of the

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same political party.

(e) The county commissioners shall appoint two (2) members to the bureau. One (1) of the appointees must be a resident of the sixth largest town in the county. One (1) of the appointees must be a resident of the seventh largest town in the county. The appointees may not be of the same political party.

(f) The lieutenant governor shall appoint one (1) member to the bureau.

(g) No appointee under this section may hold an elected or appointed political office while serving on the bureau.

(h) In making appointments under this section, the appointing authority shall give sole consideration to individuals who are knowledgeable about or employed as executives or managers in at least one (1) of the following businesses in the county:

- (1) Hotel.
- (2) Motel.
- (3) Restaurant.
- (4) Travel.
- (5) Transportation.
- (6) Convention.
- (7) Trade show.
- (8) A riverboat licensed under IC 4-33.
- (9) Banking.
- (10) Real estate.
- (11) Construction.

However, an individual employed by a riverboat may not be appointed under this section unless the individual holds a Level 1 occupational license issued under IC 4-33-8. This subsection does not apply to board members appointed before July 1, 2007, who are eligible for reappointment after June 30, 2007.

(i) All terms of office of bureau members begin on July 1. Members of the bureau serve terms of three (3) years. A member whose term expires may be reappointed to serve another term. If a vacancy occurs, the appointing authority shall appoint a qualified person to serve for the remainder of the term. If an appointment is not made before July 16 or a vacancy is not filled within thirty (30) days, the member appointed by the lieutenant governor under subsection (f) shall appoint a qualified person.

(j) A member of the bureau may be removed for cause:

- (1) by the member's appointing authority; or**
- (2) by vote of the bureau's board if it is determined that a member does not meet the qualifications under subsection (h).**



If a member is removed under this subsection, the appointing authority may, not more than thirty (30) days after the member is removed, appoint a replacement member to fill the remainder of the removed member's term.

(k) Members of the bureau may not receive a salary. However, bureau members are entitled to reimbursement for necessary expenses incurred in the performance of their respective duties.

(l) Each bureau member, before entering the member's duties, shall take an oath of office in the usual form, to be endorsed upon the member's certificate of appointment and promptly filed with the clerk of the circuit court of the county.

(m) The bureau shall meet after July 1 each year for the purpose of organization. The bureau shall elect a chairman from its members. The bureau shall also elect from its members a vice chairman, a secretary, and a treasurer. The members serving in those offices shall perform the duties pertaining to the offices. The first officers chosen shall serve until their successors are elected and qualified. A majority of the bureau constitutes a quorum, and the concurrence of a majority of those present is necessary to authorize any action.

(n) If the county and one (1) or more adjoining counties desire to establish a joint bureau, the counties shall enter into an agreement under IC 36-1-7.

(o) Notwithstanding any other law, any bureau member appointed as of January 1, 2007, is eligible for reappointment.

SECTION 2. IC 33-33-71-69, AS AMENDED BY P.L.173-2015, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 69. (a) The superior court may jointly appoint four (4) full-time magistrates under IC 33-23-5 to serve the court using the selection method provided by IC 36-1-8-10(b)(1) or ~~IC 36-1-8-10(b)(3)~~; **IC 36-1-8-10(b)(2)**. Not more than two (2) of the magistrates appointed under this section may be members of the same political party.

(b) A magistrate continues in office until jointly removed by the judges of the court."

Page 1, line 12, after "election" insert "**in Indiana**".

Page 1, line 15, after "election" delete "," and insert "**in Indiana**".

Page 2, between lines 2 and 3, begin a new paragraph and insert:

"(c) If a certification by a county chairman of a political party is required under subsection (b), the certification must be filed with the office of the circuit court clerk not later than the time the appointee's oath of office is filed with the clerk under IC 5-4-1. If the county chairman's certification is not filed with the circuit



court clerk's office as required by this subsection, the appointment is void."

Page 2, line 3, strike "(c)" and insert "(d)".

Page 2, between lines 10 and 11, begin a new paragraph and insert:
 "SECTION 4. IC 36-7-4-207, AS AMENDED BY P.L.266-2013, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 207. (a) ADVISORY. In a city having a park board and a city civil engineer, the city plan commission consists of nine (9) members, as follows:

- (1) One (1) member appointed by the city legislative body from its membership.
- (2) One (1) member appointed by the park board. ~~from its membership.~~
- (3) One (1) member or designated representative appointed by the city works board.
- (4) The city civil engineer or a qualified assistant appointed by the city civil engineer.
- (5) Five (5) citizen members, of whom no more than three (3) may be of the same political party, appointed by the city executive.

(b) ADVISORY. If a city lacks either a park board or a city civil engineer, or both, subsection (a) does not apply. In such a city or in any town, the municipal plan commission consists of seven (7) members, as follows:

- (1) The municipal legislative body shall appoint three (3) persons, who must be elected or appointed municipal officials or employees in the municipal government, as members.
- (2) The municipal executive shall appoint four (4) citizen members, of whom no more than two (2) may be of the same political party.

(c) AREA. To provide equitable representation of rural and urban populations, representation on the area plan commission is determined as follows:

- (1) Seven (7) representatives from each city having a population of more than one hundred five thousand (105,000).
- (2) Six (6) representatives from each city having a population of not less than seventy thousand (70,000) nor more than one hundred five thousand (105,000).
- (3) Five (5) representatives from each city having a population of not less than thirty-five thousand (35,000) but less than seventy thousand (70,000).
- (4) Four (4) representatives from each city having a population of



not less than twenty thousand (20,000) but less than thirty-five thousand (35,000).

(5) Three (3) representatives from each city having a population of not less than ten thousand (10,000) but less than twenty thousand (20,000).

(6) Two (2) representatives from each city having a population of less than ten thousand (10,000).

(7) One (1) representative from each town having a population of more than two thousand one hundred (2,100), and one (1) representative from each town having a population of two thousand one hundred (2,100) or less that had a representative before January 1, 1979.

(8) Such representatives from towns having a population of not more than two thousand one hundred (2,100) as are provided for in section 210 of this chapter.

(9) Six (6) county representatives if the total number of municipal representatives in the county is an odd number, or five (5) county representatives if the total number of municipal representatives is an even number.

(d) METRO. The metropolitan development commission consists of nine (9) citizen members, as follows:

(1) Five (5) members, of whom no more than three (3) may be of the same political party, appointed by the executive of the consolidated city.

(2) Four (4) members, of whom no more than two (2) may be of the same political party, appointed by the legislative body of the consolidated city.

(e) METRO. The legislative body of the consolidated city shall appoint an individual to serve as a nonvoting adviser to the metropolitan development commission when the commission is acting as the redevelopment commission of the consolidated city under IC 36-7-15.1. If the duties of the metropolitan development commission under IC 36-7-15.1 are transferred to another entity under IC 36-3-4-23, the individual appointed under this subsection shall serve as a nonvoting adviser to that entity. A nonvoting adviser appointed under this subsection:

(1) must also be a member of the school board of a school corporation that includes all or part of the territory of the consolidated city;

(2) is not considered a member of the metropolitan development commission for purposes of IC 36-7-15.1 but is entitled to attend and participate in the proceedings of all meetings of the



metropolitan development commission (or any successor entity designated under IC 36-3-4-23) when it is acting as a redevelopment commission under IC 36-7-15.1;

(3) is not entitled to a salary, per diem, or reimbursement of expenses;

(4) serves for a term of two (2) years and until a successor is appointed; and

(5) serves at the pleasure of the legislative body of the consolidated city."

Page 2, after line 31, begin a new paragraph and insert:

"SECTION 6. **An emergency is declared for this act.**"

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1395 as printed February 10, 2017.)

WALKER, Chairperson

Committee Vote: Yeas 6, Nays 0.

