



March 28, 2017

ENGROSSED SENATE BILL No. 348

DIGEST OF SB 348 (Updated March 23, 2017 10:45 am - DI 75)

Citations Affected: IC 36-1; IC 36-7.

Synopsis: Regulation of signs. Provides that an ordinance or a regulation of a political subdivision relating to the number or size of signs is unenforceable beginning 60 days before an election and ending at the beginning of the sixth day after the election. Provides that for purposes of the statute, a "sign" refers to a sign, the surface area of which is not greater than 32 square feet. (Provides that the measurement of the surface area of a sign that has two faces is determined by measuring the surface area of only one of the faces if the faces are mounted back to back and the measure of the angle between the faces is not more than 15 degrees.) Provides that the statute does not prohibit a political subdivision from enforcing an ordinance or regulation relating to the number or size of signs at any time if necessary to ensure public safety. Provides that a zoning ordinance relating to signs is considered to contain a provision that permits the substitution of the copy on a sign regardless of whether the original and new copy is commercial or noncommercial.

Effective: July 1, 2017.

**Freeman, Ruckelshaus, Sandlin,
Kruse**

(HOUSE SPONSOR — SPEEDY)

January 9, 2017, read first time and referred to Committee on Local Government.
February 23, 2017, amended, reported favorably — Do Pass.
February 27, 2017, read second time, ordered engrossed. Engrossed.
February 28, 2017, read third time, passed. Yeas 45, nays 5.

HOUSE ACTION

March 13, 2017, read first time and referred to Committee on Local Government.
March 27, 2017, amended, reported — Do Pass.

ES 348—LS 6559/DI 75



March 28, 2017

First Regular Session 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 SENATE BILL No. 348

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 36-1-3-11 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2017]: **Sec. 11. (a) As used in this section, "election" refers to an
4 election described in IC 3-5-1-2.**
5 **(b) As used in this section, "sign" refers to a sign, the surface
6 area of which is not greater than thirty-two (32) square feet. For
7 purposes of determining the surface area of a sign under this
8 section, if a sign consists of two (2) faces, only the surface area of
9 one (1) of the faces is considered if both of the following apply:**
10 **(1) The faces are mounted back to back.**
11 **(2) The measure of the angle between the faces is not more
12 than fifteen (15) degrees.**
13 **(c) Subject to subsection (d), an ordinance or a regulation of a
14 political subdivision relating to the number or size of signs is
15 unenforceable during the following period:**
16 **(1) Beginning sixty (60) days before an election.**
17 **(2) Ending at the beginning of the sixth day after the election.**

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1 **(d) This section does not prohibit a political subdivision from**
 2 **enforcing an ordinance or regulation relating to the number or size**
 3 **of signs at any time if necessary to ensure public safety.**

4 SECTION 2. IC 36-7-4-1109, AS AMENDED BY HEA 1421-2017,
 5 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2017]: Sec. 1109. (a) As used in this section, "local
 7 governmental agency" includes any agency, officer, board, or
 8 commission of a local unit of government that may issue:

9 (1) a permit; or

10 (2) an approval of a land use or an approval for the construction
 11 of a development, a building, or another structure.

12 (b) As used in this section, "permit" means any of the following:

13 (1) An improvement location permit.

14 (2) A building permit.

15 (3) A certificate of occupancy.

16 (4) Approval of a site-specific development plan.

17 (5) Approval of a primary or secondary plat.

18 (6) Approval of a contingent use, conditional use, special
 19 exception or special use.

20 (7) Approval of a planned unit development.

21 (c) If a person files a complete application as required by the
 22 effective ordinances or rules of a local unit of government or a local
 23 governmental agency for a permit with the appropriate local
 24 governmental agency, the granting of the permit, and the granting of
 25 any secondary, additional, or related permits or approvals required
 26 from the same local governmental agency with respect to the general
 27 subject matter of the application for the first permit, are governed for
 28 at least three (3) years after the person applies for the permit by the
 29 statutes, ordinances, rules, development standards, and regulations in
 30 effect and applicable to the property when the application is filed, even
 31 if before the issuance of the permit or while the permit approval
 32 process is pending, or before the issuance of any secondary, additional,
 33 or related permits or approvals or while the secondary, additional, or
 34 related permit or approval process is pending, the statutes, ordinances,
 35 rules, development standards, or regulations governing the granting of
 36 the permit or approval are changed by the general assembly or the
 37 applicable local legislative body or regulatory body, regardless of
 38 whether such changes in the statutes, ordinances, rules, development
 39 standards, or regulations are part of a zoning ordinance, a subdivision
 40 control ordinance, or a statute, ordinance, or regulation that is based on
 41 the general police powers of the local unit of government. However,
 42 this subsection does not apply if the development or other activity to



1 which the permit relates is not completed within ten (10) years after the
2 development or activity is commenced.

3 (d) Subsection (e) applies if:

4 (1) either:

5 (A) a local governmental agency issues to a person a permit or
6 grants a person approval for the construction of a
7 development, a building, or another structure; or

8 (B) a permit or approval is not required from the local
9 governmental agency for the construction of the development,
10 building, or structure;

11 (2) before beginning the construction of the development,
12 building, or structure, the person must obtain a permit or approval
13 for the construction of the development, building, or structure
14 from a state governmental agency; and

15 (3) the person has applied for the permit or requested the approval
16 for the construction of the development, building, or structure
17 from the state governmental agency within ninety (90) days of
18 issuance of the permit by the local governmental agency.

19 (e) Subject to subsection (f), if the conditions of subsection (d) are
20 satisfied:

21 (1) a permit or approval issued or granted to a person by the local
22 governmental agency for the construction of the development,
23 building, or structure; or

24 (2) the person's right to construct the development, building, or
25 structure without a permit or approval from the local
26 governmental agency;

27 is governed for at least three (3) years after the person applies for the
28 permit by the statutes, ordinances, rules, development standards,
29 regulations, and approvals in effect and applicable to the property when
30 the person applies for the permit or requests approval from the state
31 governmental agency for the construction of the development, building,
32 or structure, even if before the commencement of the construction or
33 while the permit application or approval request is pending with the
34 state governmental agency the statutes governing the granting of the
35 permit or approval from the local governmental agency are changed by
36 the general assembly or the ordinances, rules, development standards,
37 or regulations of the local unit of government or the local governmental
38 agency are changed by the applicable local legislative body or
39 regulatory body, regardless of whether such changes in the statutes,
40 ordinances, rules, development standards, or regulations are part of a
41 zoning ordinance, a subdivision control ordinance, or a statute,
42 ordinance, or regulation that is based on the general police powers of



1 the local unit of government. However, this subsection does not apply
 2 if the development or other activity to which the permit or approval
 3 request relates is not completed within ten (10) years after the
 4 development or activity is commenced.

5 (f) Subsection (d) does not apply to property when it is
 6 demonstrated by the local or state governmental agency that the
 7 construction of the development, building, or structure would cause
 8 imminent peril to life or property.

9 (g) This section does not apply to building codes under IC 22-13.

10 (h) **The following provision is considered to be included in any**
 11 **regulation adopted under section 601(d)(2)(B) of this chapter that**
 12 **sets forth requirements for signs:**

13 **"The owner of any sign that is otherwise allowed by this**
 14 **regulation may substitute noncommercial copy in place of any**
 15 **other commercial or noncommercial copy. This substitution**
 16 **of copy may be made without the issuance of any additional**
 17 **permit by a local government agency. The purpose of this**
 18 **provision is to prevent any inadvertent favoring of**
 19 **commercial speech over noncommercial speech, or the**
 20 **favoring of any particular noncommercial message over any**
 21 **other noncommercial message. This provision prevails over**
 22 **any more specific provision in this regulation to the contrary.**



COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred Senate Bill No. 348, 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:

Delete the title and insert the following:

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

Page 1, delete lines 1 through 12, begin a new paragraph and insert:

"SECTION 1. IC 36-1-3-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 11. (a) As used in this section, "election" refers to an election described in IC 3-5-1-2.**

(b) As used in this section, "sign" refers to a sign, the surface area of which is not greater than thirty-two (32) square feet."

Page 1, line 13, delete "(b) An" and insert "**(c) Subject to subsection (d), an**".

Page 1, line 16, delete "forty-five (45)" and insert "**thirty (30)**".

Page 1, after line 17, begin a new paragraph and insert:

"(d) This section does not prohibit a political subdivision from enforcing an ordinance or regulation relating to the number or size of signs at any time if necessary to ensure public safety.

SECTION 2. IC 36-7-4-1109, AS AMENDED BY P.L.126-2011, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1109. (a) As used in this section, "local governmental agency" includes any agency, officer, board, or commission of a local unit of government that may issue:

- (1) a permit; or
- (2) an approval of a land use or an approval for the construction of a development, a building, or another structure.
- (b) As used in this section, "permit" means any of the following:
 - (1) An improvement location permit.
 - (2) A building permit.
 - (3) A certificate of occupancy.
 - (4) Approval of a site-specific development plan.
 - (5) Approval of a primary or secondary plat.
 - (6) Approval of a contingent use, conditional use, special exception or special use.
 - (7) Approval of a planned unit development.

(c) Subject to section 1110 of this chapter **(before its expiration)**, if a person files a complete application as required by the effective



ordinances or rules of a local governmental agency for a permit with the appropriate local governmental agency, the granting of the permit, and the granting of any secondary, additional, or related permits or approvals required from the same local governmental agency with respect to the general subject matter of the application for the first permit, are governed for at least three (3) years after the person applies for the permit by the statutes, ordinances, rules, development standards, and regulations in effect and applicable to the property when the application is filed, even if before the issuance of the permit or while the permit approval process is pending, or before the issuance of any secondary, additional, or related permits or approvals or while the secondary, additional, or related permit or approval process is pending, the statutes, ordinances, rules, development standards, or regulations governing the granting of the permit or approval are changed by the general assembly or the applicable local legislative body or regulatory body. However, this subsection does not apply if the development or other activity to which the permit relates is not completed within ten (10) years after the development or activity is commenced.

(d) Subsection (e) applies if:

(1) either:

(A) a local governmental agency issues to a person a permit or grants a person approval for the construction of a development, a building, or another structure; or

(B) a permit or approval is not required from the local governmental agency for the construction of the development, building, or structure;

(2) before beginning the construction of the development, building, or structure, the person must obtain a permit or approval for the construction of the development, building, or structure from a state governmental agency; and

(3) the person has applied for the permit or requested the approval for the construction of the development, building, or structure from the state governmental agency within ninety (90) days of issuance of the permit by the local governmental agency.

(e) Subject to subsection (f) and section 1110 of this chapter (**before its expiration**), if the conditions of subsection (d) are satisfied:

(1) a permit or approval issued or granted to a person by the local governmental agency for the construction of the development, building, or structure; or

(2) the person's right to construct the development, building, or structure without a permit or approval from the local governmental agency;



is governed for at least three (3) years after the person applies for the permit by the statutes, ordinances, rules, development standards, regulations, and approvals in effect and applicable to the property when the person applies for the permit or requests approval from the state governmental agency for the construction of the development, building, or structure, even if before the commencement of the construction or while the permit application or approval request is pending with the state governmental agency the statutes governing the granting of the permit or approval from the local governmental agency are changed by the general assembly or the ordinances, rules, development standards, or regulations of the local governmental agency are changed by the applicable local legislative body or regulatory body. However, this subsection does not apply if the development or other activity to which the permit or approval request relates is not completed within ten (10) years after the development or activity is commenced.

(f) Subsection (d) does not apply to property when it is demonstrated by the local or state governmental agency that the construction of the development, building, or structure would cause imminent peril to life or property.

(g) This section does not apply to building codes under IC 22-13.

(h) The following provision is considered to be included in any regulation adopted under section 601(d)(2)(B) of this chapter that sets forth requirements for signs:

"The owner of any sign that is otherwise allowed by this regulation may substitute noncommercial copy in place of any other commercial or noncommercial copy. This substitution of copy may be made without the issuance of any additional permit by a local government agency. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech, or the favoring of any particular noncommercial message over any other noncommercial message. This provision prevails over any more specific provision in this regulation to the contrary."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 348 as introduced.)

BUCK, Chairperson

Committee Vote: Yeas 7, Nays 0.

ES 348—LS 6559/DI 75



COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred Senate Bill 348, 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 1, delete lines 5 through 6, begin a new paragraph and insert:

"(b) As used in this section, "sign" refers to a sign, the surface area of which is not greater than thirty-two (32) square feet. For purposes of determining the surface area of a sign under this section, if a sign consists of two (2) faces, only the surface area of one (1) of the faces is considered if both of the following apply:

(1) The faces are mounted back to back.

(2) The measure of the angle between the faces is not more than fifteen (15) degrees."

Page 1, line 10, delete "thirty (30)" and insert "sixty (60)".

Page 1, line 15, delete "P.L.126-2011," and insert "HEA 1421-2017, SECTION 3,".

Page 1, line 16, delete "SECTION 40,".

Page 2, delete line 15.

Page 2, line 16, delete "if" begin a new paragraph and insert:

"(c) If".

Page 2, line 17, after "of a" insert "local unit of government or a".

Page 2, line 32, delete "." and insert ", regardless of whether such changes in the statutes, ordinances, rules, development standards, or regulations are part of a zoning ordinance, a subdivision control ordinance, or a statute, ordinance, or regulation that is based on the general police powers of the local unit of government."

Page 3, line 9, after "(f)" insert ",".

Page 3, line 9, delete "and section 1110 of this chapter (before".

Page 3, line 10, delete "its expiration),".

Page 3, line 27, after "of the" insert "local unit of government or the".

Page 3, line 28, delete "." and insert ", regardless of whether such changes in the statutes, ordinances, rules, development standards, or regulations are part of a zoning ordinance, a subdivision control



ordinance, or a statute, ordinance, or regulation that is based on the general police powers of the local unit of government."

and when so amended that said bill do pass.

(Reference is to SB 348 as printed February 24, 2017.)

ZENT

Committee Vote: yeas 10, nays 2.

