

First Regular Session 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.

SENATE ENROLLED ACT No. 393

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

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

SECTION 1. IC 5-4-1-5.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5.1. (a) "Political subdivision" as used in this section has the meaning set forth in IC 36-1-2-13 and excludes any department or agency of the state.

(b) Every elected or appointed officer, official, deputy, ~~or~~ employee, **or contractor** of a political subdivision who is required by section 18 of this chapter to file an official bond for the faithful performance of duty, except the county recorder and deputies and employees of the recorder, shall file the bond **with the fiscal officer of the political subdivision and** in the office of the county recorder in the county of residence of the officer, official, deputy, or employee. The county recorder and deputies and employees of the recorder shall file their bonds **with the county auditor and** in the office of the clerk of the circuit court.

(c) The bonds described in subsection (b) shall be filed within ten (10) days of their issuance or, if approval is required, within ten (10) days after their approval by the person required to approve the bonds. The recorder shall record all of the bonds filed under this section, indexing them alphabetically under the name of the principal and referring to the title, office, and page number where recorded. The

SEA 393 — Concur



bonds shall be kept in a safe and convenient place in the recorder's office with a reference to the date filed and record and page where recorded.

(d) Every county officer who is required to give bond shall have a copy of the oath of office recorded with the bond.

(e) The fiscal officer of a political subdivision with whom an official bond is filed under subsection (b) shall file a copy of the bond with the state board of accounts:

- (1) contemporaneously with the filing of the political subdivision's annual financial report required under IC 5-11-1-4(a); and**
- (2) electronically in the manner prescribed under IC 5-14-3.8-7.**

(f) The state board of accounts shall maintain a data base of bonds received under this section and make the data base available to the public on the state board of accounts Internet web site. To the extent practicable, the data base must include a list that specifies:

- (1) every individual who is required by section 18 of this chapter to file; and**
- (2) whether each individual specified under subdivision (1) has obtained and filed;**

an official bond for the faithful performance of duty.

SECTION 2. IC 5-4-1-18, AS AMENDED BY SEA 528-2015, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2016]: Sec. 18. (a) Except as provided in subsection (b), the following ~~city, town, county, or township officers and employees~~ **individuals** shall file **and maintain in place** an individual surety bond **during each year that the individual serves as an officer, employee, or contractor:**

- (1) City judges, controllers, clerks, and clerk-treasurers.
- (2) Town judges and clerk-treasurers.
- (3) Auditors, treasurers, recorders, surveyors, sheriffs, coroners, assessors, and clerks.
- (4) Township trustees.
- (5) Those employees directed to file an individual bond by the fiscal body of a city, town, or county.
- (6) Township assessors (if any).
- (7) Individuals:**
 - (A) who are employees or contractors of a city, town, county, or township; and**
 - (B) whose official duties include receiving, processing,**



depositing, disbursing, or otherwise having access to funds that belong to the federal government, the state, a political subdivision, or another governmental entity.

(b) The fiscal body of a city, town, county, or township may by ordinance authorize the purchase of a blanket bond ~~or a crime insurance policy that:~~

(1) is endorsed to include faithful performance to cover the faithful performance of; and

(2) includes aggregate coverage sufficient to provide coverage amounts specified for;

all employees, commission members, and persons acting on behalf of the local government unit, including ~~those~~ **the officers, employees, and contractors** described in subsection (a) **who are required to file a bond under this chapter.**

(c) The fiscal body of a city, town, county, or township may by ordinance (or for a township, by resolution) authorize the purchase of a crime insurance policy that provides coverage for criminal acts or omissions committed by officers, employees, contractors, commission members, and persons acting on behalf of the local government unit. For the sole purpose of recovering public funds on behalf of a local government unit, the state is considered to be an additional named insured on all crime insurance policies obtained under this subsection.

~~(e)~~ **(d)** Except as provided in subsections ~~(h)~~ **(j)** and ~~(i)~~ **(k)**, the fiscal bodies of the respective units shall fix the amount of the bond of city controllers, city clerk-treasurers, town clerk-treasurers, Barrett Law fund custodians, county treasurers, county sheriffs, circuit court clerks, township trustees, and conservancy district financial clerks as follows:

(1) The amount must equal thirty thousand dollars (\$30,000) for each one million dollars (\$1,000,000) of receipts of the officer's office during the last complete fiscal year before the purchase of the bond, subject to subdivision **(2)**.

(2) The amount may not be less than thirty thousand dollars (\$30,000) nor more than three hundred thousand dollars (\$300,000) unless the fiscal body approves a greater amount for the officer or employee.

County auditors shall file bonds in amounts of not less than thirty thousand dollars (\$30,000), as fixed by the fiscal body of the county.

(e) The amount of the bond of ~~any other~~ **a person who is not specified in subsection (d) and is** required to file an individual bond shall be fixed by the fiscal body of the unit **as follows:**

(1) If the person is not described in subsection (a)(7), at not



less than fifteen thousand dollars (\$15,000).

(2) If the person is described in subsection (a)(7), at not less than five thousand dollars (\$5,000).

~~(d)~~ **(f)** Except as provided in subsection ~~(j)~~, **(l)**, a controller of a solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal) shall file an individual surety bond in an amount:

- (1) fixed by the board of directors of the solid waste management district; and
- (2) that is at least thirty thousand dollars (\$30,000).

~~(e)~~ **(g)** Except as provided under subsection ~~(d)~~, **(f)**, a person who is required to file an individual surety bond by the board of directors of a solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal) shall file a bond in an amount fixed by the board of directors.

~~(f)~~ **(h)** In 1982 and every four (4) years after that, the state examiner shall review the bond amounts fixed under this section and report in an electronic format under IC 5-14-6 to the general assembly whether changes are necessary to ensure adequate and economical coverage.

~~(g)~~ **(i)** The commissioner of insurance shall prescribe the form of the bonds or crime **insurance** policies required by this section, in consultation with **the state board of accounts** and the Indiana archives and records administration under IC 5-15-5.1-6. **A bond or crime insurance policy that does not conform to the form prescribed under this subsection may not be used to meet the requirements of this chapter.**

~~(h)~~ **(j)** Notwithstanding subsection ~~(e)~~, **(d)**, the state board of accounts may fix the amount of the bond for a city controller, city clerk-treasurer, town clerk-treasurer, Barrett Law fund custodian, county treasurer, county sheriff, circuit court clerk, township trustee, or conservancy district financial clerk at an amount that exceeds thirty thousand dollars (\$30,000) for each one million dollars (\$1,000,000) of receipts of the officer's office during the last complete fiscal year before the purchase of the bond. However, the bond amount may not exceed three hundred thousand dollars (\$300,000). An increased bond amount may be established under this subsection only if the state examiner issues a report under IC 5-11-5-1 that includes a finding that the officer engaged in malfeasance, misfeasance, or nonfeasance that resulted in the misappropriation of, diversion of, or inability to account for public funds.

~~(i)~~ **(k)** Notwithstanding subsection ~~(e)~~, **(e)**, the state board of accounts may fix the amount of the bond for any person who is ~~not~~



described in:

- (1) subsection ~~(h)~~ (e)(1) and is required to file an individual bond at an amount that exceeds fifteen thousand dollars (\$15,000); or**
(2) subsection (e)(2) and is required to file an individual bond at an amount that exceeds five thousand dollars (\$5,000).

An increased bond amount may be established under this subsection only if the state examiner issues a report under IC 5-11-5-1 that includes a finding that the person engaged in malfeasance, misfeasance, or nonfeasance that resulted in the misappropriation of, diversion of, or inability to account for public funds.

~~(j)~~ **(l)** Notwithstanding subsection ~~(d)~~; **(f)**, the state board of accounts may fix the amount of the bond for a controller of a solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal) at an amount that exceeds thirty thousand dollars (\$30,000). An increased bond amount may be established under this subsection only if the state examiner issues a report under IC 5-11-5-1 that includes a finding that the controller engaged in malfeasance, misfeasance, or nonfeasance that resulted in the misappropriation of, diversion of, or inability to account for public funds.

~~(k)~~ **(m)** Both of the following apply to a bond ~~or crime insurance policy~~ that is filed to comply with this section:

~~(1) Unless the bond or policy is canceled, the bond or policy must continue in force for the term of office of the individual who files the bond or policy.~~

(1) Each bond must have a term of one (1) year commencing on the first day of the:

(A) calendar year;

(B) fiscal year of the political subdivision or governmental unit; or

(C) individual's service in the office or employment position for which a bond is required.

(2) Consecutive yearly bonds filed by an individual must provide separate coverage for each year. The aggregate liability of the surety or insurer for a policy year is the amount specified in the bond or policy: sum of the amounts specified in the bonds issued by the surety or insurer for that policy year.

SECTION 3. IC 20-26-4-5, AS ADDED BY P.L.1-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2016]: Sec. 5. **(a)** For each school year commencing July 1:

(1) the treasurer of each governing body and the governing body's school corporation; and

SEA 393 — Concur



- (2) a deputy treasurer, if so appointed; **and**
- (3) **any individual whose official duties include receiving, processing, depositing, disbursing, or otherwise having access to funds that belong to a school corporation or the governing body of a school corporation;**

shall give a bond for the faithful performance of the treasurer's, ~~and~~ deputy treasurer's, **or individual's** duties written by an insurance company licensed to do business in Indiana, in an amount determined by the governing body. The treasurer shall be responsible under the treasurer's bond for the acts of a deputy treasurer appointed as provided in section 1 of this chapter.

(b) A governing body may authorize the purchase of a blanket bond that:

- (1) **is endorsed to include faithful performance to cover the faithful performance of all employees and individuals acting on behalf of the governing body or the governing body's school corporation, including the individuals described in subsection (a); and**
- (2) **includes aggregate coverage sufficient to provide coverage amounts specified for each individual who is required to give a bond under this section.**



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

SEA 393 — Concur

