

First Regular Session 112th General Assembly (2001)

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 2000 General Assembly.

## SENATE ENROLLED ACT No. 454

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

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

SECTION 1. IC 5-10-1.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. The state and any political subdivision (as defined by IC 36-1-2-13) may:

- (1) agree with any employee to reduce and defer any portion of such employee's compensation which under federal law may be deferred under a nonqualified deferred compensation plan and subsequently contract for, purchase, or otherwise procure insurance and investment products appropriate for a nonqualified deferred compensation plan (all referred to in this chapter as "funding"), for the purpose of funding a deferred compensation plan for such employee;
- (2) if the political subdivision is a school corporation, establish an employee savings plan that is a defined contribution plan qualified under Section 401(a) or **403(b)** of the Internal Revenue Code, and contribute amounts to the plan on behalf of eligible employees to be credited and allocated to an account for each employee; and
- (3) contribute amounts before January 1, 1995, and continue or begin to contribute amounts after January 1, 1995, to a nonqualified deferred compensation plan on behalf of eligible employees, subject to any limits and provisions under Section 457 of the Internal Revenue Code.

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SECTION 2. IC 5-11-10-1.6, AS AMENDED BY P.L.35-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1.6. (a) As used in this section, "governmental entity" refers to any of the following:

- (1) A municipality (as defined in IC 36-1-2-11).
- (2) A school corporation (as defined in IC 36-1-2-17), **including a school extracurricular account.**
- (3) A county.
- (4) A regional water or sewer district organized under IC 13-26 or under IC 13-3-2 (before its repeal).
- (5) A municipally owned utility that is subject to IC 8-1.5-3 or IC 8-1.5-4.
- (6) A board of an airport authority under IC 8-22-3.
- (7) A board of aviation commissioners under IC 8-22-2.
- (8) A conservancy district.
- (9) A public transportation corporation under IC 36-9-4.
- (10) A commuter transportation district under IC 8-5-15.
- (11) The state.
- (12) A solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal).
- (13) A levee authority established under IC 14-27-6.

(b) As used in this section, "claim" means a bill or an invoice submitted to a governmental entity for goods or services.

(c) The fiscal officer of a governmental entity may not draw a warrant or check for payment of a claim unless:

- (1) there is a fully itemized invoice or bill for the claim;
- (2) the invoice or bill is approved by the officer or person receiving the goods and services;
- (3) the invoice or bill is filed with the governmental entity's fiscal officer;
- (4) the fiscal officer audits and certifies before payment that the invoice or bill is true and correct; and
- (5) payment of the claim is allowed by the governmental entity's legislative body or the board or official having jurisdiction over allowance of payment of the claim.

This subsection does not prohibit a school corporation, with prior approval of the board having jurisdiction over allowance of payment of the claim, from making payment in advance of receipt of services as allowed by guidelines developed under IC 20-10.1-25-3.

(d) The fiscal officer of a governmental entity shall issue checks or warrants for claims by the governmental entity that meet all of the requirements of this section. The fiscal officer does not incur personal

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liability for disbursements:

- (1) processed in accordance with this section; and
- (2) for which funds are appropriated and available.

(e) The certification provided for in subsection (c)(4) must be on a form prescribed by the state board of accounts.

SECTION 3. IC 5-13-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) The fiscal body of each political subdivision not governed by sections 1 through 3 of this chapter constitutes a board of finance for that political subdivision. **A school corporation (as defined in IC 36-1-2-17) may determine if a board of finance meeting is needed on an annual basis.**

(b) Each board of finance has supervision of the revocation of public depositories for the respective political subdivisions for which they act.

(c) The members of the boards serve without compensation other than the members' salaries allowed by law for the members' services as officers of the members' respective political subdivisions.

SECTION 4. IC 9-18-31-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7. (a) If an educational foundation that is exempt from federal income taxation under Internal Revenue Code Section 501(c)(3) is established as an Indiana nonprofit corporation for the benefit of a school corporation designated to receive a fee under section 5(c) of this chapter, fees designated to go to the school corporation shall be distributed to an educational foundation that provides benefit to the designated school corporation. A school corporation that receives benefit from an educational foundation that meets the requirements of this section shall:

(1) obtain a certificate from the educational foundation that certifies to the school corporation and the county auditor that the educational foundation:

(A) is exempt from federal income taxation under Internal Revenue Code Section 501(c)(3); **and**

(B) is established as an Indiana nonprofit corporation to provide benefit to the school corporation; and

(2) provide a copy of the certificate described in subdivision (1) to the county auditor.

(b) If a school corporation designated to receive a fee under section 5(c) of this chapter does not receive benefit from an educational foundation described under subsection (a), the fees designated to go to the school corporation shall be distributed to the school corporation and may only be used for purposes other than ~~general fund purposes~~. **salaries and related fringe benefits.**

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(c) Before the twentieth day of the calendar month following the calendar month in which a fee was collected, the bureau shall distribute the fees collected under this chapter to the county auditor of the county in which the designated school corporation's administration office is located. Each monthly distribution under this subsection shall be accompanied by a report to the auditor that shows:

- (1) the total amount of the monthly distribution for all school corporations in the county that were designated to receive an education license plate fee under this chapter; and
- (2) the amount of the fees that are to be distributed to each designated school corporation in the county.

(d) Within thirty (30) days of receipt of a distribution from the bureau under subsection (c), the county auditor shall distribute the fees received to:

- (1) an educational foundation under subsection (a), if the school corporation has provided a copy of the certificate described in subsection (a); or
- (2) the school corporation under subsection (b);

whichever subsection is applicable. The county auditor shall designate which school corporation is to receive benefit in connection with a distribution to an educational foundation under this subsection. If the school corporation receives benefit from more than one (1) educational foundation, the superintendent of the ~~benefited~~ **benefitted** school corporation shall determine, and inform the auditor in writing, how fees received are to be distributed to the educational foundations. The county auditor shall, simultaneous with a distribution to an educational foundation, send the school corporation to receive benefit a notice of the distribution that identifies the recipient educational foundation and the date and the amount of the distribution.

(e) Funds received by an educational foundation under this chapter must be used to provide benefit to the designated school corporation within one (1) year of receipt from the county auditor.

SECTION 5. IC 20-5-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) The governing body of each school corporation shall organize by electing a president, a vice president, and a secretary, each of whom shall be a different member, within the first fifteen (15) days following the commencement date of the members' terms of office, as provided for under section 3 of this chapter.

(b) The governing body shall also at such time appoint a treasurer of the governing body and of the school corporation who is a person, other than the superintendent of schools, who is not a member of the

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governing body. The treasurer may, with the approval of the governing body, appoint a deputy who shall also be a person, other than the superintendent of schools, who is not a member of the governing body and who shall have the same powers and duties as the treasurer, or such lesser duties as the governing body by rule shall provide.

(c) The treasurer shall be the official custodian of all funds of the school corporation and shall be responsible for the proper safeguarding and accounting for all the funds and shall:

- (1) issue a receipt for any money coming into the treasurer's hands;
- (2) deposit such money in accordance with the laws governing the deposit of public funds; and
- (3) issue all warrants in payment of expenses lawfully incurred on behalf of the school corporation, but, except as otherwise provided by law, shall issue the warrants only after proper allowance or approval by the governing body. No allowance or approval shall be required by the governing body for amounts lawfully due in payment of indebtedness or payments due the state of Indiana, the United States Government, or their agencies and instrumentalities.

No verification, other than a properly itemized invoice, shall be required for any claim of one hundred dollars (\$100) or less, and any claim over this amount ~~shall be~~ is sufficient as to form if the bill or statement therefor has printed or stamped on its face a verification of the bill or statement in language approved by the state board of accounts.

(d) Notwithstanding subsection (c), a treasurer may transact school corporation financial business with a financial institution through the use of electronic funds transfer. For purposes of this section, "electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephone, or computer or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account. The treasurer must provide adequate documentation to the governing body of the transfers made under this subsection. This subsection applies only to agreements for joint investment of money under IC 5-13-9.

**(e) A treasurer is not personally liable for an act or omission occurring in connection with the performance of the duties set forth in this section, unless the act or omission constitutes gross negligence or an intentional disregard of the treasurer's duties.**

(f) The governing body may establish the position of executive

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secretary to the governing body. The executive secretary:

- (1) must be an employee of the school corporation;
- (2) may not be a member of the governing body; and
- (3) shall be appointed by the governing body upon the recommendation of the superintendent of the school corporation.

The governing body shall determine the duties of the executive secretary, which may include all or part of the duties of the secretary of the board.

SECTION 6. IC 20-5-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) The treasurer shall have charge of the custody and disbursement of any funds collected by a collecting authority and expended to pay expenses:

- (1) approved by the principal or teacher in charge of the school;
- (2) incurred in conducting any athletic, social, or other school function (other than functions conducted solely by any organization of parents and teachers);
- (3) that cost more than twenty-five dollars (\$25) during the school year; and
- (4) that are not paid from public funds.

The principal or teacher in charge of the school shall designate a collecting authority to be in charge of the collection of any funds described in this subsection. Upon collection of any funds, the collecting authority shall deliver the funds, together with an accounting of the funds, to the custody of the school treasurer. The principal may designate different collecting authorities for each separate account of funds described in this subsection.

(b) The treasurer shall keep an accurate account of all money so received by the collecting authority and expended, showing the sources of all receipts and the purposes for which the money was expended and the balance on hand, and a copy of such report shall be filed with the township trustee, board of school trustees, or board of school commissioners, within two (2) weeks after the close of each school year, together with all records and files of such extracurricular activities.

(c) However, in schools having two (2) or more semesters in any one (1) school year, the treasurer of any such school shall file a copy of ~~his~~ **the treasurer's** financial report of receipts and disbursements with the township trustee, board of school trustees, or board of school commissioners, within two (2) weeks after the close of each semester, and all records and files of such extracurricular activities for the entire school year shall be filed with the last financial semester report of any one (1) school year.

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(d) A copy of such report is to be filed with and kept by the city superintendent having jurisdiction and the county superintendent where ~~he~~ **the superintendent** has jurisdiction. These records shall be permanent records for five (5) years, after which time they may be destroyed.

**(e) A treasurer is not personally liable for an act or omission occurring in connection with the performance of the duties set forth in this section, unless the act or omission constitutes gross negligence or an intentional disregard of the treasurer's duties.**

SECTION 7. IC 21-2-11-6, AS AMENDED BY P.L.77-1999, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. ~~(a)~~ Moneys received by any school corporation for a specific purpose or purposes, by gift, endowment or pursuant to any federal statute, may be accounted for by establishing separate funds, separate and apart from the general fund, if no local tax funds are involved. However, no such funds shall be accepted unless the terms of the gift, endowment or payment, and the acceptance thereof, are so stated that the officers of the school corporation are not divested of any right or authority which they now have or may hereafter be granted by law. Such moneys so received for specific purposes, and any earnings thereon, may be disbursed without appropriation.

~~(b) Except as otherwise provided by federal law, all money received by the school corporation by grant, gift, endowment, or under federal law for any of the purposes described in IC 21-2-18-3 shall be deposited in the school technology fund established under IC 21-2-18-~~

SECTION 8. IC 21-2-18-2, AS ADDED BY P.L.77-1999, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. Each school corporation shall establish a school technology fund. The fund consists of

~~(1) money transferred to the fund under IC 20-5-62-6; IC 20-10.1-25-5; IC 20-10.1-25.3-16; IC 21-2-11-6 or IC 21-2-11-6.5, and other monies as designated by the department of education.~~

~~(2) any other money received by the school corporation for a purpose described in IC 20-5-62-6(4)(B); IC 20-10.1-25; IC 20-10.1-25.3; or IC 21-2-15-4(d).~~

However, property taxes levied by a school corporation for a capital projects fund shall not be transferred to the fund.

SECTION 9. IC 36-1-8-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 12. (a) If a political subdivision **other than a school corporation** receives state grant money requiring local matching money, the political subdivision shall

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create a special fund and deposit the grant money and matching money into the special fund. The money in the fund may be used only for the purposes of the grant.

(b) If a political subdivision completes the project for which the state grant money was provided and money remains in the fund:

- (1) the political subdivision shall transfer the state's share of the remaining money to the treasurer of state for deposit in the fund from which the grant was made; and
- (2) the political subdivision's pro rata share of the remaining money reverts to the political subdivision's general fund.

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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

Approved: \_\_\_\_\_

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Governor of the State of Indiana

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