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# HOUSE BILL No. 1305

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 36-7-4.

**Synopsis:** Plan commission information officials. Mandates the election of a planning information official from among the members of each plan commission. Requires the planning information official to respond in writing to questions submitted to the plan commission. Provides a time line within which the planning information official must answer questions on matters pending before the plan commission. Requires a plan commission to provide interested parties with at least 30 days notice of a public hearing at which the plan commission may certify the proposed enactment of or changes to a zoning ordinance.

**Effective:** July 1, 2003.

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### Kruse

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January 13, 2003, read first time and referred to Committee on Appointments and Claims.

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First Regular Session 113th General Assembly (2003)

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 2002 Regular or Special Session of the General Assembly.

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## HOUSE BILL No. 1305



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 36-7-4-303 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 303. (a) At its first  
3 regular meeting in each year, the plan commission shall elect from its  
4 members a president and a vice president. The vice president may act  
5 as president of the plan commission during the absence or disability of  
6 the president.

7 (b) At the first regular meeting in each year, the plan  
8 commission shall elect from its members a planning information  
9 official. The planning information official must be:

- 10 (1) an elected official; or
- 11 (2) a member appointed to the plan commission by a  
12 legislative body.

13 (c) The planning information official elected under subsection  
14 (b) shall provide answers in writing to questions submitted to the  
15 plan commission regarding a matter that the official considers to  
16 be within the jurisdiction of the plan commission. Except as  
17 provided in subsection (d), the official shall make a written



1 response available:

2 (1) at the offices of the plan commission; and

3 (2) for public inspection and copying;

4 not later than thirty (30) days after the official receives the  
5 question.

6 (d) If a question regarding a matter before the plan commission  
7 is submitted at least ten (10) days before the scheduled date of a  
8 meeting or hearing on the matter, the planning information official  
9 shall make the written response available:

10 (1) at the offices of the planning commission; and

11 (2) for public inspection and copying at least one (1) business  
12 day before the meeting or hearing.

13 (e) In providing a written response to a question, a planning  
14 information official is not required to provide information that is  
15 confidential under state or federal statute or a court order.

16 SECTION 2. IC 36-7-4-604, AS AMENDED BY P.L.54-2002,  
17 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
18 JULY 1, 2003]: Sec. 604. (a) Before the plan commission certifies a  
19 proposal to the legislative body under section 605 of this chapter, the  
20 plan commission must hold a public hearing under this section.

21 (b) The plan commission shall give notice of the hearing by  
22 publication under IC 5-3-1. The notice must state:

23 (1) the time and place of the hearing;

24 (2) either:

25 (A) in the case of a proposal under section 606 or 607 of this  
26 chapter, the geographic areas (or zoning districts in a specified  
27 geographic area) to which the proposal applies; or

28 (B) in the case of a proposal under section 608 of this chapter,  
29 the geographic area that is the subject of the zone map change;

30 (Subdivision (2) does not require the identification of any real  
31 property by metes and bounds.)

32 (3) either:

33 (A) in the case of a proposal under section 606 of this chapter,  
34 a summary (which the plan commission shall have prepared)  
35 of the subject matter contained in the proposal (not the entire  
36 text of the ordinance);

37 (B) in the case of a proposal under section 607 of this chapter,  
38 a summary (which the plan commission shall have prepared)  
39 of the subject matter contained in the proposal (not the entire  
40 text) that describes any new or changed provisions; or

41 (C) in the case of a proposal under section 608 of this chapter,  
42 a description of the proposed change in the zone maps;

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1 (4) if the proposal contains or would add or amend any penalty or  
 2 forfeiture provisions, the entire text of those penalty or forfeiture  
 3 provisions;

4 (5) the place where a copy of the proposal is on file for  
 5 examination before the hearing;

6 (6) that written objections to the proposal that are filed with the  
 7 secretary of the commission before the hearing will be  
 8 considered;

9 (7) that oral comments concerning the proposal will be heard; and

10 (8) that the hearing may be continued from time to time as may be  
 11 found necessary.

12 (c) The plan commission shall also provide for due notice to  
 13 interested parties at least ~~ten (10)~~ **thirty (30)** days before the date set  
 14 for the hearing. The commission shall by rule determine who are  
 15 interested parties, how notice is to be given to interested parties, and  
 16 who is required to give that notice. However, if the subject matter of  
 17 the proposal abuts or includes a county line (or a county line street or  
 18 road or county line body of water), then all owners of real property to  
 19 a depth of two (2) ownerships or one-eighth (1/8) of a mile into the  
 20 adjacent county, whichever is less, are interested parties who must  
 21 receive notice under this subsection.

22 (d) The hearing must be held by the plan commission at the place  
 23 stated in the notice. The commission may also give notice and hold  
 24 hearings at other places within the county where the distribution of  
 25 population or diversity of interests of the people indicate that the  
 26 hearings would be desirable. The commission shall adopt rules  
 27 governing the conduct of hearings under this section.

28 (e) A zoning ordinance may not be held invalid on the ground that  
 29 the plan commission failed to comply with the requirements of this  
 30 section, if the notice and hearing substantially complied with this  
 31 section.

32 (f) The files of the plan commission concerning proposals are public  
 33 records and shall be kept available at the commission's office for  
 34 inspection by any interested person.

35 (g) METRO. In the case of a proposal to amend a zoning map under  
 36 section 608 of this chapter or in the case of a proposed approval of a  
 37 development plan required by a zoning ordinance as a condition of  
 38 development, a person may not communicate before the hearing with  
 39 any hearing officer, member of the historic preservation commission,  
 40 or member of the plan commission with intent to influence the officer's  
 41 or member's action on the proposal. Before the hearing, the staff may  
 42 submit a statement of fact concerning the physical characteristics of the

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1 area involved in the proposal, along with a recital of surrounding land  
 2 use and public facilities available to serve the area. The staff may  
 3 include with the statement an opinion of the proposal. The statement  
 4 must be made a part of the file concerning the proposal not less than six  
 5 (6) days before the proposal is scheduled to be heard. The staff shall  
 6 furnish copies of the statement to persons in accordance with rules  
 7 adopted by the commission.

8 (h) METRO. In the case of a proposal to amend a zoning map under  
 9 section 608 of this chapter, this subsection applies if the proposal  
 10 affects only real property within the corporate boundaries of an  
 11 excluded city. Notwithstanding the other provisions of this section, the  
 12 legislative body of the excluded city may decide that the legislative  
 13 body rather than the plan commission should hold the public hearing  
 14 prescribed by this section. Whenever the plan commission receives a  
 15 proposal subject to this section, the plan commission shall refer the  
 16 proposal to the legislative body of the excluded city. At the legislative  
 17 body's first regular meeting after receiving a referred proposal, the  
 18 legislative body shall decide whether the legislative body will hold the  
 19 public hearing. Within thirty (30) days after making the decision to  
 20 hold the hearing, the legislative body shall hold the hearing, acting for  
 21 purposes of this section as if the legislative body is the plan  
 22 commission. The legislative body shall then make a recommendation  
 23 on the proposal to the plan commission. After receiving the excluded  
 24 city legislative body's recommendation (or at the end of the thirty (30)  
 25 day period for the public hearing if the proposal receives no  
 26 recommendation), the plan commission shall meet and decide whether  
 27 to make a favorable recommendation on the proposal. If the proposal  
 28 receives a favorable recommendation from the commission, the  
 29 proposal shall be certified to the county legislative body as provided in  
 30 section 605 of this chapter.

31 (i) Before a proposal involving a structure regulated under  
 32 IC 8-21-10 may become effective, the plan commission must have  
 33 received:

34 (1) a copy of:

35 (A) the permit for the structure issued by the Indiana  
 36 department of transportation; or

37 (B) the Determination of No Hazard to Air Navigation issued  
 38 by the Federal Aviation Administration; and

39 (2) evidence that notice was delivered to a public use airport as  
 40 required in IC 8-21-10-3 not less than sixty (60) days before the  
 41 proposal is considered.

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