



Reprinted
February 24, 2006

ENGROSSED HOUSE BILL No. 1395

DIGEST OF HB 1395 (Updated February 23, 2006 4:08 pm - DI 77)

Citations Affected: IC 16-22; IC 33-36; IC 36-1; IC 36-7.

Synopsis: Marion County health and hospital corporation. Requires a majority vote of the health and hospital corporation (corporation) board to take final action. (Current law requires a majority vote of the board members who are present.) Requires a memorandum to be prepared for the corporation board's meetings. Removes the requirement that the corporation record the vote of items that affect private rights. Amends the publishing requirements before a proposed ordinance of the corporation is adopted. Establishes requirements for a change of judge in civil enforcement actions. Allows the corporation to establish a charitable foundation and nonprofit corporations. Allows employees and contractors of the corporation to enter property that is in violation of an ordinance. Allows the enforcement authority to order removal of a public health hazard. Repeals the requirement that the corporation's schedule of ordinance violations be approved by the city-county legislative body.

Effective: July 1, 2006.

Buell, Summers

(SENATE SPONSORS — MILLER, BREAUX)

January 12, 2006, read first time and referred to Committee on Public Health.
January 24, 2006, reported — Do Pass.
January 30, 2006, read second time, ordered engrossed. Engrossed.
February 2, 2006, read third time, passed. Yeas 94, nays 0.

SENATE ACTION

February 7, 2006, read first time and referred to Committee on Health and Provider Services.
February 16, 2006, amended, reported favorably — Do Pass.
February 23, 2006, read second time, amended, ordered engrossed.

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EH 1395—LS 6718/DI 77+



Second Regular Session 114th General Assembly (2006)

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 2005 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1395

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

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

1 SECTION 1. IC 16-22-8-17, AS AMENDED BY P.L.184-2005,
2 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2006]: Sec. 17. **(a)** A majority of the board members
4 constitutes a quorum for a meeting. The board may act by an
5 affirmative vote of a majority of ~~those present at the meeting; the~~
6 **board.**

7 **(b) The corporation shall record memoranda from the meeting**
8 **as required by IC 5-14-1.5-4.**

9 SECTION 2. IC 16-22-8-18, AS AMENDED BY P.L.184-2005,
10 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2006]: Sec. 18. The corporation shall keep the board's
12 documents in the office of the corporation or in an electronic format.
13 The ~~board~~ **corporation** shall record ~~the aye and nay vote on the~~
14 ~~passage of an item of business that affects private rights and shall~~
15 ~~record the aye and nay vote on the~~ **final** passage of any ~~other~~
16 ~~business~~ **and on any other item** if two (2) **board** members ~~of the~~
17 ~~board~~ request that the votes be recorded by ayes and nays.

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1 SECTION 3. IC 16-22-8-21, AS AMENDED BY P.L.184-2005,
 2 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2006]: Sec. 21. (a) Not ~~more than seven (7) days after the~~
 4 ~~introduction of a proposed ordinance nor~~ less than seven (7) days
 5 before **a meeting considering** the final passage of a proposed
 6 ordinance, the ~~board~~ **corporation** shall publish a notice that the
 7 proposed ordinance is pending final action. ~~by the board~~. The notice
 8 ~~shall must~~ be published one (1) time in two (2) newspapers ~~that have~~
 9 ~~a with~~ general circulation in the ~~jurisdiction of the corporation~~. **county**.
 10 Notice of an ordinance establishing a budget ~~shall must~~ be in
 11 accordance with the general law relating to budgets of first class cities.

- 12 (b) The notice must state the following:
 13 (1) The **general subject matter** of the proposed ordinance.
 14 (2) The time and place of the ~~hearing~~. **meeting**.
 15 (3) The proposed ordinance is available ~~for public inspection at~~
 16 ~~the office of from~~ the corporation.

17 (c) The ~~board~~ **corporation** may ~~include~~ **publish** in one (1) notice ~~a~~
 18 ~~reference to~~ the **general** subject matter of each ~~pending~~ ordinance
 19 **pending final action** for which notice has not been given.

20 (d) An ordinance is not invalid because the reference to the subject
 21 matter of the proposed ordinance was inadequate if the reference is
 22 sufficient to advise the public of the general subject matter.

23 SECTION 4. IC 16-22-8-31, AS AMENDED BY P.L.184-2005,
 24 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2006]: Sec. 31. (a) The director of the division of public
 26 health has the powers, functions, and duties of a local health officer.

27 (b) Orders, citations, and administrative notices of violation issued
 28 by the director of the division of public health, the director's authorized
 29 representative, a supervisor in the division, or an environmental health
 30 specialist may be enforced by the corporation in a court with
 31 jurisdiction by filing a civil action in accordance with IC 16-42-5-28,
 32 IC 33-36-3-5(b), or IC 36-1-6-4.

33 (c) Orders, health directives, and restrictions issued by the state
 34 health commissioner, the state health commissioner's legally authorized
 35 agent, a designated health official, or the director of the division of
 36 public health may be enforced by the corporation in a court with
 37 jurisdiction by filing a civil action in accordance with IC 16-41-9-1 or
 38 IC 16-41-9-11.

39 (d) A change of venue from the county may not be granted for court
 40 proceedings initiated under this section.

41 (e) **A change of venue from a judge must meet the requirements**
 42 **in IC 34-35-3-3 for court proceedings initiated under this section.**

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1 SECTION 5. IC 16-22-8-34, AS AMENDED BY P.L.184-2005,
2 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2006]: Sec. 34. (a) The board or corporation may do all acts
4 necessary or reasonably incident to carrying out the purposes of this
5 chapter, including the following:

6 (1) As a municipal corporation, sue and be sued in any court with
7 jurisdiction.

8 (2) To serve as the exclusive local board of health and local
9 department of health within the county with the powers and duties
10 conferred by law upon local boards of health and local
11 departments of health.

12 (3) To adopt and enforce ordinances consistent with Indiana law
13 and administrative rules for the following purposes:

14 (A) To protect property owned or managed by the corporation.

15 (B) To determine, prevent, and abate public health nuisances.

16 (C) To establish quarantine regulations, impose restrictions on
17 persons having infectious or contagious diseases and contacts
18 of the persons, and regulate the disinfection of premises.

19 (D) To license, regulate, and establish minimum sanitary
20 standards for the operation of a business handling, producing,
21 processing, preparing, manufacturing, packing, storing,
22 selling, distributing, or transporting articles used for food,
23 drink, confectionery, or condiment in the interest of the public
24 health.

25 (E) To control:

26 (i) rodents, mosquitos, and other animals, including insects,
27 capable of transmitting microorganisms and disease to
28 humans and other animals; and

29 (ii) the animal's breeding places.

30 (F) To require persons to connect to available sewer systems
31 and to regulate the disposal of domestic or sanitary sewage by
32 private methods. However, the board and corporation ~~has~~ **have**
33 no jurisdiction over publicly owned or financed sewer systems
34 or sanitation and disposal plants.

35 (G) To control rabies.

36 (H) For the sanitary regulation of water supplies for domestic
37 use.

38 (I) To protect, promote, or improve public health. For public
39 health activities and to enforce public health laws, the state
40 health data center described in IC 16-19-10 shall provide
41 health data, medical information, and epidemiological
42 information to the corporation.

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- 1 (J) To detect, report, prevent, and control disease affecting
- 2 public health.
- 3 (K) To investigate and diagnose health problems and health
- 4 hazards.
- 5 (L) To regulate the sanitary and structural conditions of
- 6 residential and nonresidential buildings and unsafe premises.
- 7 (M) To license and regulate the design, construction, and
- 8 operation of public pools, spas, and beaches.
- 9 (N) To regulate the storage, containment, handling, use, and
- 10 disposal of hazardous materials.
- 11 (O) To license and regulate tattoo parlors and body piercing
- 12 facilities.
- 13 (4) To manage the corporation's hospitals, medical facilities, and
- 14 mental health facilities.
- 15 (5) To furnish health and nursing services to elementary and
- 16 secondary schools within the county.
- 17 (6) To furnish medical care to the indigent within the county
- 18 unless medical care is furnished to the indigent by the division of
- 19 family and children.
- 20 (7) To determine the public health policies and programs to be
- 21 carried out and administered by the corporation.
- 22 (8) To adopt an annual budget ordinance and levy taxes.
- 23 (9) To incur indebtedness in the name of the corporation.
- 24 (10) To organize the personnel and functions of the corporation
- 25 into divisions and subdivisions to carry out the corporation's
- 26 powers and duties and to consolidate, divide, or abolish the
- 27 divisions and subdivisions.
- 28 (11) To acquire and dispose of property.
- 29 (12) To receive **charitable contributions** and ~~make~~ gifts as
- 30 **provided in 26 U.S.C 170.**
- 31 **(13) To make charitable contributions and gifts.**
- 32 **(14) To establish a charitable foundation as provided in 26**
- 33 **U.S.C. 501.**
- 34 ~~(13)~~ **(15) To receive and distribute federal, state, local, or private**
- 35 **grants.**
- 36 **(16) To receive and distribute grants from charitable**
- 37 **foundations.**
- 38 **(17) To establish nonprofit corporations to carry out the**
- 39 **purposes of the corporation.**
- 40 ~~(14)~~ **(18) To erect buildings or structures or improvements to**
- 41 **existing buildings or structures.**
- 42 ~~(15)~~ **(19) To determine matters of policy regarding internal**

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1 organization and operating procedures.
 2 ~~(16)~~ **(20)** To do the following:
 3 (A) Adopt a schedule of reasonable charges for nonresidents
 4 of the county for medical and mental health services.
 5 (B) Collect the charges from the patient or from the
 6 governmental unit where the patient resided at the time of the
 7 service.
 8 (C) Require security for the payment of the charges.
 9 ~~(17)~~ **(21)** To adopt a schedule of and to collect reasonable charges
 10 for patients able to pay in full or in part.
 11 ~~(18)~~ **(22)** To enforce Indiana laws, administrative rules, and the
 12 code of the health and hospital corporation of the county.
 13 ~~(19)~~ **(23)** To purchase supplies, materials, and equipment for the
 14 corporation.
 15 ~~(20)~~ **(24)** To employ personnel and establish personnel policies to
 16 carry out the duties, functions, and powers of the corporation.
 17 ~~(21)~~ **(25)** To employ attorneys admitted to practice law in Indiana.
 18 ~~(22)~~ **(26)** To acquire, erect, equip, and operate the corporation's
 19 hospitals, medical facilities, and mental health facilities.
 20 ~~(23)~~ **(27)** To dispose of surplus property in accordance with a
 21 policy by the board.
 22 ~~(24)~~ **(28)** To determine the duties of officers and division
 23 directors.
 24 ~~(25)~~ **(29)** To fix the compensation of the officers and division
 25 directors.
 26 ~~(26)~~ **(30)** To carry out the purposes and object of the corporation.
 27 ~~(27)~~ **(31)** To obtain loans for hospital expenses in amounts and
 28 upon terms agreeable to the board. The board may secure the
 29 loans by pledging accounts receivable or other security in hospital
 30 funds.
 31 ~~(28)~~ **(32)** To establish fees for licenses, services, and records. The
 32 corporation may accept payment by credit card for fees.
 33 (b) The board shall exercise the board's powers and duties in a
 34 manner consistent with Indiana law, administrative rules, and the code
 35 of the health and hospital corporation of the county.
 36 SECTION 6. IC 16-22-8-35 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 35. The ~~board~~
 38 **corporation** shall keep accounts and records of receipts and
 39 disbursements as prescribed by the state board of accounts.
 40 SECTION 7. IC 36-1-6-2, AS AMENDED BY P.L.131-2005,
 41 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2006]: Sec. 2. (a) If a condition violating an ordinance of a

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1 municipal corporation exists on real property, ~~officers employees or~~
 2 **contractors** of ~~the a~~ municipal corporation may enter onto that
 3 property and take appropriate action to bring the property into
 4 compliance with the ordinance. However, before action to bring
 5 compliance may be taken, all persons holding a substantial interest in
 6 the property must be given a reasonable opportunity of at least ten (10)
 7 days but not more than sixty (60) days to bring the property into
 8 compliance. If the municipal corporation takes action to bring
 9 compliance, the expenses incurred by the municipal corporation to
 10 bring compliance constitute a lien against the property. The lien
 11 attaches when notice of the lien is recorded in the office of the county
 12 recorder in which the property is located. The lien is superior to all
 13 other liens except liens for taxes, in an amount that does not exceed:

14 (1) two thousand five hundred dollars (\$2,500) for real property
 15 that:

16 (A) contains one (1) or more occupied or unoccupied single or
 17 double family dwellings or the appurtenances or additions to
 18 those dwellings; or

19 (B) is unimproved; or

20 (2) ten thousand dollars (\$10,000) for all other real property not
 21 described in subdivision (1).

22 (b) The municipal corporation may issue a bill to the owner of the
 23 real property for the costs incurred by the municipal corporation in
 24 bringing the property into compliance with the ordinance, including
 25 administrative costs and removal costs.

26 (c) A bill issued under subsection (b) is delinquent if the owner of
 27 the real property fails to pay the bill within thirty (30) days after the
 28 date of the issuance of the bill.

29 (d) Whenever a municipal corporation determines it necessary, the
 30 officer charged with the collection of fees and penalties for the
 31 municipal corporation shall prepare:

32 (1) a list of delinquent fees and penalties that are enforceable
 33 under this section, including:

34 (A) the name or names of the owner or owners of each lot or
 35 parcel of real property on which fees are delinquent;

36 (B) a description of the premises, as shown on the records of
 37 the county auditor; and

38 (C) the amount of the delinquent fees and the penalty; or

39 (2) an instrument for each lot or parcel of real property on which
 40 the fees are delinquent.

41 (e) The officer shall record a copy of each list or each instrument
 42 with the county recorder, who shall charge a fee for recording the list

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1 or instrument under the fee schedule established in IC 36-2-7-10.

2 (f) The amount of a lien shall be placed on the tax duplicate by the
3 auditor. The total amount, including any accrued interest, shall be
4 collected in the same manner as delinquent taxes are collected and
5 shall be disbursed to the general fund of the municipal corporation.

6 (g) A fee is not enforceable as a lien against a subsequent owner of
7 property unless the lien for the fee was recorded with the county
8 recorder before conveyance to the subsequent owner. If the property is
9 conveyed before the lien is recorded, the municipal corporation shall
10 notify the person who owned the property at the time the fee became
11 payable. The notice must inform the person that payment, including
12 penalty fees for delinquencies, is due not later than fifteen (15) days
13 after the date of the notice. If payment is not received within one
14 hundred eighty (180) days after the date of the notice, the amount due
15 may be considered a bad debt loss.

16 (h) The municipal corporation shall release:

17 (1) liens filed with the county recorder after the recorded date of
18 conveyance of the property; and

19 (2) delinquent fees incurred by the seller;

20 upon receipt of a written demand from the purchaser or a representative
21 of the title insurance company or the title insurance company's agent
22 that issued a title insurance policy to the purchaser. The demand must
23 state that the delinquent fees were not incurred by the purchaser as a
24 user, lessee, or previous owner and that the purchaser has not been paid
25 by the seller for the delinquent fees.

26 (i) The county auditor shall remove the fees, penalties, and service
27 charges that were not recorded before a recorded conveyance to a
28 subsequent owner upon receipt of a copy of the written demand under
29 subsection (h).

30 SECTION 8. IC 36-7-9-5 IS AMENDED TO READ AS FOLLOWS
31 [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) The enforcement authority
32 may issue an order requiring action relative to any unsafe premises,
33 including:

34 (1) vacating of an unsafe building;

35 (2) sealing an unsafe building against intrusion by unauthorized
36 persons, in accordance with a uniform standard established by
37 ordinance;

38 (3) extermination of vermin in and about the unsafe premises;

39 (4) removal of trash, debris, or fire hazardous material, **or a**
40 **public health hazard** in and about the unsafe premises;

41 (5) repair or rehabilitation of an unsafe building to bring it into
42 compliance with standards for building condition or maintenance

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1 required for human habitation, occupancy, or use by a statute, a
 2 rule adopted under IC 4-22-2, or an ordinance;
 3 (6) removal of part of an unsafe building;
 4 (7) removal of an unsafe building; and
 5 (8) requiring, for an unsafe building that will be sealed for a
 6 period of more than ninety (90) days:
 7 (A) sealing against intrusion by unauthorized persons and the
 8 effects of weather;
 9 (B) exterior improvements to make the building compatible in
 10 appearance with other buildings in the area; and
 11 (C) continuing maintenance and upkeep of the building and
 12 premises;
 13 in accordance with standards established by ordinance.
 14 Notice of the order must be given under section 25 of this chapter. The
 15 ordered action must be reasonably related to the condition of the unsafe
 16 premises and the nature and use of nearby properties. The order
 17 supersedes any permit relating to building or land use, whether that
 18 permit is obtained before or after the order is issued.
 19 (b) The order must contain:
 20 (1) the name of the person to whom the order is issued;
 21 (2) the legal description or address of the unsafe premises that are
 22 the subject of the order;
 23 (3) the action that the order requires;
 24 (4) the period of time in which the action is required to be
 25 accomplished, measured from the time when the notice of the
 26 order is given;
 27 (5) if a hearing is required, a statement indicating the exact time
 28 and place of the hearing, and stating that person to whom the
 29 order was issued is entitled to appear at the hearing with or
 30 without legal counsel, present evidence, cross-examine opposing
 31 witnesses, and present arguments;
 32 (6) if a hearing is not required, a statement that an order under
 33 subsection (a)(2), (a)(3), (a)(4), or (a)(5) becomes final ten (10)
 34 days after notice is given, unless a hearing is requested in writing
 35 by a person holding a fee interest, life estate interest, or equitable
 36 interest of a contract purchaser in the unsafe premises, and the
 37 request is delivered to the enforcement authority before the end
 38 of the ten (10) day period;
 39 (7) a statement briefly indicating what action can be taken by the
 40 enforcement authority if the order is not complied with;
 41 (8) a statement indicating the obligation created by section 27 of
 42 this chapter relating to notification of subsequent interest holders

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1 and the enforcement authority; and
 2 (9) the name, address, and telephone number of the enforcement
 3 authority.
 4 (c) The order must allow a sufficient time, of at least ten (10) days,
 5 but not more than sixty (60) days, from the time when notice of the
 6 order is given, to accomplish the required action. If the order allows
 7 more than thirty (30) days to accomplish the action, the order may
 8 require that a substantial beginning be made in accomplishing the
 9 action within thirty (30) days.
 10 (d) The order expires two (2) years from the day the notice of the
 11 order is given, unless one (1) or more of the following events occurs
 12 within that two (2) year period:
 13 (1) A complaint requesting judicial review is filed under section
 14 9 of this chapter.
 15 (2) A contract for action required by the order is let at public bid
 16 under section 11 of this chapter.
 17 (3) A civil action is filed under section 17 of this chapter.
 18 SECTION 9. IC 33-36-3-4 IS REPEALED [EFFECTIVE JULY 1,
 19 2006].

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, 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 do pass.

BROWN T, Chair

Committee Vote: yeas 10, nays 0.



COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, 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 7, delete lines 29 through 42.
- Page 8, delete lines 1 through 16.
- Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1395 as printed January 25, 2006.)

MILLER, Chairperson

Committee Vote: Yeas 8, Nays 0.



SENATE MOTION

Madam President: I move that Engrossed House Bill 1395 be amended to read as follows:

Page 1, line 5, strike "those present at the meeting." and insert "**the board.**".

Page 1, line 14, before "passage" insert "**final**".

Page 1, line 15, after "business" insert "**and on any other item**".

(Reference is to EHB 1395 as printed February 17, 2006.)

YOUNG R MICHAEL

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